

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
300 Lakeside Drive, P. O. Box 12688, Oakland, CA 94604-2688
(510) 464-6000

NOTICE OF MEETING AND AGENDA
BART POLICE CITIZEN REVIEW BOARD

February 11, 2019

A Meeting of the BART Police Citizen Review Board (BPCRB) will be held on Monday, February 11, 2019 at 4:00 p.m. This meeting shall consist of a simultaneous teleconference call at the following locations:

BART Board Room Kaiser Center 20th Street Mall – Third Floor 2040 Webster Street Oakland, CA 94612	Warner Library 121 N. Broadway Tarrytown, NY 10591
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AGENDA

1. Call to Order.
 - a. Roll Call.
 - b. Pledge of Allegiance.
2. Approval of Minutes of the Meeting of January 14, 2019. For Discussion and Action.
3. Brown Act and Parliamentary Procedure Refresher Training. For Discussion.
4. Chief of Police's Report. For Discussion and Action.
 - a. BART Police Department (BPD) Monthly Report for December 2018.
 - b. BPD Draft Policy #407, Overdose and Prevention Naloxone Program presentation.
5. Update on Ad Hoc Subcommittee to Review BPD Policy #310, Officer Involved Shootings and Deaths. For Discussion.
6. Independent Police Auditor's Report. For Discussion and Action.
 - a. Office of the Independent Police Auditor (OIPA) Monthly Report for January 2019.
 - b. Recommendation for Revisions to BPD Policy #451, Body Worn Camera.
 - c. Review of Draft OIPA FY2018 Annual Report.
7. Public Comment (Limited to 3 minutes per speaker).
(An opportunity for members of the public to address the BPCRB on matters under their jurisdiction and not on the agenda.)
8. Closed Session. (Room 303, Board Conference Room).
 - a. To Consider Public Employee Discipline/Dismissal/Release in OIPA Case #18-37. Govt. Code §54957.
9. Adjournment.

Please refrain from wearing scented products (perfume, cologne, after-shave, etc.) to this meeting, as there may be people in attendance susceptible to environmental illnesses.

BART provides service/accommodations upon request to persons with disabilities and individuals who are limited English proficient who wish to address Board matters. A request must be made within one and five days in advance of Board meetings, depending on the service requested. Please contact the Office of the District Secretary at (510) 464-6083 for information.

BPCRB Meeting Agenda materials will be made available to the public at the meeting and may also be accessed and downloaded 72 hours prior to the meeting at <http://www.bart.gov/about/bod/advisory/crb> (click on "Agenda").

Pursuant to Govt. Code §54953.5, the audio recording of the open session portions of this public meeting shall be subject to inspection pursuant to the California Public Records Act (CPRA). Requests for information under the CPRA should be filed with the BART Office of the District Secretary.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
300 Lakeside Drive, P.O. Box 12688, Oakland, CA 94604-2688

BART Police Citizen Review Board Meeting Minutes
Monday, January 14, 2019

A regular meeting of the BART Police Citizen Review Board (BPCRB) was held January 14, 2019 convening at 4:01 p.m. in the BART Board Room, 2040 Webster Street, Oakland, California. The meeting was called to order by Chairperson George Perezvelez; May Cooper, Recording Secretary.

Members Present: Members George Perezvelez, Christina Gomez, Kenneth Loo, Pete Longmire, Les Mensinger, Richard Knowles and William White.

Absent: Erin Armstrong and David Rizk. Darren White entered the meeting later.

1. Call to Order.

The regular meeting was called to order at 4:01 p.m. by Chairperson Perezvelez.

Chairperson Perezvelez, Christina Gomez, Kenneth Loo, Pete Longmire, Les Mensinger, Richard Knowles and William White were present, amounting to a quorum.

The Pledge of Allegiance was recited.

2. Approval of Minutes of the Meeting of December 10, 2018.

Mr. Mensinger called for a motion to approve Minutes of the Meeting of December 10, 2018; Mr. Knowles seconded the motion.

The motion passed with Ayes – 5: Members Perezvelez, W. White, Gomez, Mensinger and Knowles. Abstain – 2: Members Longmire and Loo. Noes: 0. Absent - 3: Members D. White, Armstrong and Rizk.

3. Chief of Police's Report.

a. BART Police Department (BPD) Monthly Report.

Deputy Chief Lance Haight presented the BPD Monthly Report for November 2018. The report was discussed.

Mr. D. White joined the meeting at 4:41 p.m.

b. Internal Affairs Case Tracking Updates.

Police Sergeant III Anisa McNack presented updates to the Internal Affairs Case Tracking. The updates were discussed.

c. Crowd Control Policy #459 Presentation.

Deputy Chief Lance Haight gave a presentation on the Crowd Control Policy #459. The item was discussed.

4. Update on Ad Hoc Subcommittee to Review of BPD Policy# 310, Officer Involved Shootings and Deaths.

Mr. W. White provided an update on the subcommittee.

5. 2019 BPCRB Training Schedule.

Mr. D. White called for a motion to approve the 2019 BPCRB training topics; Mr. Mensinger seconded the motion, which carried by unanimous Roll Call vote. Ayes - 8: Members Perezvelez, W. White, D. White, Knowles, Mensinger, Gomez, Loo and Longmire. Noes: 0. Absent - 2: Members Rizk and Armstrong.

6. Independent Police Auditor's Report.

- a. Office of the Independent Police Auditor (OIPA) Monthly Report for December 2018. Independent Police Auditor Russell Bloom presented the OIPA Monthly Report for December 2018. The report was discussed.

7. Public Comment.

No comments were received.

The Meeting recessed at 5:27 p.m.

The Meeting reconvened in Closed Session at 5:32 p.m.

8. Closed Session.

- a. To consider Public Employee Discipline/Dismissal/Release in OIPA Case #18-17. Govt. Code §54957.

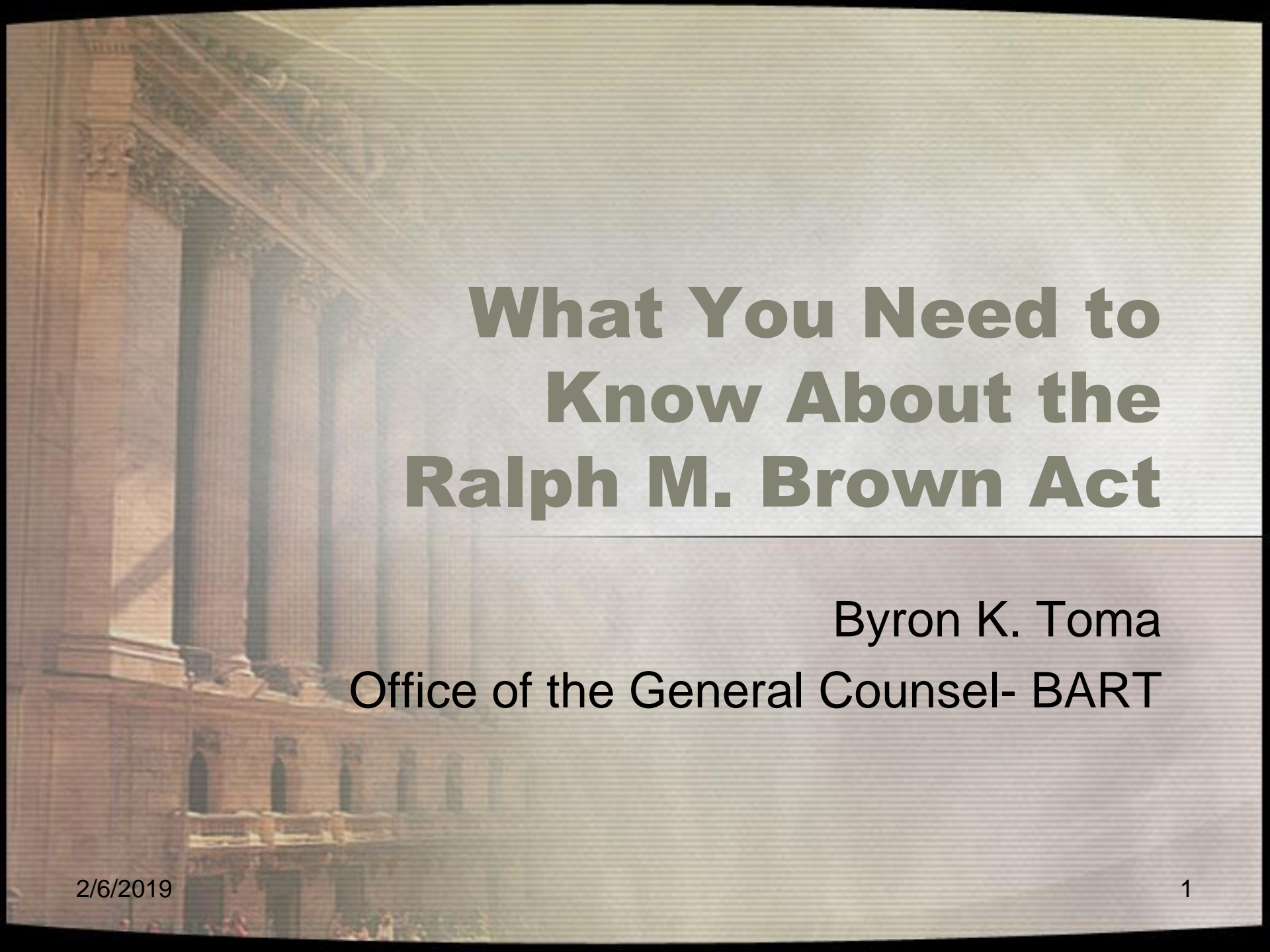
Members present: Board Members Perezvelez, W. White, D. White, Knowles, Mensinger, Gomez, Loo and Longmire.

9. Open Session.

The Meeting reconvened in Open Session at 6:07 p.m.

A motion to adjourn the meeting was made by Chairperson Perezvelez and seconded by Mr. D. White. The motion passed unanimously.

The Meeting was adjourned at 6:09 p.m.



What You Need to Know About the Ralph M. Brown Act

Byron K. Toma
Office of the General Counsel- BART

General Background



- Referred to simply as the Brown Act
- Found in California Government Code sections 54950-54962
- Enacted by Legislature in 1953 to:
 - facilitate public participation in local government; and
 - curb misuse of the democratic process by secret legislation by public bodies

Background

- “The people of this State do not yield their sovereignty to the agencies which serve them . . . The people insist on remaining informed so that they may retain control over the instruments they have created.”
- Presumption in favor of access, confidentiality an exception

Overview



- To whom does the Act apply?
- What is a meeting?
- What are the notice and agenda requirements?

Overview



- What are the public's rights?
- When and how for closed sessions?
- What are the consequences for violations?

To whom does the Act apply?

- Section 54953 requires that “[a]ll meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency”

Bodies Covered by the Act

- “Legislative bodies” includes all legislative bodies of local agencies, e.g. boards, commissions, councils and committees
- “Legislative bodies” also includes any advisory board of a legislative body created by charter, ordinance, resolution or any similar formal action
- “Local agencies” include cities, counties, school districts, special districts, municipal corp. etc.

Bodies NOT Covered

- Any *ad hoc* committee composed solely of less than a quorum of the members of a legislative body (i.e., less than a majority of the total voting members) that has not been established by formal action of the legislative body
- However, if the committee includes one or more persons who are not members of the legislative body, this exception does not apply

Summary of Act Applicability

- Thus the Brown Act applies to any standing committee of the legislative body which has either:
 - Continuing subject matter jurisdiction over a topic; or
 - A meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body

What is a meeting?

- Section 54952.2 defines a meeting as “any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.”

A meeting is . . .

- A meeting includes not only action but also the receipt of information, deliberation, or discussion
- Thus a meeting may include lunches, social gatherings, board retreats etc.
- A serial meeting if it is for the purpose of developing a concurrence as to action to be taken

Serial Meeting Defined

- A serial meeting is a:
 - series of communications (whether in person or by phone, email etc.)
 - each of which individually involves less than a quorum
 - but which when taken as a whole, involve a majority of the boards members

Serial Meeting Defined

- “concurrence as to action to be taken” is defined as substantive matters that are already or are likely to be on board’s agenda, but does not include purely housekeeping matters (e.g. times, dates and locations of meetings)
- Example: a meeting of board members’ intermediaries

A meeting is NOT . . .

- Any gatherings attended by a majority of a legislative body if **no official business** of the legislative body or the agency is **discussed**
- For example a meeting organized by a person or local agency other than the local agency to address a topic of local community of concern and conferences open to the public are not meetings

Meeting Location

- Meetings of the legislative body (both regular and special) must be within the boundaries of the local agency except if held to:
 - Comply with state or federal law, or attend a judicial or administrative proceeding;
 - Inspect real or personal property;
 - Participate as a body in a multi-agency meeting held in another jurisdiction;
 - Meet in the closest facility if the local agency does not have a facility within the jurisdiction;

Meeting Location

- Meetings of the legislative body (both regular and special) must be within the boundaries of the local agency except if held to:
 - Meet outside the jurisdiction with elected or appointed federal or state officials over which state or federal officials have jurisdiction;
 - Meet outside the jurisdiction at or nearby a facility owned by the agency, provided the topic of the meeting is limited to items related directly to that facility; or
 - Visit the office of the agency's legal counsel for a closed session pending litigation when doing so would reduce legal costs

Summary of What is a Meeting

- Thus under the Brown Act a meeting is:
 - any gathering of a majority of the members of the legislative body
 - Where the members hear, discuss, or deliberate upon any item on which the legislative body could act

Meeting Location

- A meeting may not be held in any facility that:
 - prohibits the admittance of any person on the basis of race, religious creed, color, national origin, ancestry or sex;
 - which is inaccessible to disabled persons; or
 - where members of the public may not attend without making a payment or purchase

Notice and Agenda Requirements for Regular Meetings

- **Regular Meetings** are those whose time and place is set by ordinance, resolution or by-law
- Requires that an agenda be posted at least 72 hours prior to meeting
- Agenda purpose is to notify public of meeting

Notice and Agenda Requirements for Regular Meetings

- Agenda must contain:
 - a brief general description of each action or discussion item to be considered
 - items to be discussed at closed sessions
 - opportunity for public testimony
 - May impose a reasonable time limit
 - Board can't take action if item not on agenda
- Agenda must be publicly posted so that it is freely accessible
 - not freely accessible if agenda only available during business hours

Notice and Agenda Requirements for Regular Meetings

- Need not be on agenda but must be publicly announced before proceeding:
 - Emergency matters (requires majority vote)
 - Need for immediate action arising after publication of agenda (requires 2/3 vote)
 - Matter which has been posted for a previous meeting which is carried over for no more than five days

Notice Requirements for Special Meetings

- **Special meetings** require 24 hours written notice to each local newspaper of general circulation, radio and/or television station requesting notice and must be posted in a public place
- No business may be considered except that for which the meeting was called
- May be held in closed session

Notice Requirements for Emergency Meetings

- **Emergency meetings** require at least one hour notice by phone to each local newspaper of general circulation, radio and/or television station requesting notice
- Can only be called because of crippling disasters, strikes, public health and/or safety threats
- No closed session permitted

Notice Requirements

- Notice for Special and Emergency meetings must contain:
 - Time
 - Place
 - Items of business to be addressed

Notice and Agenda Requirements Summary

- General Meeting:
 - Requires 72 hours posted agenda in a public place
 - Closed session allowed
- Special Meeting
 - Requires require 24 hours written notice to each local newspaper of general circulation, radio and/or television station requesting notice
 - notice must be posted in a public place
 - Closed session allowed
- Emergency Meeting
 - One hour notice by phone to television/radio
 - No closed session allowed

Discussion of Items Not on Agenda

- If an item not on posted the agenda is brought up, a member of the legislative body or agency may:
 - Briefly respond to statements or questions;
 - Ask questions for clarification;
 - Make a brief announcement;
 - Provide a reference to staff or other resources for factual information;
 - Request staff to report back at subsequent meeting;
or
 - Direct staff to place a matter of business on a future agenda

The Public's Rights

- All persons are permitted to attend any meeting of a legislative body
- No member of the public may be required to register his or her name, provide information or fulfill any other requirement as a condition of his or her attendance
- Each agenda must provide an opportunity for members of the public to address the legislative body on items within their jurisdiction

The Public's Rights

- The legislative body may not prohibit public criticism of the politics, procedures, programs, or services of the agency
- Any person may record and/or broadcast any meeting unless doing so constitutes a persistent disruption of the proceedings

The Public's Rights

- If a meeting is interrupted by any person or persons such that continuing is not feasible, or order cannot be restored by the removal of the disrupting individuals, the legislative body can order the room cleared and continue the meeting
 - However accredited members of the press or news media not participating in the disturbance must be allowed to remain

The Public's Rights Summary

- All members of the public must be allowed access
- No fulfillment of any condition prior to attendance may be required
- Must allow for time for the public to speak
- Any person may record/broadcast meeting as long as its not a persistent disruption

When and How for Closed Sessions

- **Closed sessions** are the exception to the Brown Act's general requirement that all meetings be open to the public
- Any closed session must be **authorized by a specific statutory provision**

Notice and Agenda Requirements for Closed Session

- Closed Sessions require three types of notice:
 - Agenda
 - Pre-closed session announcement, and
 - Post-closed session announcement
- However confidential matters discussed in closed session may not be disclosed

Closed Sessions Authorized by Specific Statutory Provisions

- Allowable closed sessions:
 - Grand Jury
 - legislative body members may give testimony in closed session
 - License Applications
 - when determining if an applicant for a license who has a criminal record is sufficiently rehabilitated to obtain the license
 - Security of Public Buildings and Services
 - Personnel
 - to consider appointment, evaluation, or dismissal
 - to hear complaints or charges brought against an employee
 - Employee must be given option of closed hearing 24 hours before session otherwise any actions taken are void

Closed Sessions Authorized by Specific Statutory Provisions

- Allowable closed sessions:
 - Employee Compensation Matters
 - For labor negotiations, salary negotiation etc.
 - No final action may be taken compensation for any unrepresented employees
 - Property Negotiations
 - Concerning the sale, exchange, or lease of real property
 - Pending Litigation
 - To allow legislative body to confer with its legal counsel regarding “pending litigation”

Closed Session for Pending Litigation

- Pending litigation is defined as:
 - A proceeding that has been formally initiated
 - The agency faces significant exposure to litigation
 - When the agency is deciding to initiate litigation

Closed Session Summary

- Closed session must be on agenda
- Must give a pre-closed session announcement
- Must give a post-closed session announcement
- Allowed only if explicitly mentioned by statute
- Confidential material may not be disclosed

Consequences for Violations

- Criminal Penalties
 - Misdemeanor where action taken in violation of the act
- Civil Remedies
 - Injunction, mandamus, declaratory relief
 - Action may be voided following notice to correct, which must be received within 90 days, and acted on within 30 days, lawsuit filed within 15 days
- Attorneys fees
 - Awarded against agency, not individual

Conclusion

- As the Brown Act is often amended by the legislature, it is necessary to periodically review the Brown Act



END

Thank you for your attention

Possible further reading

http://caag.state.ca.us/publications/2003_Main_BrownAct.pdf

<http://www.vanguardnews.com/brownact.htm#title>

<http://www.miracosta.cc.ca.us/senate/BrownAct/BrownAct.htm>

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Tips on Parliamentary Procedure

Governing Principles and Common Sense

The BIG Picture

- Parliamentary law is a system of maintaining order in organizations. It provides an approved and uniform method of conducting meetings in a fair, orderly, and expeditious manner.
- Respect for law is a basic characteristic of democratic governments. This respect is clearly shown by a willingness to practice an orderly method of procedure in organizations so as to follow the will of the majority, to protect the rights of the minority, and to protect the interests of those absent.
- The San Francisco Bay Area Rapid Transit District Board of Directors has adopted Alice Sturgis' Standard Code of Parliamentary Procedure to govern its affairs and, unless otherwise indicated, the governance of subordinate bodies.

Alice Sturgis' Philosophy

- Alice Sturgis considered principles more important than rules.
- She stressed the need to understand the “why” behind every procedure.
- She held that when there is a conflict between common sense and archaic ritual, common sense should prevail.

Key Principles

- All members have equal rights, privileges, and obligations; rules must be administered impartially.
- The minority has rights which must be protected.
- Full and free discussion of all motions, reports, and other items of business is a right of all members.
- In doing business, the simplest and most direct procedure should be used.
- Logical precedence governs introduction and disposition of motions.
- Only one question can be considered at a time.
- Members must be recognized by the chair and have obtained the floor.
- No one may speak more than twice on the same question w/o permission of the assembly. No member may speak a second time on the same question if anyone who has not spoken on that question wishes to do so.
- In voting, members have the right to know at all times what motion is before the assembly and what affirmative and negative votes mean.

Summary of Steps in Handling a Motion

- A member rises and addresses the presiding officer.
- The presiding officer recognizes the member.
- The member states the motion.
- Another member seconds the motion.
- The presiding officer restates the motion, thus placing it before the assembly for consideration.
- The assembly may discuss the motion if it is debatable and amend the motion if it is amendable.
- The presiding officer takes the vote.
- The presiding officer announces the result.

Precedence of Motions

- Since only one question may be considered at a time, the sequence in which motions may be taken up is fixed by parliamentary law.
- The main motion is the basic motion and all other legitimate motions are taken up and acted upon before the main motion is finally disposed of.
- In other words, motions are acted upon one at a time in REVERSE ORDER of proposal, with the main motion acted on last.
- Subsidiary and incidental motions which are introduced must be given priority so that the action finally taken on the main motion will accurately reflect the will of the assembly.
- Privileged and subsidiary motions have the highest status and are arranged in an explicit order of precedence. Let's look at them more closely.

What are Privileged Motions?

- Privileged Motions are motions to enable a member to secure an immediate decision that concerns the comfort, convenience, rights, etc. of a member even though other business is pending.
- Example: "I move to take a 15 minute recess."

What are the Privileged Motions?

- To Adjourn
- To Recess
- To raise a Question of Privilege

What are Subsidiary Motions?

- Subsidiary motions are motions to modify a motion that is being considered by the board so that it will express more satisfactorily the will of the members.
- Example: "I move to amend the motion by inserting the word 'three' before the word 'representatives'."

What are the Subsidiary Motions?

- To postpone temporarily
- To close debate
- To limit debate
- To postpone to a certain time
- To refer to committee
- To amend

Ranking of PRIVILEGED and subsidiary motions

- 1. ADJOURN (privileged)
- 2. RECESS (privileged)
- 3. RAISE A QUESTION OF PRIVILEGE (privileged)
- 4. Postpone Temporarily or "Table" (subsidiary)
- 5. Close debate – requires 2/3 vote (subsidiary)
- 6. Limit debate – requires 2/3 vote (subsidiary)
- 7. Postpone to a certain time (subsidiary)
- 8. Refer to a committee (subsidiary)
- 9. Amend (subsidiary)

Tips regarding the ranking table

- When a motion is being considered, only motions with higher precedence (as noted on the earlier slide) may be introduced.
- Lower precedence motions may not be considered.

What is a Main Motion?

- Main motions are motions by which a member may present a substantive proposal to the board for consideration and action.
- It is the basic motion of the transaction of business.
- Example: "I move that we apply for a 223 grant to fund the proposed demonstration project."

What is a restorative main motion?

- The term refers to a motion to amend a main motion that was previously approved by the Board.

What is an Incidental Motion?

- Incidental motions arise incidentally out of the immediate pending business at any time and must be decided as soon as they arise.
- Example: “I move to withdraw my motion.”
- They are not viewed as presenting a problem of precedence.

Unanimous (General) Consent

- Under Sturgis (p.142) Unanimous General Consent is an informal method of taking a vote, used for routine and non-controversial decisions.
- Example: "The minutes have been circulated. Are there any corrections to the minutes? (Pause)? If not, the minutes are approved as circulated."
- Example: "Is there any objection to changing the agenda to consider item 7? (Pause)? There being no objection, we will proceed now with item 7, and then return to item 3."
- Unanimous Consent is not appropriate when voting on main motions, since they do not qualify as "routine and non-controversial decisions". Members must be given the full opportunity to express their sentiment by a formal show of hands.

NOTE: Parliamentary Procedure Rules co-exist with other enactments of government

Hierarchy of Governing Documents under Sturgis (p.203)

- 1. Laws of the Land (Constitution, Statutes, etc.)
- 2. Constitution (Originating Instrument) and Bylaws
- 3. Rule Book (e.g. Sturgis) and Special Rules of Order

Did you know:

- Under Sturgis, the Chair maintains the right to vote.
- A motion requires (at least) a majority vote to pass.
- Where a motion would limit the rights of members, a 2/3 vote is required.
- Associate members cannot vote.
- Board members who have a direct personal gain by voting may not vote.
- Under Sturgis (p. 135) abstentions do not count.
- Under Sturgis (p.136), if the result of a vote is a tie, the motion fails to pass.
- Seconding a motion merely indicates that the member wishes the motion to be considered by the Board; it is not necessarily an endorsement of the motion.

Final words of wisdom

- Don't get bogged down with detail.
- Use common sense.
- Have reference materials readily available.
- Take notes.
- Practice.
- Take care of only one thing at a time.
- No business without a quorum. Individual board members do not have the power to act independently. They are members of a body and therefore may not speak or act for the body unless given specific authority by the body. An individual doing so will be individually responsible for their own actions.

Resources

- Alice Sturgis, Standard Code of Parliamentary Procedure (4th edition)

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Questions?

Don't be shy – I don't know anything.

BART POLICE DEPARTMENT



December 2018

MONTHLY REPORT

BPD Monthly Reports

December 2018

Report	Responsible
01 – Industrial Leave*	SSD – J. Morgan
02 – Vacancy	SSD – F. Cheung
03 – Diversity	SSD – F. Cheung
04 – Training	PS&T – P. Kwon
05 – Use of Force	PS&T – K. Franklin
06 – Citizen Complaints	PS&T – K. Franklin
07 – Internal Affairs Log	PS&T – K. Franklin
08 – Performance Measures	SSD – K. Dam
09 – Enforcement Contacts	SSD – K. Dam
10 – Parking Enforcement	POD – J. DeVera
11 – Warrant Arrests	SSD – K. Dam
12 – Detectives Assignments	SSD – J. Power
13 – Detectives Closure Rate	SSD – J. Power
14 – Assembly Bill 716	POD – A. Sandoval
15 – Absence Overview	SSD – C. Vogan
16 – Overtime	SSD – F. Cheung
17 – Communications Center	SSD – G. Hesson
18 – BART Watch	SSD – C. Vogan

*Not included in Year-End or Monthly BPCRB Reports

BART Police Department (07) Staffing Status

As of: 01/14/19
Vacancy Factor: 0.0

	Pos'n Code	Job Title	FY19 Adopted	Reclass	As of 07/01/18	Filled	On Leave or TMD	Vacant
NON-SWORN (Rep)	027	Community Service Officer	59		59	50	2	9
		Fare Inspection Officer	16		16	-		16
	045	Police Admin Specialist	12		12	10	-	2
	048	Police Dispatcher	18		18	16	-	2
	098	Revenue Protection Guard	19		19	16	-	3
	836	Police Sup.//CAD/RMS Admin***	6		6	5	-	1
#	778	Police Officer	68		68	58	6	10
		In Academy = 9						-
		Field Training = 2						-
	788	Senior Police Officer	95		95	76	3	19
	798	Master Police Officer	13		13	11	-	2
	838	Police Sergeant	34		34	26	1	8
	888	Police Lieutenant	13		13	11		2
	898	Police Deputy Chief	3		3	3		-
	980	Police Chief	1		1	1		-
	Non-Sworn (Non-Rep)	SF100	Mgr of Security Programs**	1		1	1	
000065		Emergency Preparedness Mgr.	1		1	-	-	1
000074		Crisis Outreach Coordinator	1		1	1		-
000081		Accreditation Manager	1		1	1	-	-
AF200		Sr. Administrative Analyst	1		1	1		-
DEPARTMENT TOTAL			362	-	362	287	12	75

Notes:

FY19

parking cso - 2

fare evasion - 2 on hold pending rpt
made that as 2 dispt

11/2018 8 CSO added to the FET

Ofc - 5 frozen

Note: BART Police Department has 17 Attrition Float positions, of which 10 are Police Officers (778), 5 are Community Service Officers (027) and 2 are Police Dispatchers (048).

- > "On Leave" category does not include personnel on Admin Leave.
- > Mgr of Security Programs position is currently filled by a Police Lieutenant**

BART PD DIVERSITY MONTHLY REPORT

As of 12/31/18

+

<u>ETHNICITY</u>		<u>S</u>		<u>C</u>	
White	36% 104	39%	72	32%	32
Black	21% 60	19%	36	24%	24
Asian	21% 60	18%	33	27%	27
Hispanic	20% 57	22%	41	16%	16
American/ Indian	0% 0	0%	0	0%	0
Native Hawaiian/Pac Island	2% 5	2%	3	2%	2
Total:	100% 286	100%	185	100%	101
<u>DEMOGRAPHIC</u>		<u>S</u>		<u>C</u>	
Female	22% 63	10%	18	45%	45
Male	78% 223	90%	167	55%	56
Total:	100% 286	100%	185	100%	101
<u>CLASSIFICATION</u>					
Sworn	65% 185				
Civilian	35% 101				
Total:	100% 286				

CRISIS INTERVENTION TRAINING AS OF: December 31, 2018

Personnel Positions	Total Positions	Filled Positions	Vacant Positions	(Not in Academy or Field Training) Eligible to Attend Training	Total of Filled Positions Trained	Percentage of Total Filled Positions Trained	Percentage of Eligible Filled Positions Trained
Chief	1	1	0	1	0	0%	0%
Deputy Chiefs	3	3	0	3	3	100%	100%
Lieutenants	13	10	3	10	10	100%	100%
Sergeants	33	26	7	26	26	100%	100%
Officers	177	146	31	131	131	90%	100%
Dispatchers	18	16	2	14	10	63%	71%
Dispatch Supervisors	2	1	1	1	1	100%	100%
CSOs	64	50	14	47	42	84%	89%
Crisis Outreach Coordinator	1	1	0	1	1	100%	100%
Total	312	254	58	234	224	88%	96%

Personnel Positions that are not designated to attend CIT Training

	Total	Filled	Vacant
Revenue Protection Guards	19	16	3
Police Administrative Specialists	12	10	2
Police Sup./CAD RMS Admin	6	5	1
Civilian Managers/Analyst	3	2	1
Manager Sec Prog	1	1	0
Sub Total	41	34	7
TOTAL PERSONNEL	353	288	65

FAIR AND IMPARTIAL / BIASED BASED TRAINING AS OF December 31, 2018

Personnel Positions	Total Positions	Filled Positions	Vacant Positions	Eligible to Attend (Not in Academy or Field Training)	Total of Filled Positions Trained	Percentage of Total Filled Positions Trained	Percentage of Eligible Filled Positions
Chief	1	1	0	1	0	0.0%	0.0%
Deputy Chiefs	3	3	0	3	3	100.0%	100.0%
Lieutenants	13	10	3	10	10	100.0%	100.0%
Sergeants	33	26	7	26	26	100.0%	100.0%
Officers	177	146	31	131	131	89.7%	100.0%
CSOs	64	50	14	48	44	88.0%	91.7%
Total	291	236	55	219	214	90.7%	97.7%

Personnel Positions that are not designated to attend FAIR AND IMPARTIAL Training

	Total	Filled	Vacant
Dispatchers	18	16	2
Dispatch Supervisors	2	1	1
Crisis Outreach Coordinator	1	1	0
Revenue Protection Guards	19	16	3
Police Administrative Specialists	12	10	2
Police Sup./CAD RMS Admin	6	5	1
Civilian Managers/Analyst	3	2	1
Manager Sec Prog	1	1	0
Sub Total	62	52	10
TOTAL PERSONNEL	353	288	65

POLICE ROADWAY PROTECTION TRAINING AS OF: December 31, 2018

Personnel Positions	Total Positions	Filled Positions	Vacant Positions	Eligible to Attend (Not in Academy, FTO, or IND/Leave)	Total of Filled Positions Trained	Percentage of Total Filled Positions Trained	Percentage of Eligible Filled Positions
Chief	1	1	0	1	0	0.0%	0.0%
Deputy Chiefs	3	3	0	3	3	100.0%	100.0%
Lieutenants	13	10	3	10	10	100.0%	100.0%
Sergeants	33	26	7	26	26	100%	100.0%
Officers	177	146	31	131	131	89.7%	100.0%
Total	227	186	41	171	170	91.4%	99.4%

Personnel Positions that are not REQUIRED to attend Police Roadway Protection Training

	Total	Filled	Vacant
Dispatchers	18	16	2
Dispatch Supervisors	2	1	1
Crisis Outreach Coordinator	1	1	0
Community Service Officer	64	50	14
Revenue Protection Guards	19	16	3
Police Administrative Specialists	12	10	2
Police Sup./CAD RMS Admin	6	5	1
Civilian Managers/Analyst	3	2	1
Manager Sec Prog	1	1	0
Sub Total	126	102	24
TOTAL PERSONNEL	353	288	65

Use of Force Incidents - 2018

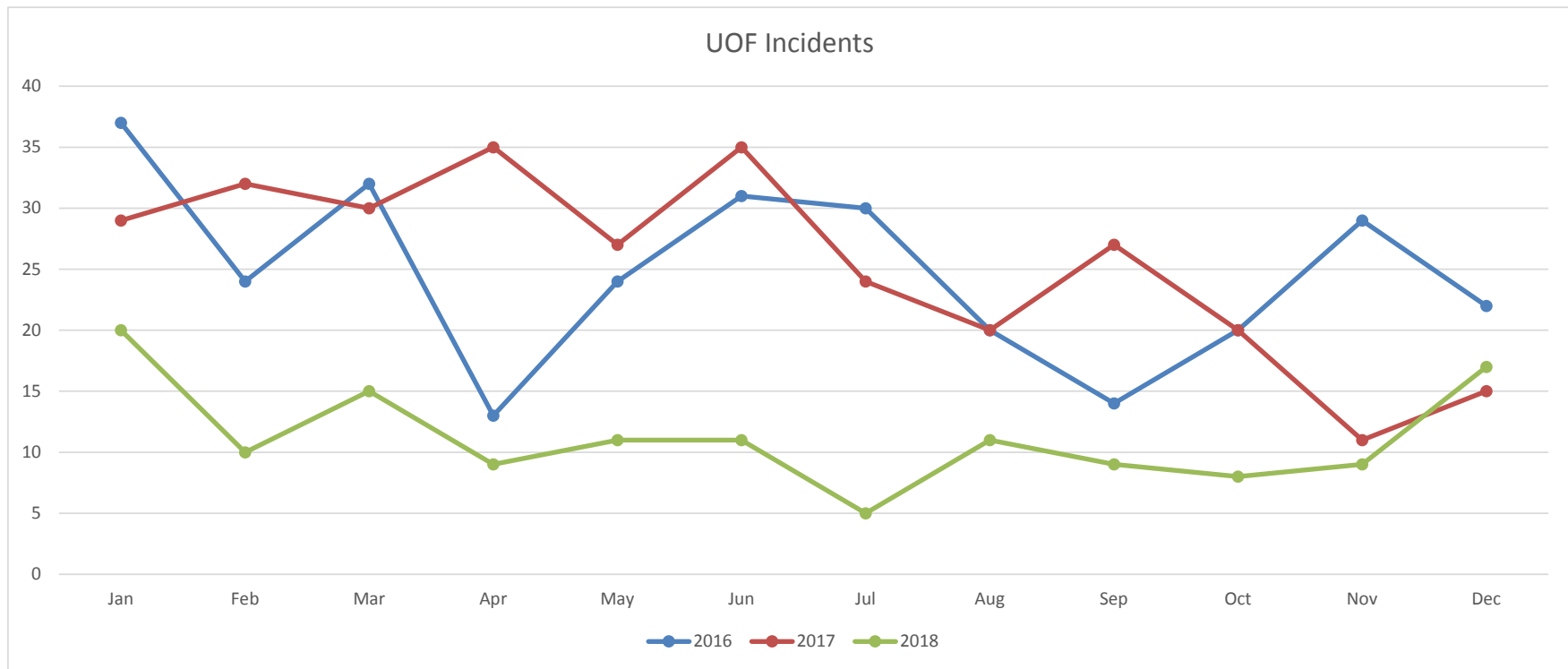
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2018	20	10	15	9	11	11	5	11	9	8	9	17	135
YTD 2018	20	30	45	54	65	76	81	92	101	109	118	135	

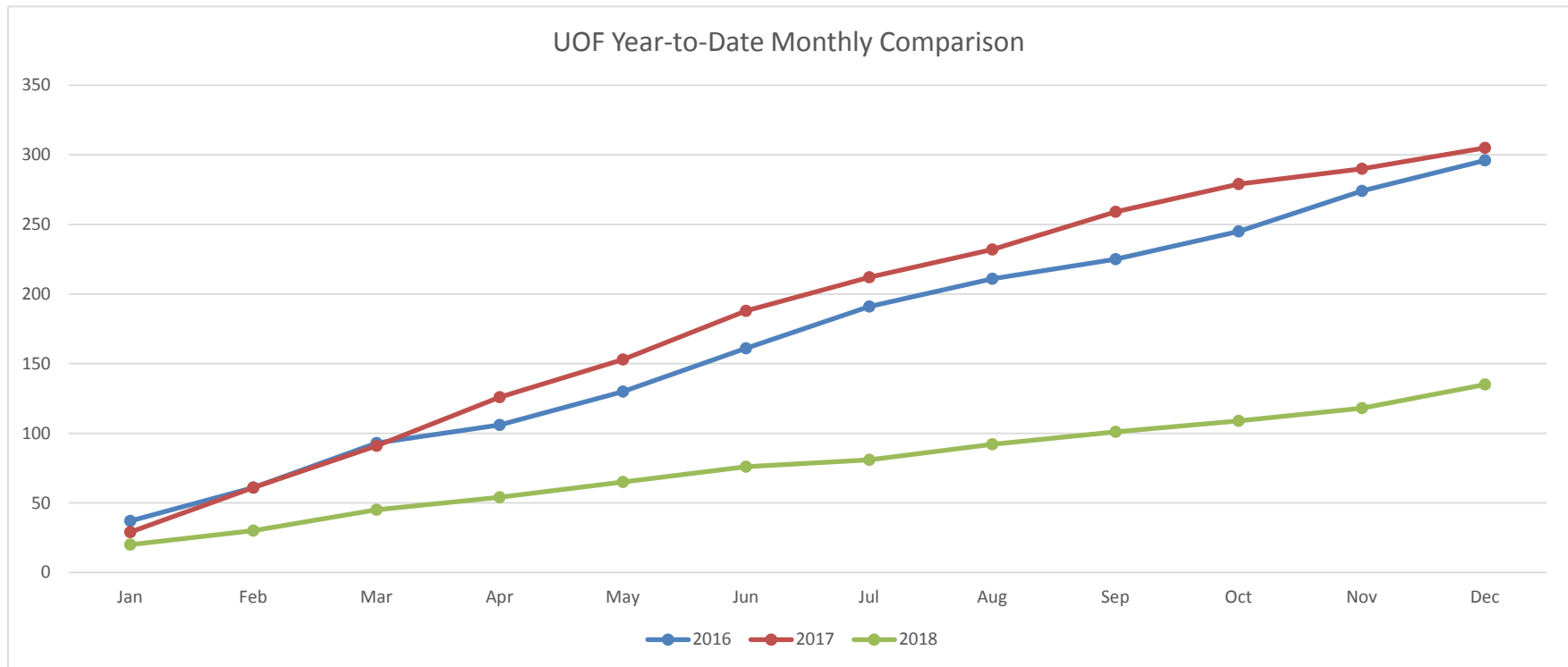
Use of Force Incidents - 2017

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2017	29	32	30	35	27	35	24	20	27	20	11	15	305
YTD 2017	29	61	91	126	153	188	212	232	259	279	290	305	

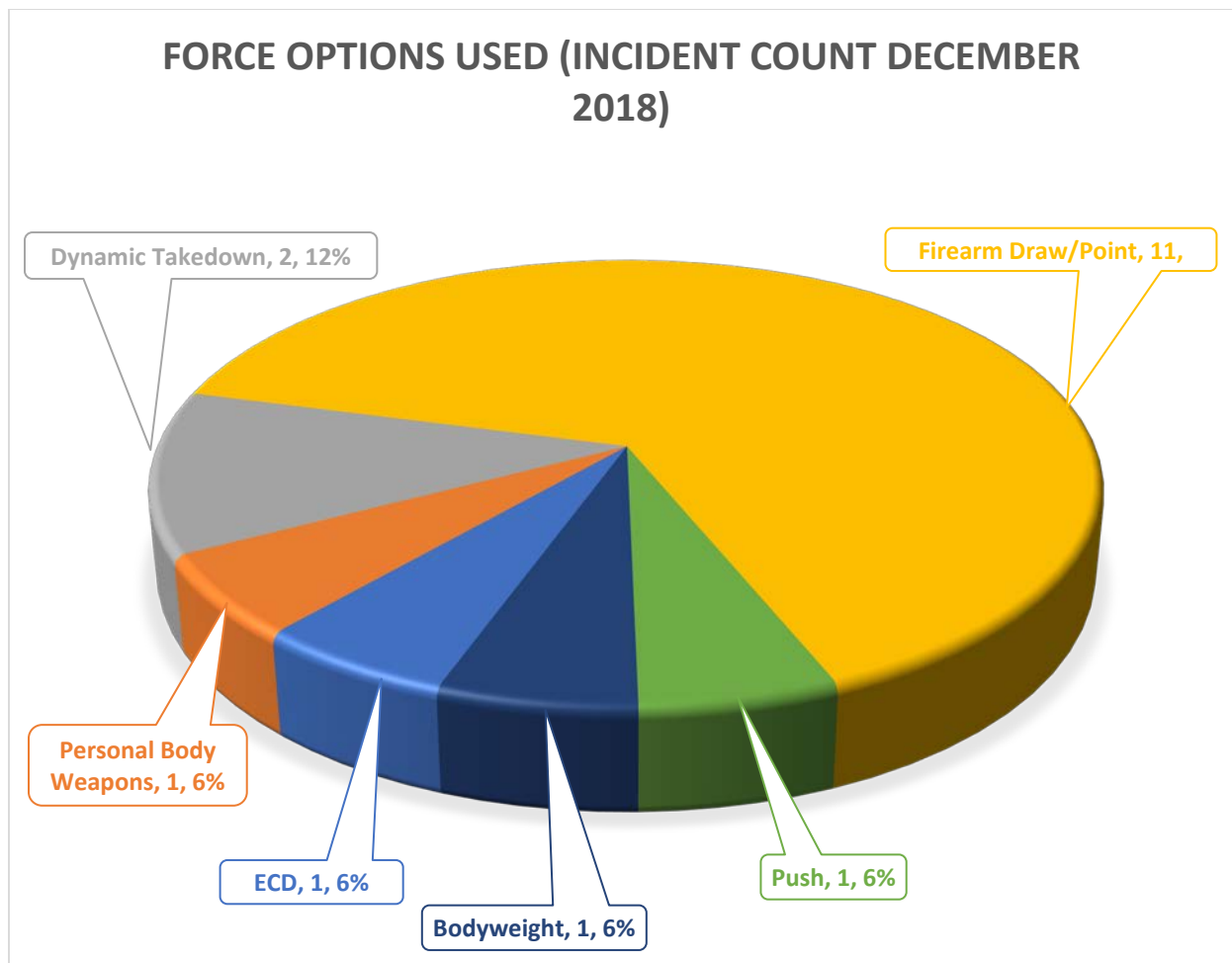
Use of Force Incidents - 2016

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2016	37	24	32	13	24	31	30	20	14	20	29	22	296
YTD 2016	37	61	93	106	130	161	191	211	225	245	274	296	



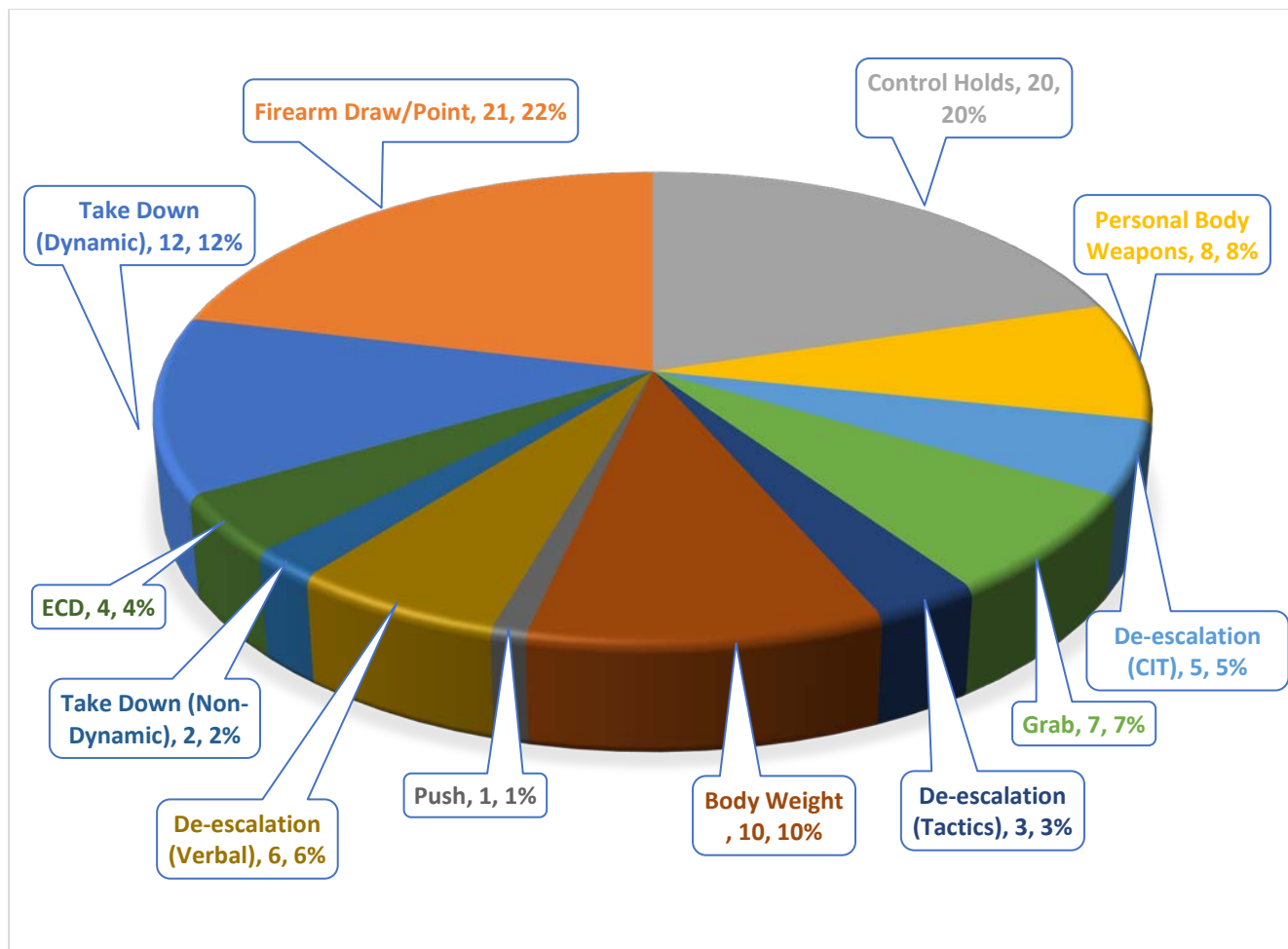


Force Options Used (Incident Count), December 2018



*Each incident could contain more than one force option used. This pie chart reflects the most significant force option used per incident.

Types of Force Used, December 2018 (Overall Total)



*Some incidents involved the use of multiple force options. If two officers involved in the same incident used the same force option, this data would reflect both officers. As an example, if two officers in the same incident used control holds, this data would reflect two separate control holds.

Citizen Complaints - 2018

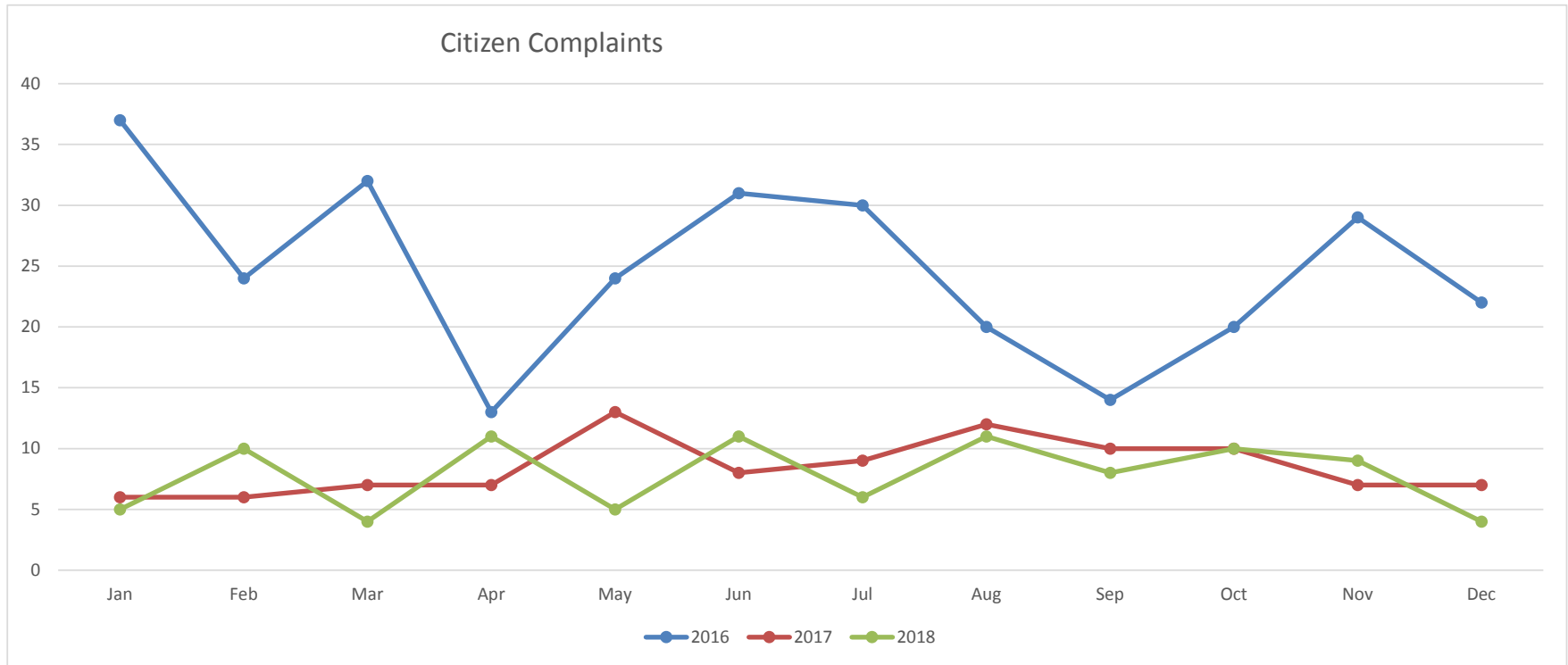
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2018	5	10	4	11	5	11	6	11	8	10	9	4	94
YTD 2018	5	15	19	30	35	46	52	63	71	81	90	94	

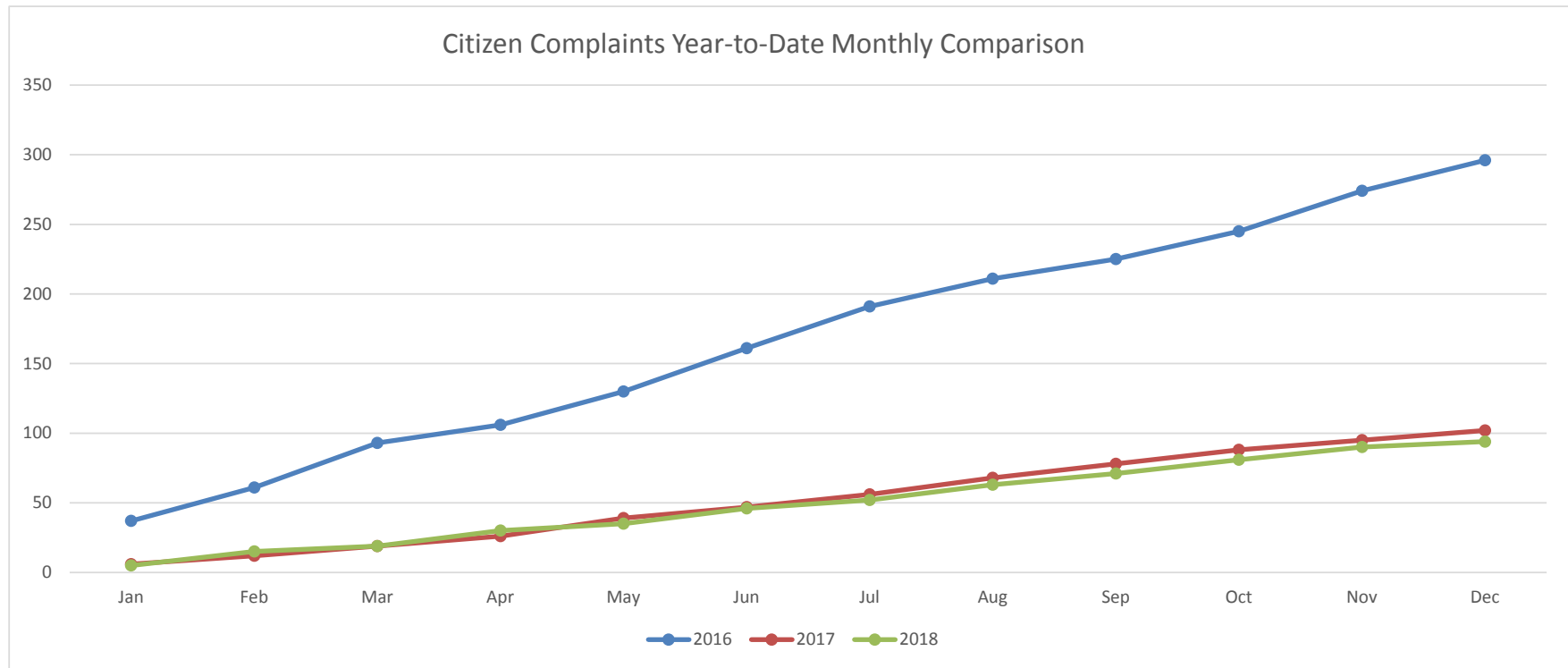
Citizen Complaints - 2017

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2017	6	6	7	7	13	8	9	12	10	10	7	7	102
YTD 2017	6	12	19	26	39	47	56	68	78	88	95	102	

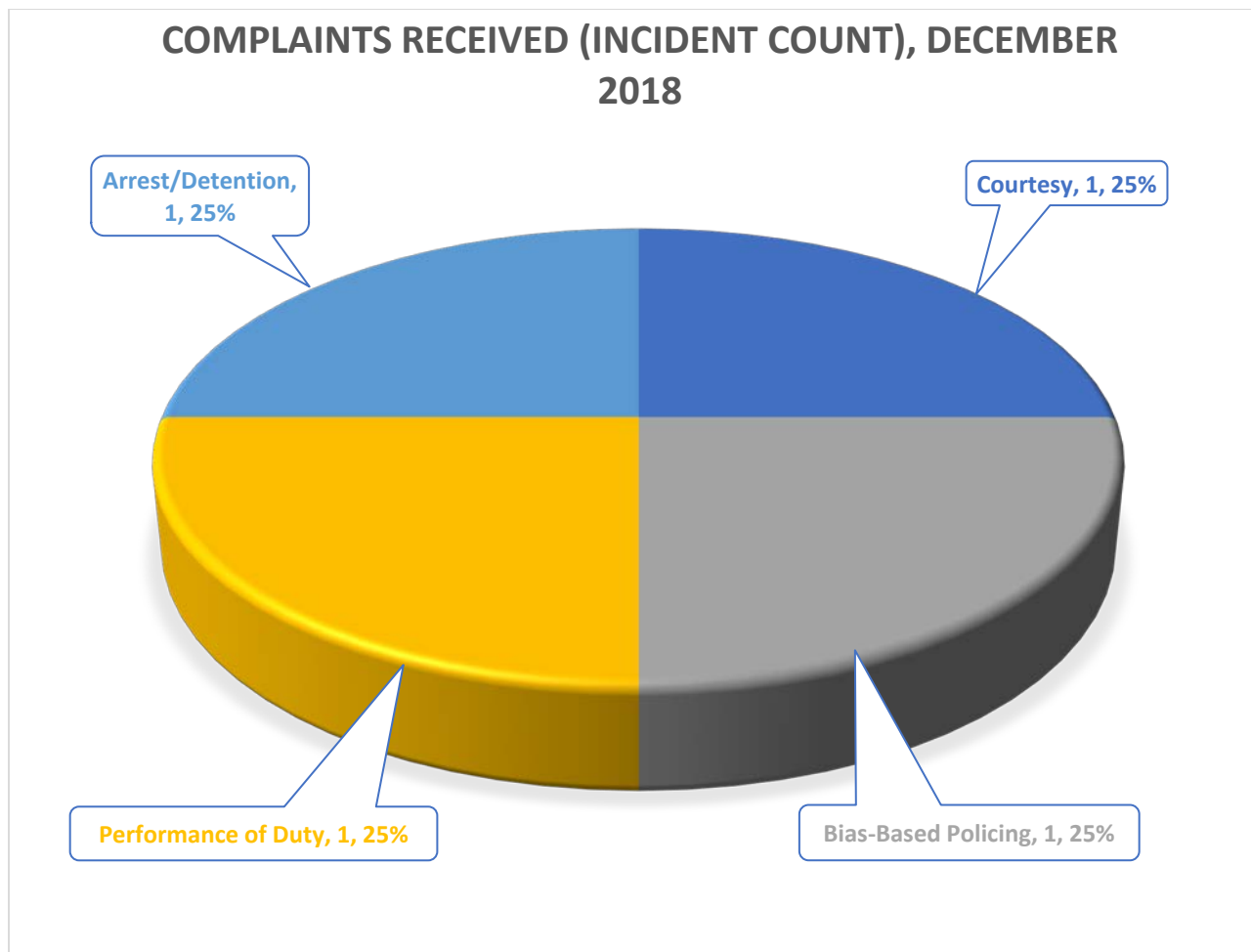
Citizen Complaints - 2016

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2016	10	3	13	7	7	10	6	9	8	7	8	6	94
YTD 2016	10	13	26	33	40	50	56	65	73	80	88	94	





Complaints Received (Incident Count), December 2018



Each incident could contain more than one allegation. This pie chart reflects the most significant allegation per incident.

BART Police Department - Office of Internal Affairs							
Investigation Log - November 2018							
IA	DATE		ALLEGATION	FINDING	INVESTIGATOR	STATUS	DUE DATE
CASE #	OCC'D	REC'D					
IA2016-071	07/29/16	7/29/2016	Force, Bias, Arrest		Sgt. McNack	In Progress	12/28/16
			Force, Bias, Arrest				01/27/17
			Force, Bias, Arrest				
			Force, Bias, Arrest				
IA2017-040	1/31/2017	5/18/2017	Force		Sgt. McNack	Tolled	10/17/2017
			Force				
IA2018-001	1/3/2018	1/3/2018	Force (OIS)		Sgt. T. Salas	Tolled	6/4/2018
IA2018-024	4/11/2018	4/13/2018	CUBO		Sgt. T. Salas	In Progress	9/12/2018
IA2018-025	4/11/2018	4/11/2018	Force	Complete	Sgt. T. Salas	Awaiting completion of training recommendation	10/31/2018
IA2018-027	4/20/2018	4/11/2018	Bias Based Policing		Sgt. T. Salas	In Progress	9/19/2018
IA2018-028	2/3/2018	4/20/2018	Force, Courtesy	Deferred to OIPA #18-15		OIPA Investigation	9/19/2018
IA2018-032	UNK	4/20/2018	BBP, POD, CUBO	Deferred to OIPA #18-16		OIPA Investigation	9/23/2018
IA2018-033	3/15/2018	4/23/2018	Force	Deferred to OIPA #18-17		OIPA Investigation	9/23/2018
IA2018-035	1/30/2018	4/30/2018	Force, BBP	Sgt. Togonon	Sgt. T. Salas	In Progress	10/31/2018
IA2018-037	4/30/2018	5/1/2018	CUBO	Sgt. Szopinski	Sgt. T. Salas	To Patrol	10/2/2018
IA2018-039	5/15/2018	5/15/2018	CUBO		Sgt. T. Salas	In Progress	1/7/2019
IA2018-042	5/31/2018	6/1/2018	Force, POD	Sekhon	Sgt. McNack	To Patrol	10/31/2018
IA2018-043	6/6/2018	6/6/2018	Force		Sgt. McNack	Tolled	11/5/2018
IA2018-044	6/5/2018	6/8/2018	CUBO	IND	Sgt. T. Salas	Tolled	11/7/2018
IA2018-046	6/9/2018	6/9/2018	Bias Based Policing Bias Based Policing		Sgt. McNack	In Progress	11/10/2018
IA2018-049	6/18/2018	6/18/2018	CUBO, Policy/Procedure	Sgt. Spears	Sgt. T. Salas	To Patrol	11/17/2018
IA2018-050	6/12/2018	6/15/2018	CUBO	Sgt. Castaneda	Sgt. T. Salas	To Patrol	7/15/2018
IA2018-051	6/28/2018	6/28/2018	Service Review/ S.R.	Hesson	Sgt. McNack	To Patrol	11/27/2018
IA2018-052	7/1/2018	7/2/2018	Courtesy	Lt. Scott 11/27/18	Sgt. T. Salas	To Patrol	11/15/2018
IA2018-053	6/12/2018	6/12/2018	Courtesy	S.R. 12/27	Sgt. Salas	In Progress	7/12/2018
IA2018-054	7/8/2018	7/8/2018	CUBO		Sgt. McNack	In Progress	12/9/2018
IA2018-060	7/22/2018	7/23/2018	Service Review		Lt. Franklin	Tolled	12/23/2018
IA2018-061	7/25/2018	7/26/2018	CUBO	OIPA Intake #18-30	Sgt. McNack	In Progress	12/25/2018
IA2018-063	8/8/2018	8/9/2018	Bias, CUBO		Sgt. T. Salas	In Progress	1/8/2019
IA2018-064	8/10/2018	8/10/2018	Force, Axon		Sgt. T. Salas	In Progress	1/9/2019
IA2018-065	8/7/2018	8/7/2018	Bias, CUBO		Sgt. T. Salas	In Progress	1/6/2019
IA2018-066	8/10/2018	8/10/2018	Bias Based Policing	OIPA Intake #18-32	Sgt. T. Salas	In Progress	1/9/2019

IA	DATE		ALLEGATION	FINDING	INVESTIGATOR	STATUS	DUE DATE
	CASE #	OCC'D					
IA2018-067	8/10/2018	8/10/2018	CUBO	Clear by video	Sgt. McNack	In Progress	9/15/2018
IA2018-070	8/5/2018	8/21/2018	CUBO, Policy/Procedure, Supervision		Sgt. T. Salas	In Progress	1/20/2019
IA2018-072	Unk	8/23/2018	POD	OIPA Intake #18-35 SR	Sgt. T. Salas	In Progress	1/22/2019
IA2018-073	8/23/2018	8/23/2018	CUBO	S.R. 10/24/18	Sgt. T. Salas	To Patrol	9/22/2018
IA2018-075	8/22/2018	8/30/2018	Performance of Duty		Sgt. McNack	In Progress	1/29/2019
IA2018-077	9/7/2018	9/7/2018	POD		Sgt. McNack	In Progress	2/6/2019
IA2018-079	7/12/2018	8/23/2018	CUBO, Policy/Procedure		Sgt. McNack	In Progress	2/10/2019
IA2018-080	9/11/2018	9/17/2018	CUBO	Admin/Service Review	Sgt. T. Salas	In Progress	1/16/2019
IA2018-081	9/26/2018	9/27/2018	CUBO		Sgt. McNack	In Progress	2/26/2019
IA2018-082	9/28/2018	9/28/2018	CUBO	Lt. Sekhon	Sgt. McNack	To Patrol	10/31/2018

PART 1 CRIMES	2013	2014	2015	2016	2017	YTD December		% change from '17
						2017	2018	
Homicide	1	0	1	1	0	0	3	300%
Rape	0	2	3	4	8	8	3	-63%
Robbery	209	153	161	232	290	290	349	20%
Aggravated Assault	57	71	73	93	125	125	130	4%
Violent Crime Subtotal	267	226	238	330	423	423	485	15%
Burglary (Not Including Auto)	25	7	4	12	15	15	18	20%
Larceny	2524	2597	2325	2217	2593	2593	2590	0%
Auto Theft	483	522	480	480	420	420	354	-16%
Arson	0	0	0	1	4	4	4	0%
Property Crime Subtotal	3032	3126	2809	2710	3032	3032	2966	-2%
TOTAL	3299	3352	3047	3040	3455	3455	3451	0%



BART Police Performance Measurements

December 2018

Disclaimer--**The data is drawn from the BART Police Department TriTech computer database, and they are unaudited. The numbers may not match the official monthly totals reported to the FBI through the Uniform Crime Reporting (UCR) program. Late reporting, the reclassification or unbounding of crimes, can affect crime statistics. **OT Budget costs** are projected numbers and actual numbers are about 4 months behind. The statistics contained in the on the Performance Measurements are **subject to change , updates, and corrections. ****

Top 5 Stations For Part 1 Crimes

2018 Current Month

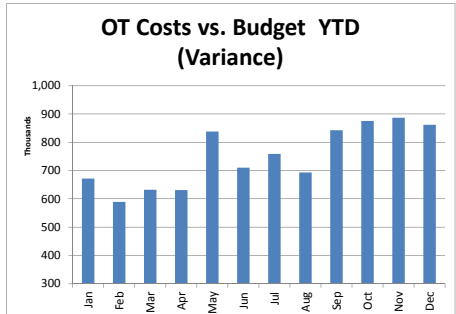
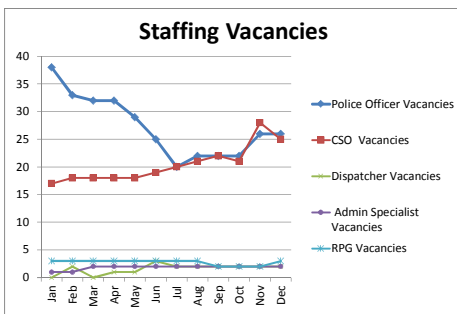
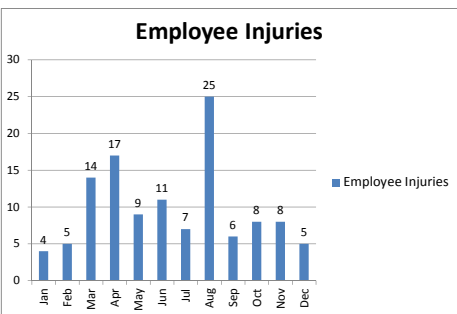
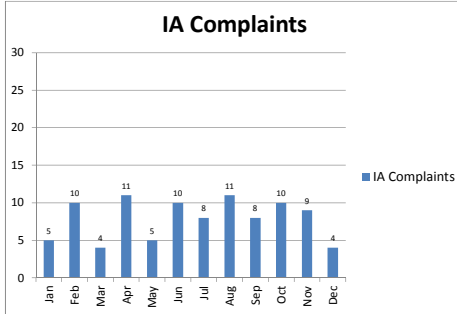
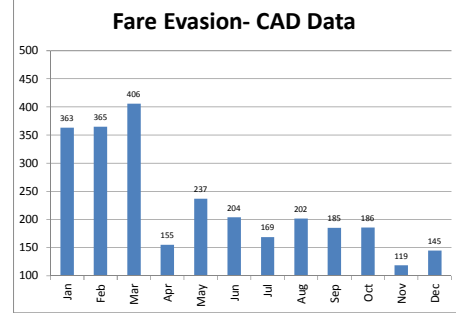
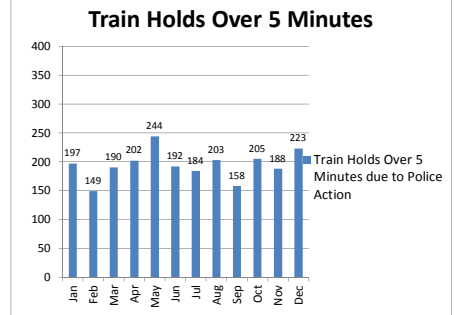
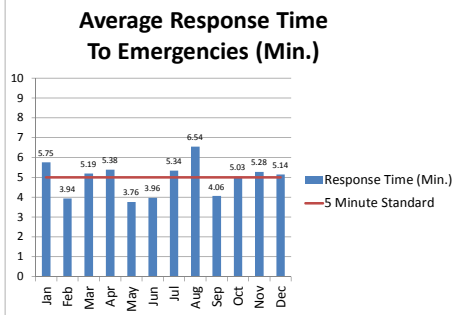
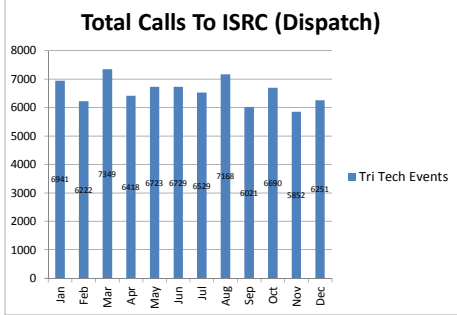
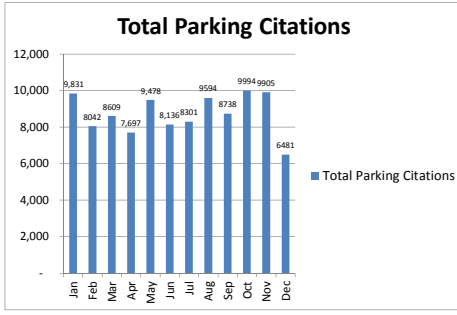
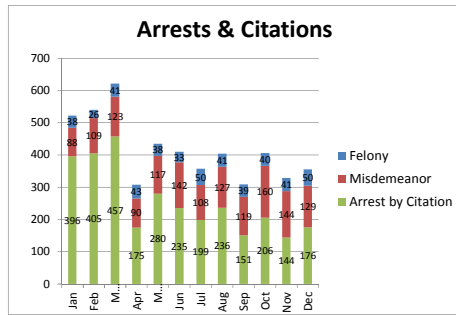
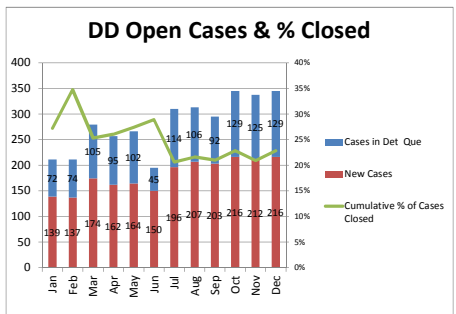
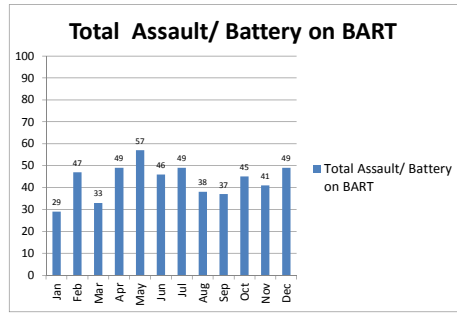
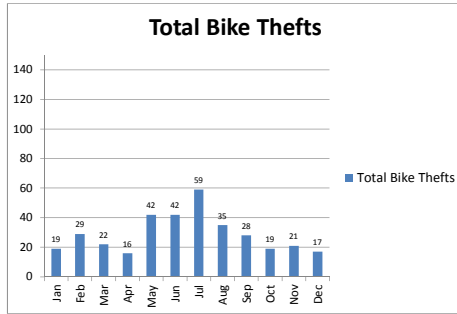
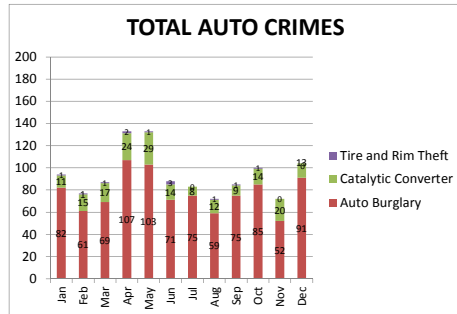
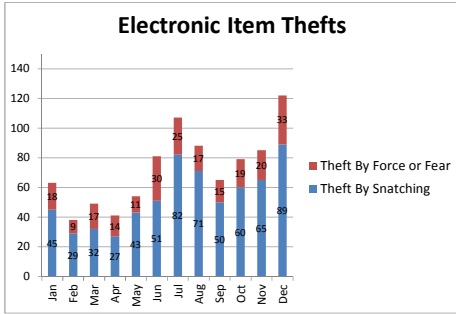
Coliseum
San Leandro
MacArthur
Antioch eBART
Civic Center

Most Frequent all of 2017

2017 YEAR

Coliseum
Bay Fair
West Oakland
Fruitvale
East Dublin

This list was obtained by adding the highest totals listed in the Part 1 crimes data.



PART 1 CRIMES	2017	YTD December		% change from '17
		2017	2018	
Homicide	0	0	2	200%
Rape	6	6	3	-50%
Robbery	191	191	215	13%
Aggravated Assault	73	73	87	19%
Violent Crime Subtotal	270	270	307	14%
Burglary (Not Including Auto)	8	8	11	38%
Larceny	1471	1471	1283	-13%
Auto Theft	266	266	199	-25%
Arson	2	2	3	50%
Property Crime Subtotal	1747	1747	1496	-14%
TOTAL	2017	2017	1803	-11%

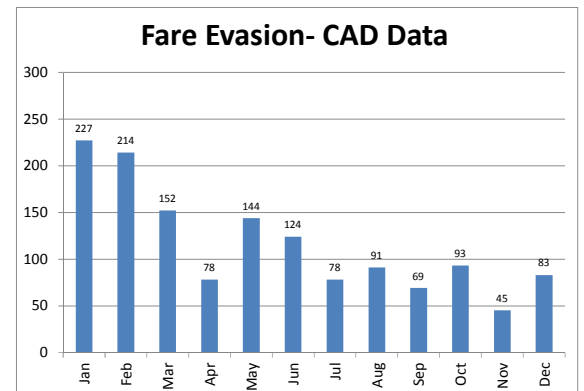
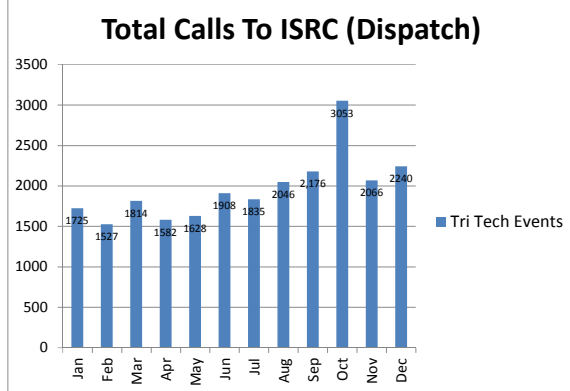
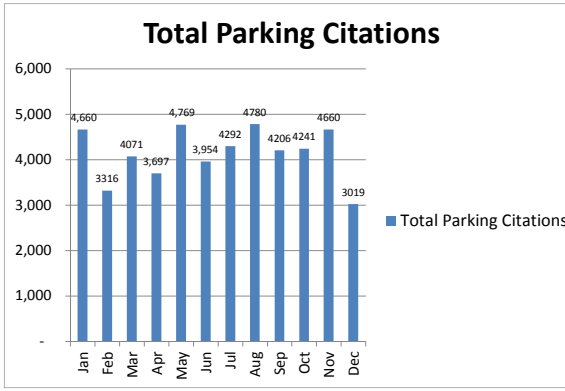
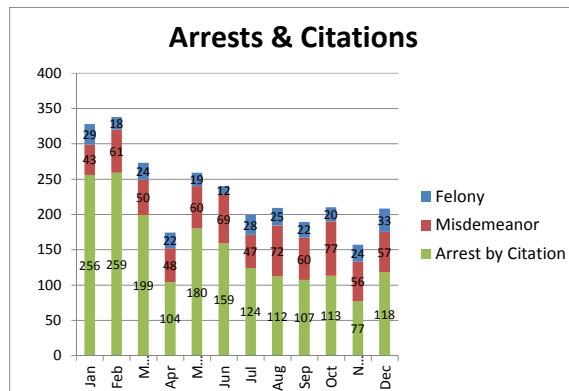
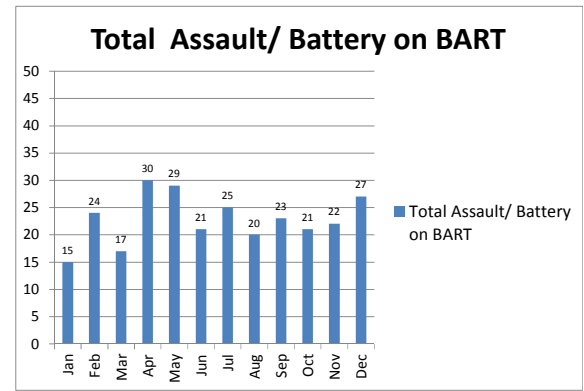
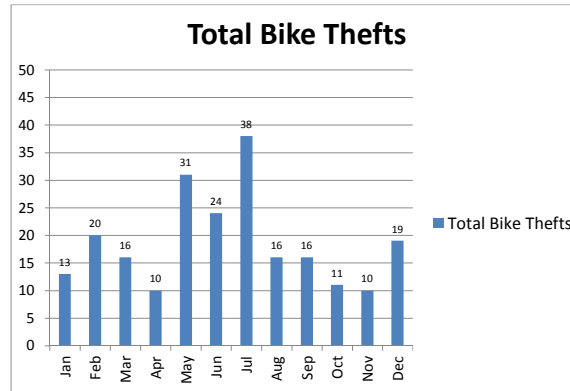
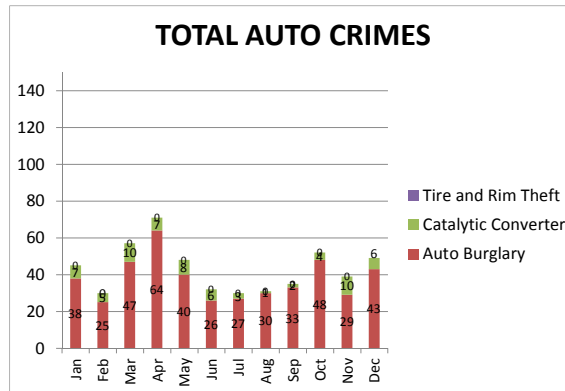
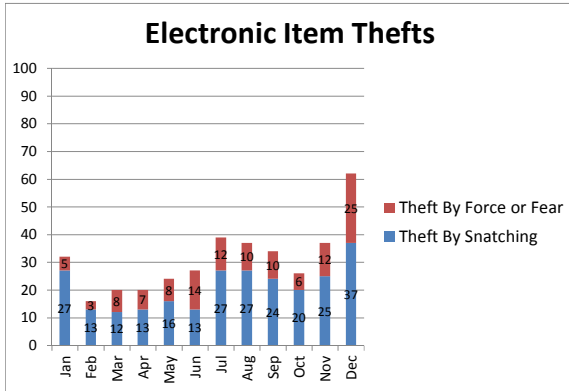


BART Police Performance Measurements

Alameda County Crime Statistics

December 2018

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PART 1 CRIMES	2017	YTD December		% change from '17
		2017	2018	
Homicide	0	0	1	100%
Rape	1	1	0	-100%
Robbery	35	35	29	-17%
Aggravated Assault	23	23	20	-13%
Violent Crime Subtotal	59	59	50	-15%
Burglary (Not Including Auto)	2	2	1	-50%
Larceny	675	675	670	-1%
Auto Theft	134	134	135	1%
Arson	3	3	1	-67%
Property Crime Subtotal	814	814	807	-1%
TOTAL	873	873	857	-2%

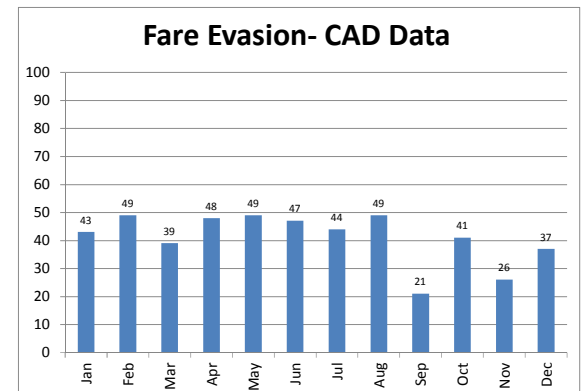
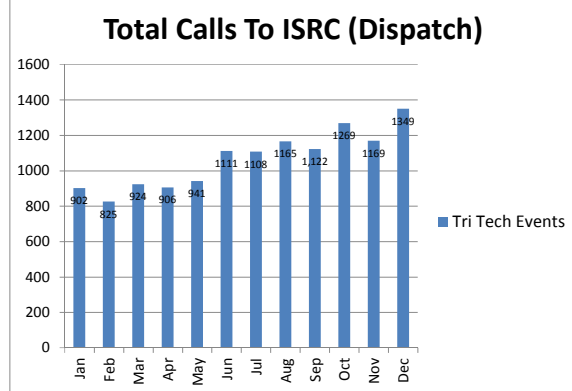
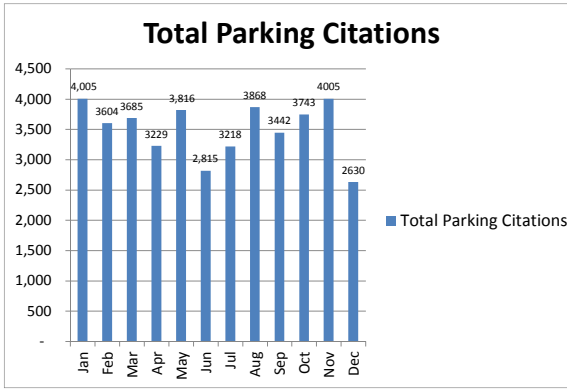
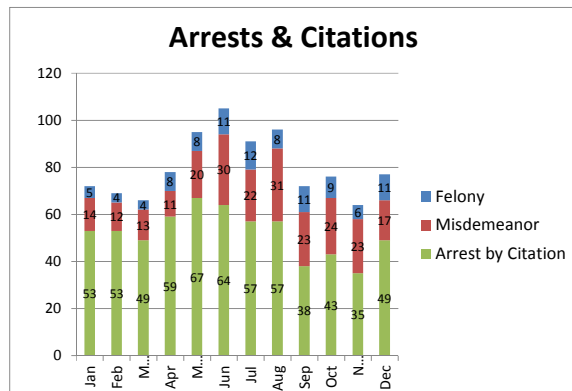
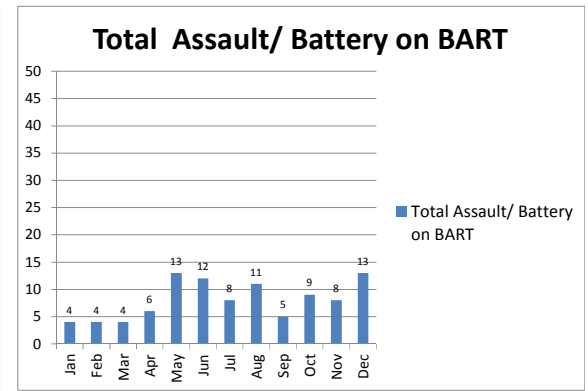
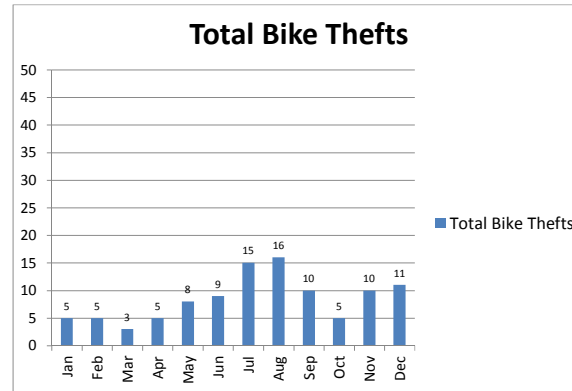
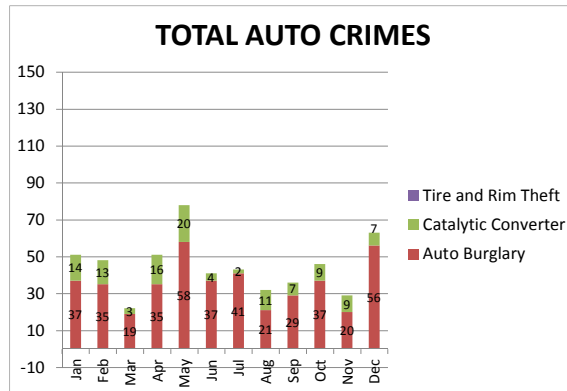
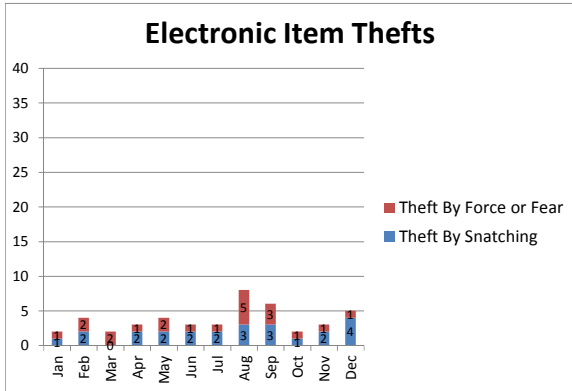


BART Police Performance Measurements

Contra Costa County Crime Statistics

December 2018

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PART 1 CRIMES	2017	YTD December		% change from '17
		2017	2018	
Homicide	0	0	0	0%
Rape	0	0	0	0%
Robbery	49	49	97	98%
Aggravated Assault	23	23	18	-22%
Violent Crime Subtotal	72	72	115	60%
Burglary (Not Including Auto)	5	5	6	20%
Larceny	244	244	476	95%
Auto Theft	2	2	1	-50%
Arson	0	0	0	0%
Property Crime Subtotal	251	251	483	92%
TOTAL	323	323	598	85%

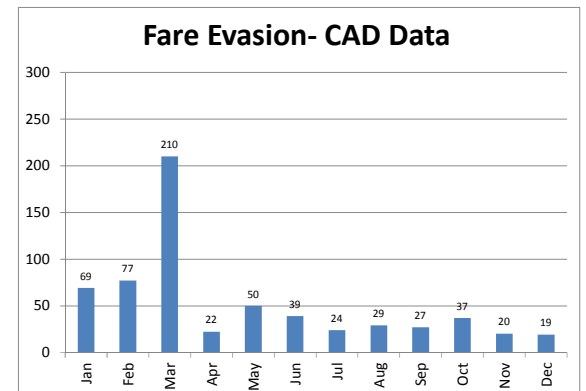
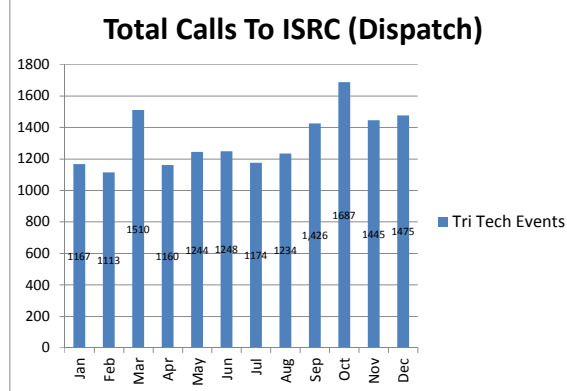
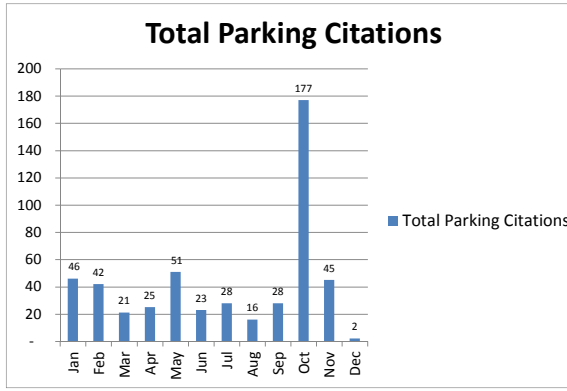
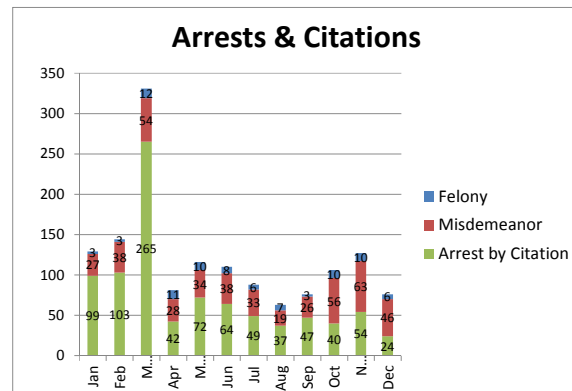
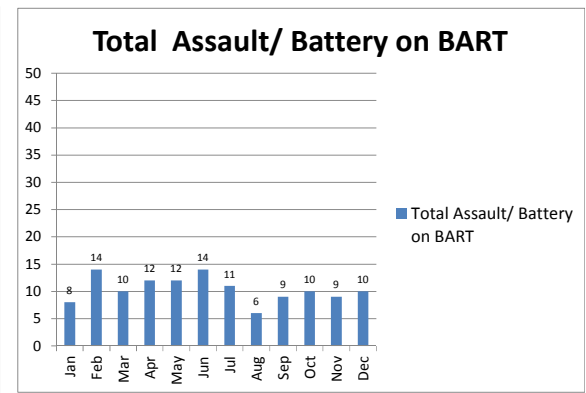
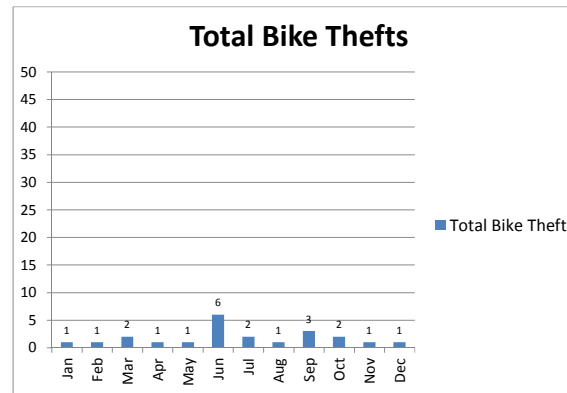
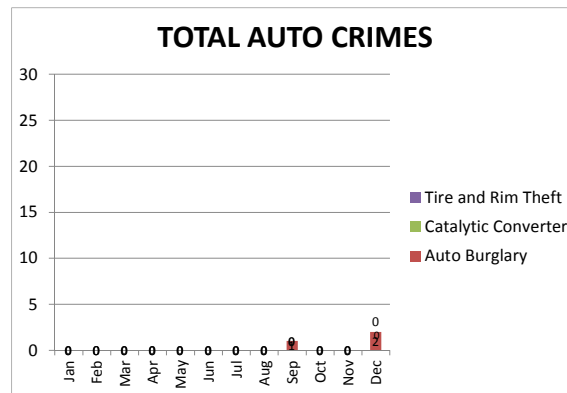
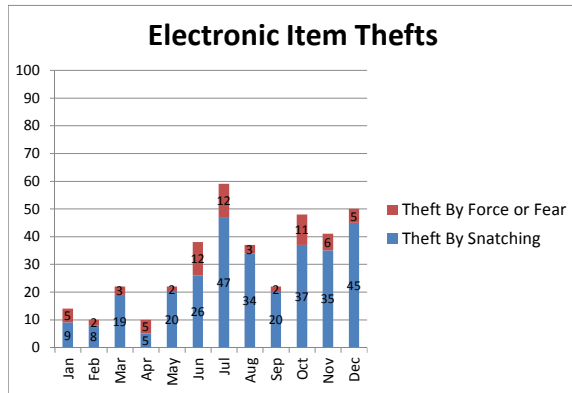


BART Police Performance Measurements

San Francisco County Crime Statistics

December 2018

Disclaimer--**The data is drawn from the BART Police Department TriTech computer database, and they are unaudited. The numbers may not match the official monthly totals reported to the FBI through the Uniform Crime Reporting (UCR) program. Late reporting, the reclassification or unbounding of crimes, can affect crime statistics. The statistics contained in the on the Performance Measurements are [subject to change , updates, and corrections.](#) **



PART 1 CRIMES	2017	YTD December		% change from '17
		2017	2018	
Homicide	0	0	0	0%
Rape	1	1	0	-100%
Robbery	15	15	8	-47%
Aggravated Assault	6	6	5	-17%
Violent Crime Subtotal	22	22	13	-41%
Burglary (Not Including Auto)	0	0	0	0%
Larceny	208	208	161	-23%
Auto Theft	18	18	19	6%
Arson	0	0	0	0%
Property Crime Subtotal	226	226	180	-20%
TOTAL	248	248	193	-22%

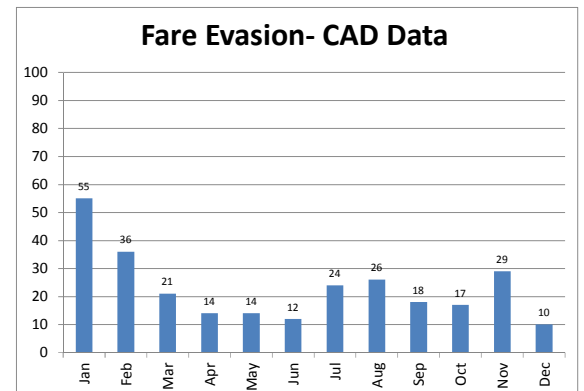
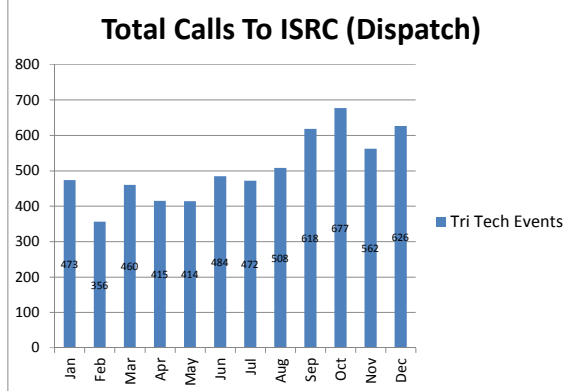
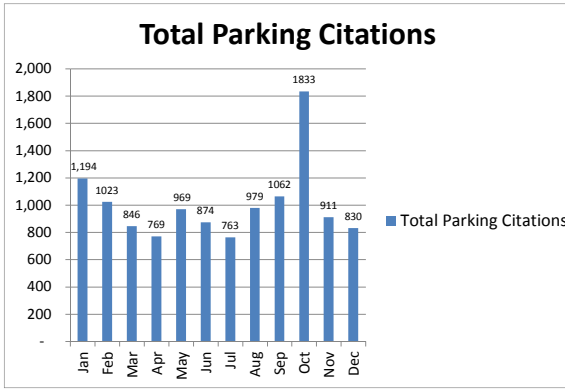
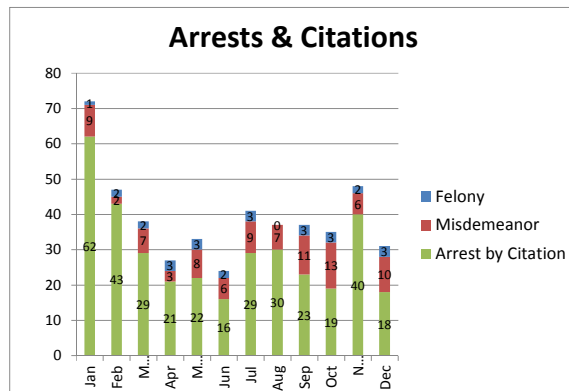
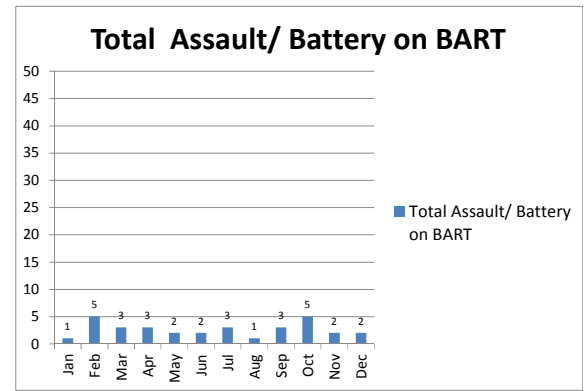
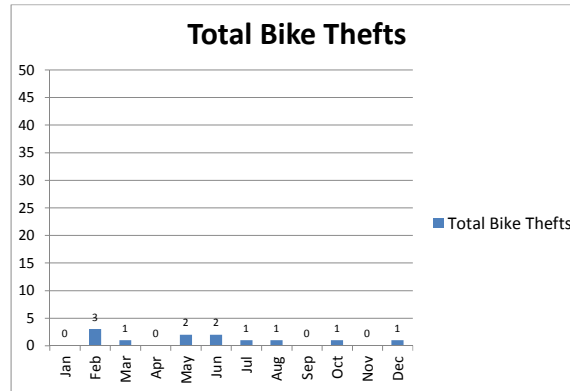
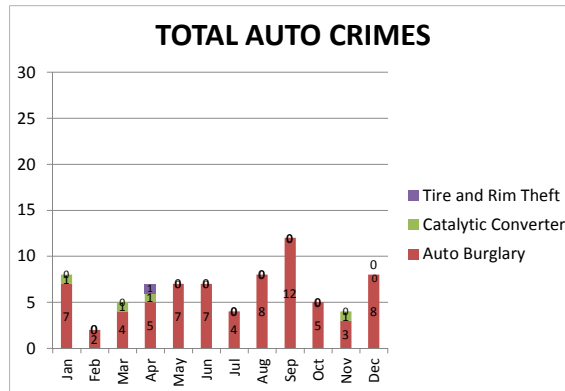
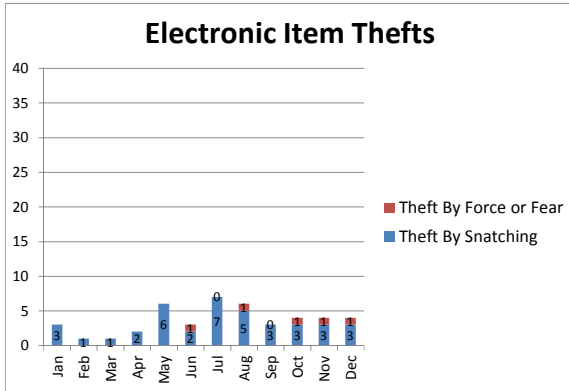


BART Police Performance Measurements

San Mateo County Crime Statistics

December 2018

Disclaimer--**The data is drawn from the BART Police Department TriTech computer database, and they are unaudited. The numbers may not match the official monthly totals reported to the FBI through the Uniform Crime Reporting (UCR) program. Late reporting, the reclassification or unbounding of crimes, can affect crime statistics. The statistics contained in the on the Performance Measurements are [subject to change , updates, and corrections.](#) **



Enforcement Contacts - 2018

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Felony Arrest	38	26	41	43	38	33	50	41	39	40	41	50	480
YTD 2018	38	64	105	148	186	219	269	310	349	389	430	480	
Misd. Arrest	88	109	123	90	117	142	108	127	119	160	144	129	1,456
YTD 2018	88	197	320	410	527	669	777	904	1,023	1,183	1,327	1,456	
Cite & Release	396	405	457	175	280	235	199	236	151	206	144	176	3,060
YTD 2018	396	801	1,258	1,433	1,713	1,948	2,147	2,383	2,534	2,740	2,884	3,060	
Field Interview	512	581	581	476	527	513	491	605	433	570	489	463	6,241
YTD 2018	512	1,093	1,674	2,150	2,677	3,190	3,681	4,286	4,719	5,289	5,778	6,241	

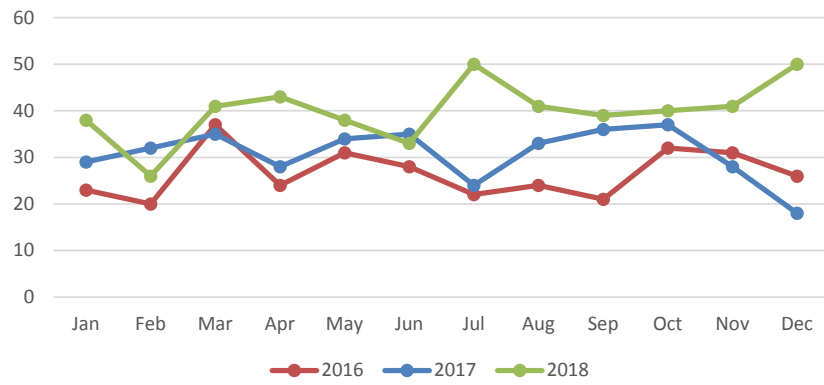
Enforcement Contacts - 2017

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Felony Arrest	29	32	35	28	34	35	24	33	36	37	28	18	369
YTD 2017	29	61	96	124	158	193	217	250	286	323	351	369	
Misd. Arrest	96	82	112	100	109	107	106	137	129	142	131	104	1,355
YTD 2017	96	178	290	390	499	606	712	849	978	1,120	1,251	1,355	
Cite & Release	356	578	355	252	222	155	261	654	385	730	287	200	4,435
YTD 2017	356	934	1,289	1,541	1,763	1,918	2,179	2,833	3,218	3,948	4,235	4,435	
Field Interview	175	336	322	349	418	336	348	545	749	646	508	466	5,198
YTD 2017	175	511	833	1,182	1,600	1,936	2,284	2,829	3,578	4,224	4,732	5,198	

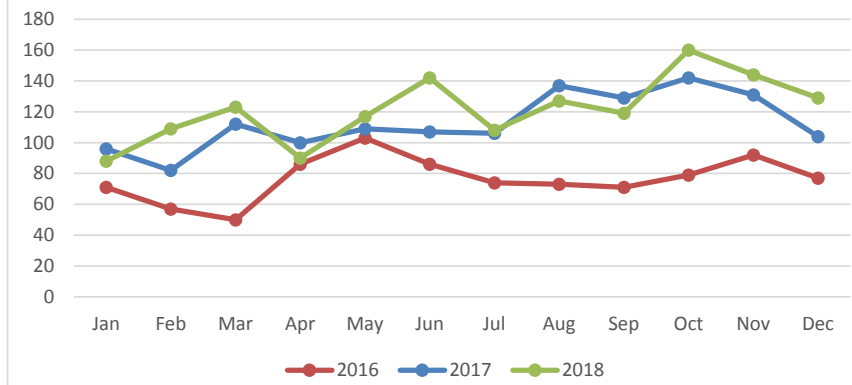
Enforcement Contacts - 2016

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Felony Arrest	23	20	37	24	31	28	22	24	21	32	31	26	319
YTD 2016	23	43	80	104	135	163	185	209	230	262	293	319	
Misd. Arrest	71	57	50	86	103	86	74	73	71	79	92	77	919
YTD 2016	71	128	178	264	367	453	527	600	671	750	842	919	
Cite & Release	424	538	443	195	591	195	314	162	239	229	229	246	3,805
YTD 2016	424	962	1,405	1,600	2,191	2,386	2,700	2,862	3,101	3,330	3,559	3,805	
Field Interview	175	501	219	469	482	422	350	490	372	425	444	355	4,704
YTD 2016	175	676	895	1,364	1,846	2,268	2,618	3,108	3,480	3,905	4,349	4,704	

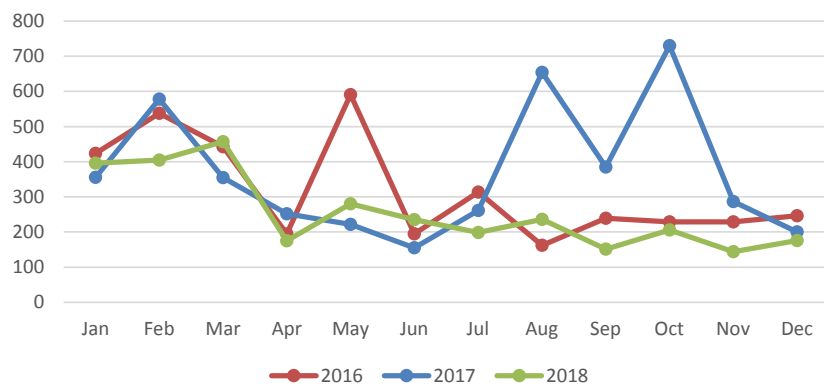
Felony Arrests



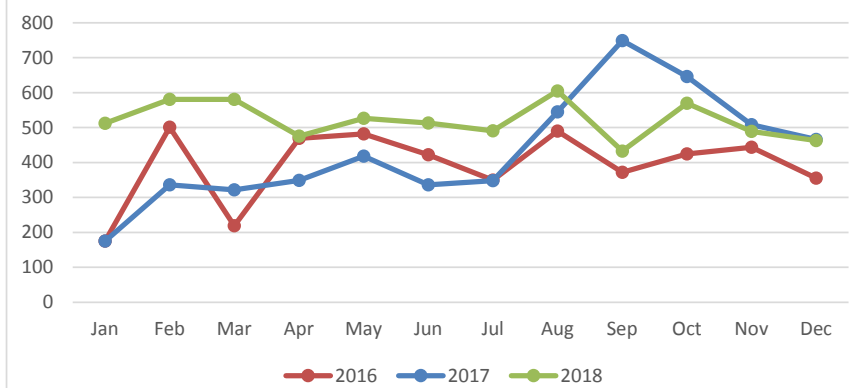
Misdemeanor Arrests



Cite & Release



Field Interviews



Parking Enforcement - 2018

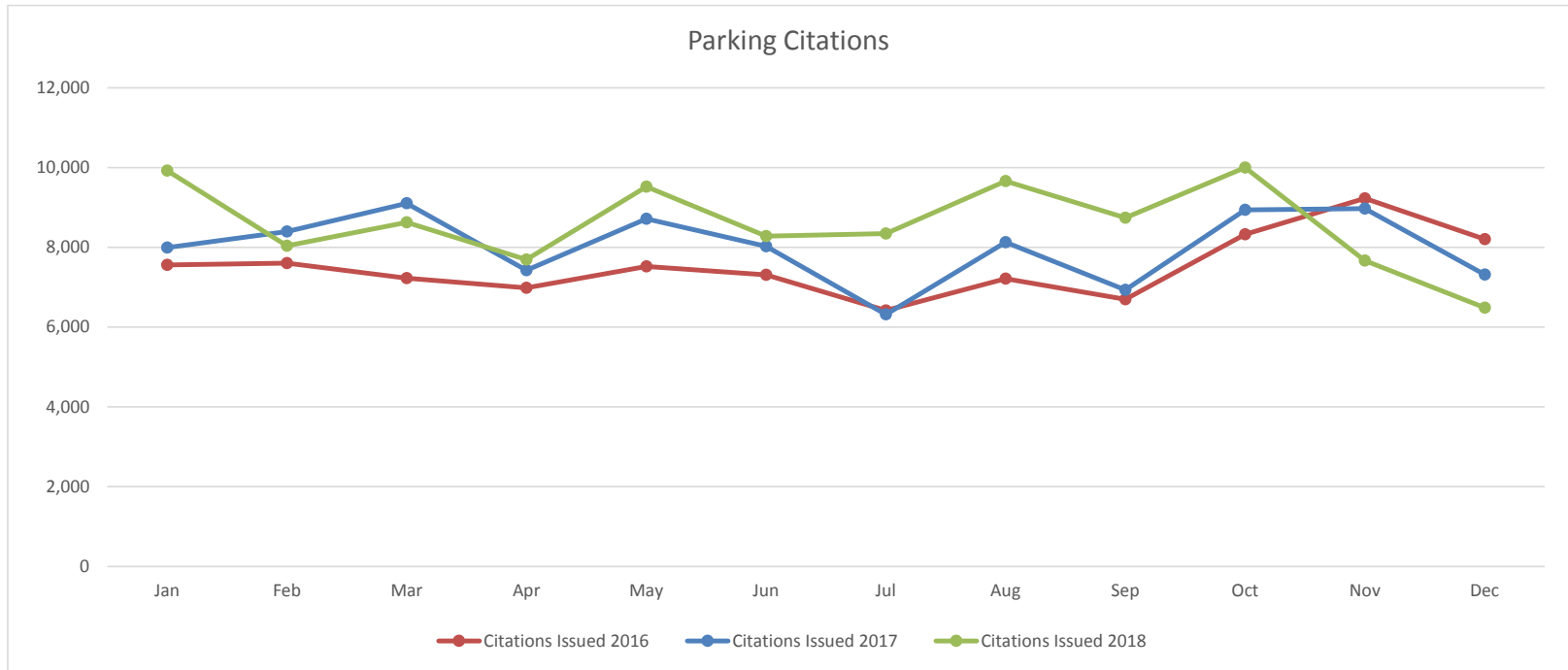
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Citations Issued	9,925	8,042	8,629	7,697	9,520	8,281	8,344	9,661	8,744	10,001	7,671	6,488	103,003
YTD 2018	9,925	17,967	26,596	34,293	43,813	52,094	60,438	70,099	78,843	88,844	96,515	103,003	
Contested	2,121	1,808	2,152	1,782	1,827	2,053	1,958	2,211	2,060	2,314	1,925	1,667	23,878
YTD 2018	2,121	3,929	6,081	7,863	9,690	11,743	13,701	15,912	17,972	20,286	22,211	23,878	
Dismissed	1,502	1,200	1,448	1,160	1,152	1,294	1,223	1,438	1,309	1,489	1,197	1,037	15,449
YTD 2018	1,502	2,702	4,150	5,310	6,462	7,756	8,979	10,417	11,726	13,215	14,412	15,449	

Parking Enforcement - 2017

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Citations Issued	7,997	8,400	9,104	7,424	8,716	8,028	6,318	8,131	6,933	8,939	8,973	7,316	96,279
YTD 2017	7,997	16,397	25,501	32,925	41,641	49,669	55,987	64,118	71,051	79,990	88,963	96,279	
Contested	1,324	1,673	1,761	1,796	1,912	1,681	1,587	1,734	1,578	1,793	1,556	2,116	20,511
YTD 2017	1,324	2,997	4,758	6,554	8,466	10,147	11,734	13,468	15,046	16,839	18,395	20,511	
Dismissed	821	1,000	1,136	1,223	1,288	1,070	998	1,115	937	1,107	940	1,375	13,010
YTD 2017	821	1,821	2,957	4,180	5,468	6,538	7,536	8,651	9,588	10,695	11,635	13,010	

Parking Enforcement - 2016

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Citations Issued	7,559	7,608	7,225	6,988	7,521	7,312	6,419	7,218	6,698	8,326	9,229	8,205	90,308
YTD 2016	7,559	15,167	22,392	29,380	36,901	44,213	50,632	57,850	64,548	72,874	82,103	90,308	
Contested	1,211	1,297	1,112	938	1,289	1,248	1,179	1,063	979	1,259	1,433	1,139	14,147
YTD 2016	1,211	2,508	3,620	4,558	5,847	7,095	8,274	9,337	10,316	11,575	13,008	14,147	
Dismissed	722	788	688	738	847	772	668	649	602	690	855	733	8,752
YTD 2016	722	1,510	2,198	2,936	3,783	4,555	5,223	5,872	6,474	7,164	8,019	8,752	



Warrant Arrests

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2018												
BART Felony Warrants	2	1	3	0	2	1	2	2	2	0	1	0
BART Misdemeanor Warrants	3	3	2	2	6	4	1	4	5	7	2	4
O/S Felony Warrants	12	10	16	29	29	8	16	14	10	21	17	23
O/S Misdemeanor Warrants	40	37	68	55	60	36	67	51	41	69	62	67
Monthly Total	57	51	89	86	97	49	86	71	58	97	82	94
YTD Total	57	108	197	283	380	429	515	586	644	741	823	917
2017												
BART Felony Warrants	1	2	1	1	2	3	1	5	1	1	1	0
BART Misdemeanor Warrants	6	4	3	5	9	2	6	17	10	3	8	3
O/S Felony Warrants	20	19	20	18	18	15	10	9	18	16	14	6
O/S Misdemeanor Warrants	39	40	53	53	54	44	52	53	48	74	60	36
Monthly Total	66	65	77	77	83	64	69	84	77	94	83	45
YTD Total	66	131	208	285	368	432	501	585	662	756	839	884
2016												
BART Felony Warrants	0	0	0	1	0	0	0	0	0	0	1	1
BART Misdemeanor Warrants	11	18	8	3	3	4	0	0	0	0	2	3
O/S Felony Warrants	16	28	23	12	6	9	15	12	8	20	17	11
O/S Misdemeanor Warrants	53	35	35	34	48	35	41	32	30	28	33	62
Monthly Total	80	81	66	50	57	48	56	44	38	48	53	77
YTD Total	80	161	227	277	334	382	438	482	520	568	621	698



San Francisco Bay Area Rapid Transit Police Department Criminal Investigations Division Monthly Summary Report December, 2018

Detective Assignments

Total number of cases assigned to detectives during the month	Number of cases that are still being investigated by detectives	Number of cases that all current leads have been exhausted	Number of cases that were sent to the district attorney's offices for a review	Number of cases that the district attorney's offices has not made a final disposition	Number of cases that were charged/probation violation by the district attorney	Number of cases that were not charged by the district attorney's offices	Percentage of cases that the district attorney's offices filed charges	Total number of cases that are assigned to a detective as of Jan. 10, 2019
282	146	5	130	76	22	32	17%	140

Submitted By: Sgt. J. Power S-49

Date: 01/10/2019

**San Francisco Bay Area Rapid Transit Police Department
Criminal Investigations Division
December, 2018**

Detective Closure Rate

	Total number of cases assigned to detectives previous 12 months (Jan 2018 - Dec 2018)	Number of cases that are still being investigated by detectives	Number of cases that all current leads have been exhausted	Percentage of cases that all current leads have been exhausted	Number of cases closed by arrest or identification of suspect	Percentage of cases closed by arrest or identification of suspect	Percentage of Open Cases
	2315	281	599	26%	1403	61%	12%
D39	145	0	39	27%	105	72%	0%
D51	377	27	88	23%	258	68%	7%
D75	118	0	18	15%	96	81%	0%
D31	357	4	91	25%	259	73%	1%
D55	523	63	213	41%	243	46%	12%
D27	247	1	89	36%	145	59%	0%
D54	233	12	43	18%	176	76%	5%
D10	83	10	11	13%	60	72%	12%
D52	67	9	0	0%	58	87%	13%
Robbery	165	155	7	4%	3	2%	94%

CASES IN DETECTIVE QUEUE

	Total	Past 60 days
D51	22	9
D55	0	
D31	0	
D27	4	
D54	3	
D10	12	
D52	26	
Robbery	151	1

Assembly Bill 716 - 2018

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Prohibition Orders Issued	20	28	28	33	31	32	32	32	36	25	39	39	375
YTD 2018	20	48	76	109	140	172	204	236	272	297	336	375	

Assembly Bill 716 - 2017

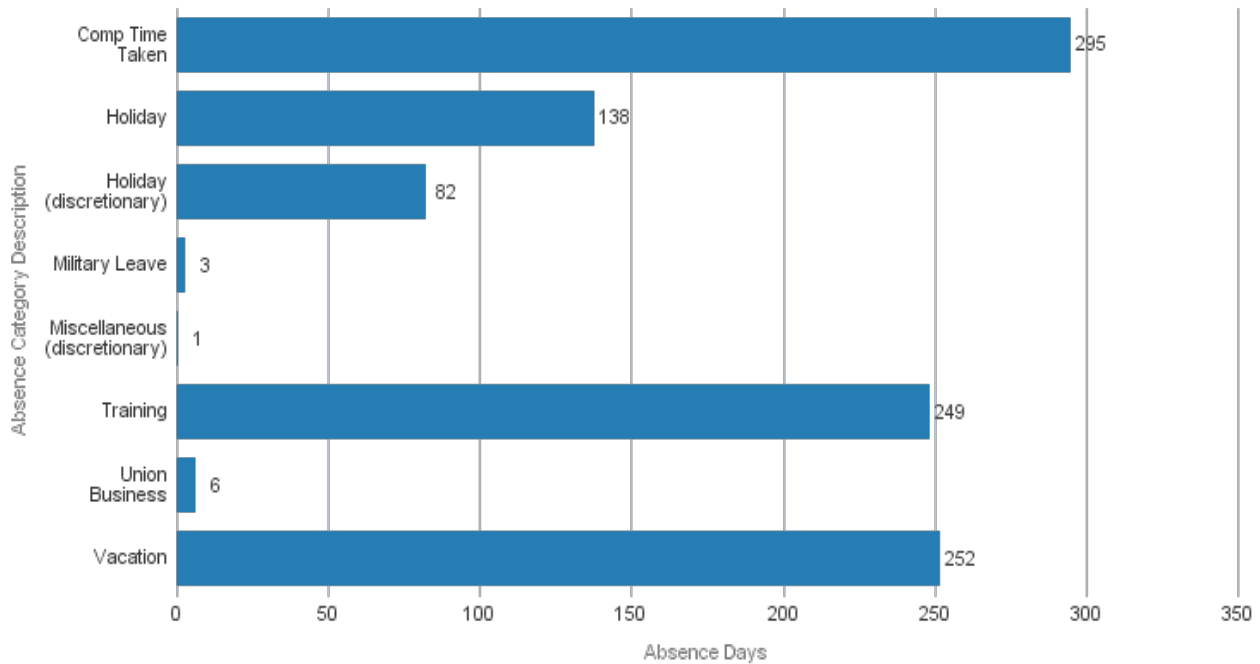
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Prohibition Orders Issued	18	18	30	27	37	30	24	21	27	31	38	14	315
YTD 2017	18	36	66	93	130	160	184	205	232	263	300	315	

Assembly Bill 716 - 2016

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Prohibition Orders Issued	21	16	22	17	39	23	20	25	19	31	24	19	276
YTD 2016	21	37	59	76	115	138	158	183	202	233	257	276	

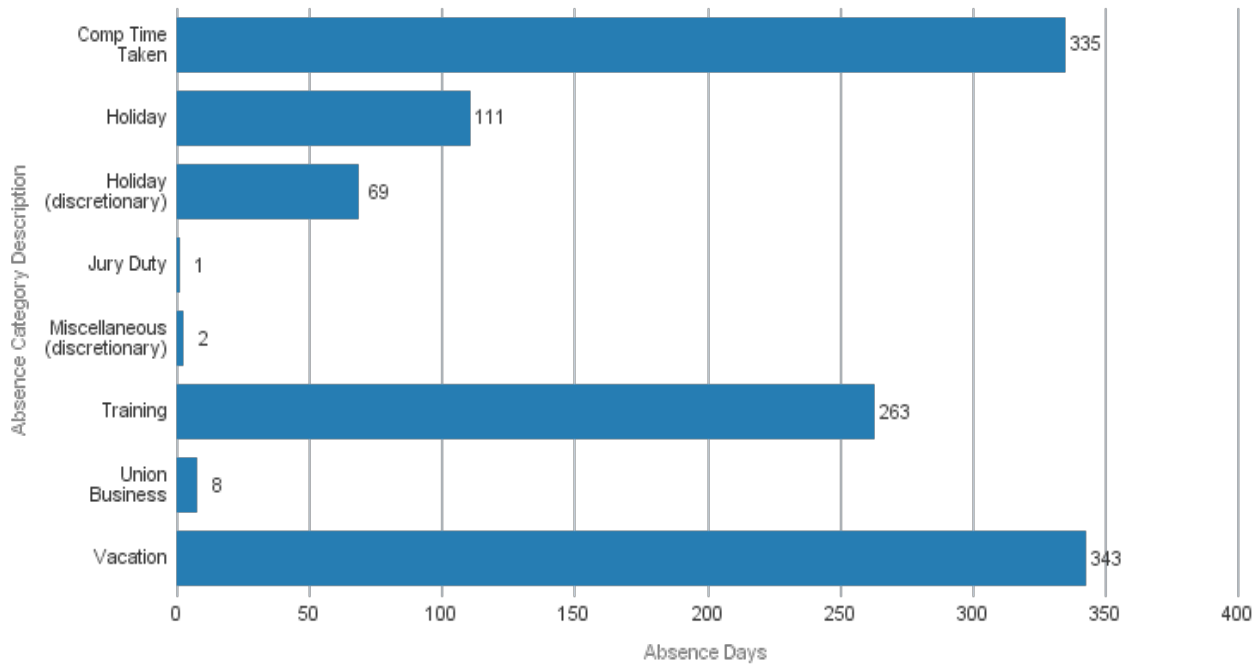


Scheduled Absence Overview - December 2018



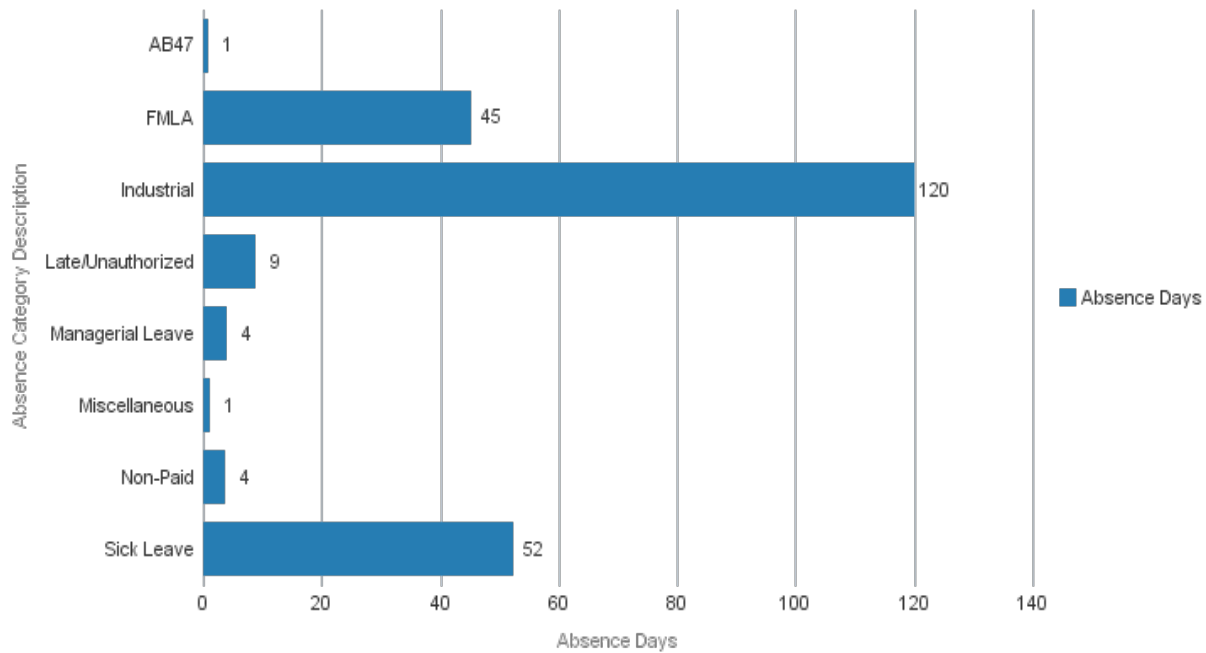
Absence Category Description	Absence Hours	Absence Days	% Total
Comp Time Taken	3,007	295	29%
Holiday	1,309	138	13%
Holiday (discretionary)	826	82	8%
Military Leave	36	3	0%
Miscellaneous (discretionary)	8	1	0%
Training	2,285	249	24%
Union Business	77	6	1%
Vacation	2,482	252	25%
Grand Total	10,029	1,026	100%

Scheduled Absence Overview - December 2017



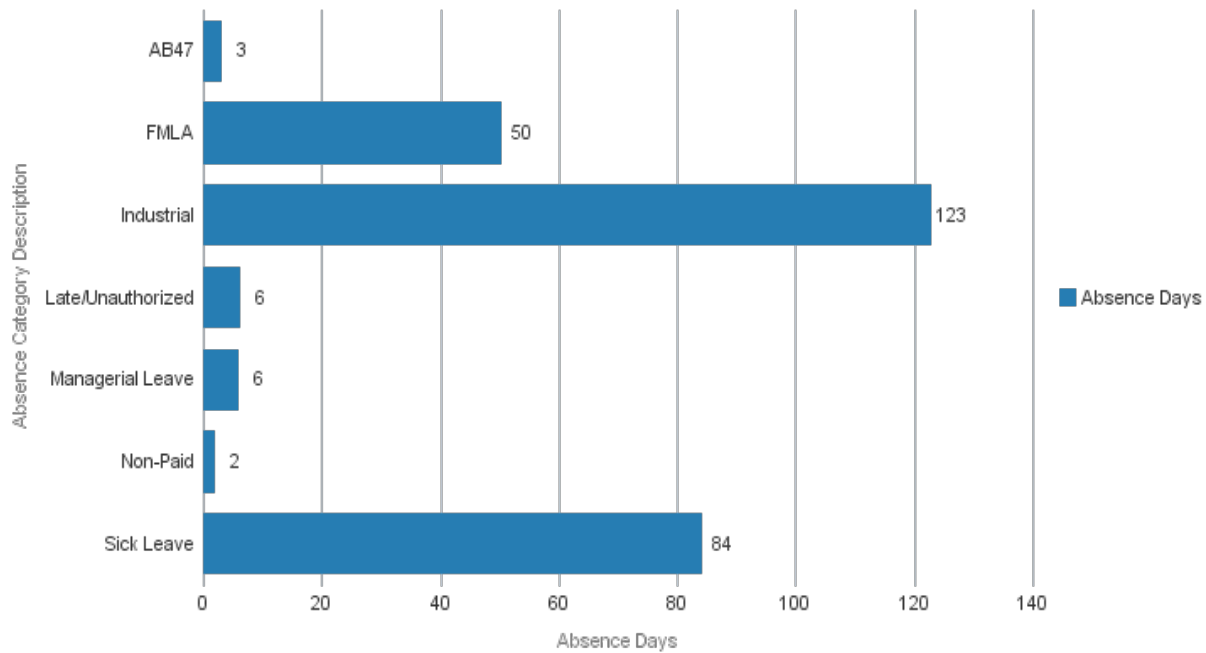
Absence Category Description	Absence Hours	Absence Days	% Total
Comp Time Taken	3,366	335	30%
Holiday	1,041	111	10%
Holiday (discretionary)	650	69	6%
Jury Duty	10	1	0%
Miscellaneous (discretionary)	24	2	0%
Training	2,389	263	23%
Union Business	77	8	1%
Vacation	3,305	343	30%
Grand Total	10,862	1,132	100%

Unscheduled Absence Overview - December 2018



Absence Category Description	Absence Hours	Absence Days	% Total
AB47	8	1	0%
FMLA	477	45	19%
Industrial	1,161	120	51%
Late/Unauthorized	91	9	4%
Managerial Leave	38	4	2%
Miscellaneous	12	1	0%
Non-Paid	38	4	2%
Sick Leave	501	52	22%
Grand Total	2,325	236	100%

Unscheduled Absence Overview - December 2017



Absence Category Description	Absence Hours	Absence Days	% Total
AB47	29	3	1%
FMLA	516	50	18%
Industrial	1,285	123	45%
Late/Unauthorized	59	6	2%
Managerial Leave	68	6	2%
Non-Paid	17	2	1%
Sick Leave	846	84	31%
Grand Total	2,820	275	100%

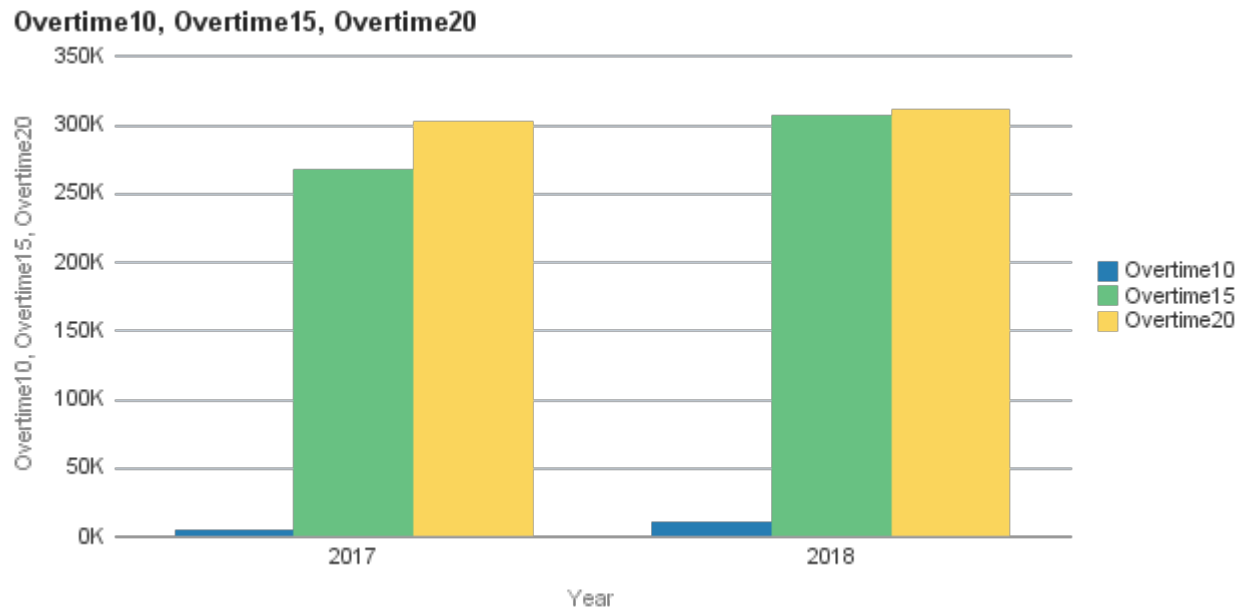
BART PD OVERTIME MONTHLY REPORT

December 2018

Activity Name	Activity ID	2017			2018		
		Overtime10	Overtime15	Overtime20	Overtime10	Overtime15	Overtime20
Admin	ADMIN	0	468	0	0	576	960
Admin Pool CapRR	ADMIN	0	468	0	0	576	960
AdminSupport to be allocated	ADMIN	0	468	0	0	576	960
Administration	ADMIN	0	468	0	0	576	960
Adv Officer Training	ADVOF	188	9,813	11,966	169	11,759	12,054
BART Labor	BLABR	0	814	384	128	837	518
BF OT Discr Day BPD	BFDSC	0	452	3,940	0	4,244	4,499
BF OT Industrial Leave BPD	BFILV	0	9,701	18,735	0	0	3,077
BF OT Minimum Rest	BFRST	0	69	460	0	0	0
BF OT Patrol TRN	BFTRN	0	6,593	5,637	0	2,951	1,233
BF OT Recovery Day	BFRCV	186	6,339	27,602	0	5,908	20,592
BF OT Training BPD	BFTRN	0	6,593	5,637	0	2,951	1,233
BF OT Vacancy BPD	BFVCN	0	11,326	9,327	305	20,274	38,823
BF OT Vacation BPD	BFVAC	377	31,354	67,511	1,476	41,048	63,763
BF Sick/FMLA/Brvment	BFSLV	0	11,230	13,331	0	9,426	18,559
Boardroom Security	BRDRM	0	372	1,128	0	441	696
COPPS Project/Event	COPPS	0	6,012	2,390	0	1,718	1,429
Calendar Year 2017	CY2017	0	832	0	0	0	0
Capital Pool CapRR	ADMIN	0	468	0	0	576	960
Coliseum Events	CEOPS	305	7,049	23,204	434	12,494	13,626
Construction Management	CNMGT	0	240	0	0	0	0
Court Appearance	COURT	0	353	401	0	424	0
Detectives Unit OT	INVST	28	5,996	537	0	7,181	5,385
EMS/OWS Pltfrm Detail	PLTFM	0	5,417	7,811	243	7,189	4,496
Evidence Collection	EVIDN	0	4,503	502	0	1,322	0
Explorer Advisors	EXPLR	0	1,377	0	0	533	0
Final Design	FDSGN	0	187	0	248	2,902	6,072
Held Over/Late Case	HLDOV	0	11,814	1,077	0	15,053	1,445
Honor Guard Detail	HONOR	0	1,037	0	0	375	0

IA Unit Overtime	IAUNT	0	3,121	3,000	0	6,675	873
Jnt Terrorism Tskfrce	JTTFO	0	0	1,764	0	0	0
K-9 Team Training	K9TTR	0	0	712	0	0	0
MTC SECURITY	MTCSC	0	0	0	0	412	0
Meeting Attendance	MTNGS	0	4,715	730	0	2,728	898
Mgr of Sec Programs	SECPR	0	3,114	0	0	436	0
New Year's Eve SVC 2	NYEVE	646	1,050	0	3,454	33,306	0
Operating	OPER	0	0	0	0	17,138	27,435
	OPRTN	1,050	26,203	15,732	77	24,267	8,287
P&T Unit Overtime	PTUNT	408	17,365	8,003	0	6,180	803
Police Admin OT	PADMN	56	16,641	3,511	0	11,857	4,853
Ptrl Special Enforcement	SPECL	1,159	47,120	55,482	1,870	33,571	34,069
Raiders - Walkway	RAIDR	0	0	509	410	1,193	4,902
Raiders Game Cleanup	RAIDR	0	0	509	410	1,193	4,902
Range Staff Training	RANGE	0	615	0	0	0	0
Rev Protection Unit OT	RVPRT	0	694	0	0	123	0
SF STA CLN SEC	DSFCS	0	0	0	0	4,233	12,189
SWAT Team Expenses	SWATT	0	0	2,266	0	0	814
SWAT Team Training	SWATT	0	0	2,266	0	0	814
Special Events	SPEVN	0	0	0	0	334	0
Training	TRNNG	0	994	579	0	1,212	0
Training Other	TRNOT	0	2,645	4,170	0	5,698	1,049
Union Business	UNBUS	0	734	1,018	603	3,541	5,308
		4,404	266,826	301,832	9,828	306,008	309,497

December**573,062****625,333**



Communications Center - 2018

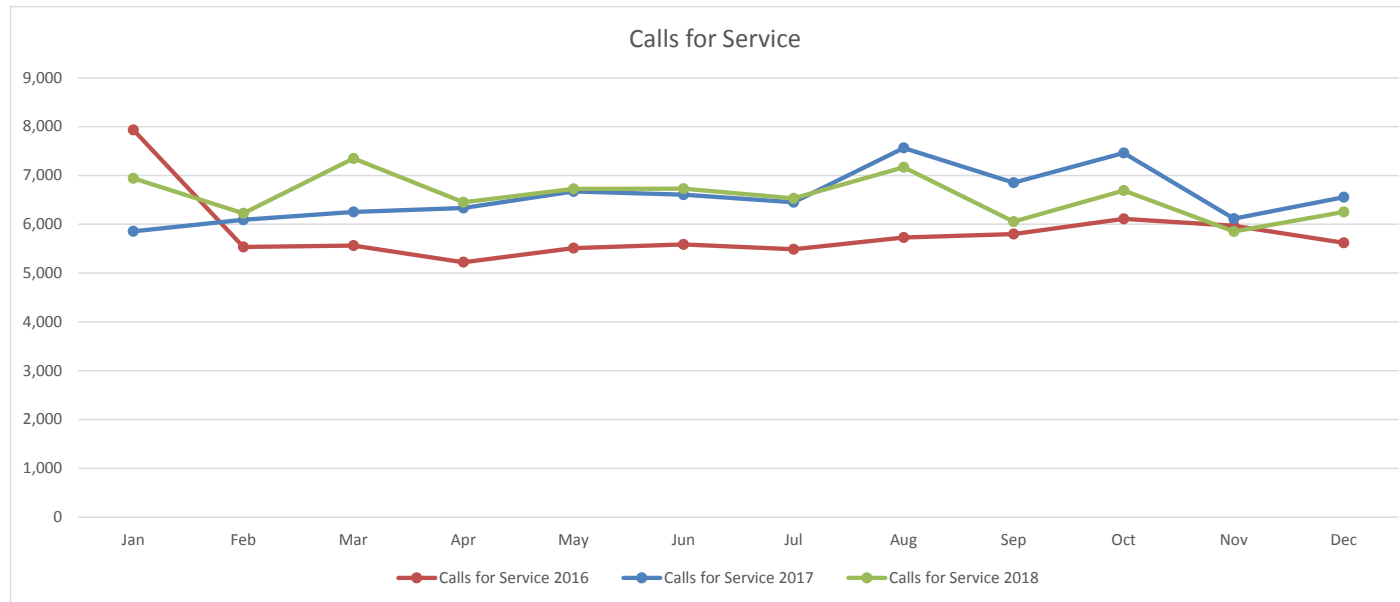
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Calls for Service	6,941	6,222	7,349	6,452	6,724	6,729	6,529	7,168	6,055	6,690	5,852	6,252	78,963
YTD 2018	6,941	13,163	20,512	26,964	33,688	40,417	46,946	54,114	60,169	66,859	72,711	78,963	
Priority 1 Calls	192	180	183	214	214	216	223	202	190	209	200	199	2,422
YTD 2018	192	372	555	769	983	1,199	1,422	1,624	1,814	2,023	2,223	2,422	
Medical Emergencies	414	310	344	373	386	375	341	405	342	361	321	362	4,334
YTD 2018	414	724	1,068	1,441	1,827	2,202	2,543	2,948	3,290	3,651	3,972	4,334	

Communications Center - 2017

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Calls for Service	5,855	6,093	6,250	6,331	6,670	6,605	6,448	7,562	6,850	7,460	6,117	6,553	78,794
YTD 2017	5,855	11,948	18,198	24,529	31,199	37,804	44,252	51,814	58,664	66,124	72,241	78,794	
Priority 1 Calls	214	192	194	182	209	234	210	185	174	204	154	176	2,328
YTD 2017	214	406	600	782	991	1,225	1,435	1,620	1,794	1,998	2,152	2,328	
Medical Emergencies	425	327	357	344	367	385	376	344	356	387	387	463	4,518
YTD 2017	425	752	1,109	1,453	1,820	2,205	2,581	2,925	3,281	3,668	4,055	4,518	

Communications Center - 2016

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Calls for Service	7,934	5,536	5,563	5,221	5,511	5,587	5,488	5,726	5,797	6,111	5,970	5,621	70,065
YTD 2016	7,934	13,470	19,033	24,254	29,765	35,352	40,840	46,566	52,363	58,474	64,444	70,065	
Priority 1 Calls	177	151	171	154	177	156	180	181	177	178	178	157	2,037
YTD 2016	177	328	499	653	830	986	1,166	1,347	1,524	1,702	1,880	2,037	
Medical Emergencies	305	277	334	315	305	304	281	278	334	313	307	389	3,742
YTD 2016	305	582	916	1,231	1,536	1,840	2,121	2,399	2,733	3,046	3,353	3,742	



BART Watch - 2018

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Suspicious Activity	235	212	213	262	202	244	221	380	287	346	350	290	3,242
Crime in Progress	177	151	194	257	226	188	168	235	206	213	205	194	2,414
Illegally Parked Vehicle	24	24	16	38	10	19	35	24	39	38	28	21	316
Vandalism	60	68	102	67	75	111	47	103	93	90	92	72	980
Unattended Bag or Package	44	50	44	42	32	41	48	86	44	45	70	50	596
Sexual Assault/Lewd Behavior	36	71	52	29	47	37	60	49	53	67	55	70	626
Report a Crime Tip	60	44	51	54	40	55	60	88	42	51	52	76	673
Robbery/Theft	28	22	21	35	30	29	45	37	43	38	72	46	446
Unsecure Door	19	7	14	9	10	10	17	13	7	15	14	21	156
Disruptive Behavior	1167	1111	1408	1314	1367	1224	1114	1727	1392	1761	1682	1568	16,835
Panhandling	172	177	223	155	214	144	140	228	132	146	143	157	2,031
Total	2022	1937	2338	2262	2253	2102	1955	2970	2338	2810	2763	2565	28,315

Total Downloads: 66,943

Total Reports Made

Anonymous: 39.92%

Non-Anonymous: 60.08%

Statistics

Statistics	Six Week Average	01/21-01/27	01/14-01/20	01/07-01/13	12/31-01/06	12/24-12/30	12/17-12/23
Alerts Sent	0.17	0	1	0	0	0	0
Description	<i>The total number of alerts sent.</i>						
Incoming Reports	435.33	511	510	529	338	275	449
Description	<i>The number of reports sent from users.</i>						
Replies to Reports	642.33	831	682	797	561	380	603
Description	<i>The number of replies sent to users from ELERTS EPICenter console.</i>						

Report Type	# of Reports (all time)	
Disruptive Behavior (A)	23327	42.73%
[none selected]	5936	10.87%
Panhandling (A)	4753	8.71%
Suspicious Activity (A)	4726	8.66%
Crime in Progress (A)	3241	5.94%
Other (D)	3082	5.65%
Panhandling or Disruptive Behavior (D)	1967	3.60%
Vandalism (A)	1827	3.35%
Unattended Bag or Package (A)	1324	2.43%
Report a Crime Tip (A)	1080	1.98%
Illegally Parked Vehicle (A)	886	1.62%
Sexual Assault / Lewd Behavior (A)	863	1.58%
Robbery / Theft (A)	604	1.11%
Drug Use (A)	387	0.71%
Unsecure Door (A)	325	0.60%
Welfare Check (A)	198	0.36%
Human Trafficking (A)	55	0.10%
Text a Tip (A)	10	0.02%
Total	54591	100 %

(A) Active | Disabled (D)

Identification	Total
Anonymous	39.95 %
Description	<i>Reports sent anonymously.</i>
Non-Anonymous	60.05 %
Description	<i>Reports sent non-anonymously.</i>

App Statistics (including tests)	
Total Messages (iOS)	72625
Description	<i>Reports and replies via iOS devices.</i>
Total Messages (Android)	33936
Description	<i>Reports and replies via Android devices.</i>
Total Messages (SMS)	4
Description	<i>Reports and replies via SMS.</i>

TEST-THIS IS ONLY A TEST	# of Reports (all time)
TEST Report Total	7615

Top SMS Users	
Phone Number	Number of Reports
5103685574	1
5109789702	1
5108215151	1
4849860547	1

Overdose and Prevention Naloxone Program

407.1 PURPOSE

The purpose of this Policy is to establish guidelines and regulations governing the utilization of Naloxone, a medication used to block the effects of opioids, especially in overdose, by the Bay Area Rapid Transit District (“BART”) Police Department (“BPD”). The objectives of the Policy are to reduce the number of fatal opiate overdoses and increase officer safety.

407.2 POLICY

It is the policy of the BPD that employees assigned to patrol, property, and evidence are required to be trained in the use and the appropriate application of a Naloxone. BPD personnel shall receive training in based on the use standards provided by the California Department of Healthcare Services (DHS).

407.3 DEFINITIONS

Naloxone Hydrochloride (“Narcan”): Naloxone, also commonly known as Narcan, is a prescription medication used for the treatment of a possible Opioid or suspected Opioid overdose.

Intranasal: Naloxone is a narcotic antagonist which works by affecting Opiate receptor sites within the brain. Naloxone may be administered into the subject’s nose via intranasal administration (spray). The nasal cavity is covered by a thin mucosa, which is extremely vascular and provides a direct route into the bloodstream of the subject. This method of administration is noninvasive and quickly effective.

Opioid Overdose: An Opioid overdose is an acute, life-threatening, medical condition caused by excessive intake of Opiates, such as Heroin, Morphine, Tramadol, and Oxycodone. This medical condition causes the victim to suffer from an altered level of consciousness, pinpoint pupils, respiratory arrest, and can lead to lasting health effects including, but not limited to, death.

407.4 PROCEDURE

The Department Property Specialist will issue the Naloxone kits to the necessary personnel.

407.4.1 ISSUING NALOXONE KITS

1. BPD personnel who have completed authorized training in the use and application of Naloxone will be assigned to carry and utilize Naloxone.
2. The standing order issued by the State Public Health Officer (Authorized by California Civil Code Section 1714.22) is to: 1) allow organizations, like the BPD, not currently working with a physician to distribute naloxone to a person at risk of an opioid-related overdose, and 2) allow for the administration of naloxone to a person experiencing or reasonably suspected of experiencing an opioid overdose. The standing order permits personnel who have been trained to possess and administer nasal Naloxone to a person who is experiencing a possible opiate overdose.

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Overdose and Prevention Naloxone Program

3. Naloxone will be assigned to all field level personnel and to those assigned to the property and evidence unit after receiving the necessary training. All field personnel assigned to property and evidence are required to carry the Naloxone on their person during their assigned shifts.
4. Naloxone will be supplied and managed by the Police Administrative Specialist (PAS) in charge of Department property. The PAS shall complete an Equipment Inventory Log, including the assigned Naloxone kit number, date, and time the equipment was assigned and to whom. Each employee receiving Naloxone will be responsible for keeping it in good condition and reporting any issues with their supplied dosages, including loss and or use to the PAS. Employees who lose their issued Naloxone will be required to submit a memorandum to their Bureau Deputy Chief to document the loss.
5. Naloxone must be stored in a climate-controlled area and in a location where access to the medication can be secured and controlled. BPD personnel will be required to carry it upon their person during their respective work hours. Naloxone should not be left in patrol bags or inside patrol cars. BPD personnel should, upon completion of their shift, store the Naloxone within their department assigned locker in a temperature-controlled environment.
6. Each assigned Officer shall conduct a pre-service inspection of the Naloxone kit and confirm the Naloxone kit is in suitable condition.
7. BPD personnel will inspect the secured safety case to ensure that it is clean, undamaged, and non-expired. BPD personnel will carry the Naloxone kit in a location on their person in which it can be easily accessed and utilized when needed, but out of direct sunlight.

407.4.2 USING NALOXONE

1. BPD personnel trained in the use of Naloxone, are authorized to use it without prior approval in cases where an Opiate overdose is suspected.
2. When using Naloxone, BPD personnel will maintain and apply universal precautions against bloodborne pathogens as well as substances of a suspected opiate (e.g., Fentanyl). Personnel administering Naloxone should make every effort to don personal protective equipment (Nitrile gloves at a minimum) before contacting any infected subjects.
3. Before administration of Naloxone, personnel must assess the victim for lack of breathing, pulse, and unresponsiveness. BPD personnel should conduct a brief visual survey for any obvious evidence of drug use or exposure.
4. If it is determined the victim is suffering from Opiate-based overdose, BPD personnel will request Emergency Medical Services (“EMS”) immediately before the administration of Naloxone.
5. Naloxone shall be administered by BPD personnel utilizing the intranasal method only as approved by the local EMS Director and in accordance with training guidelines. BPD personnel using Naloxone on any person, including other, but not limited to, members

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of the BPD or other law enforcement agencies, shall notify the appropriate medical personnel to facilitate a more thorough medical assessment.

407.4.3 TRAINING

Before being issued and/or administering Naloxone, personnel must complete Department approved training. The authorized training will follow the training guidelines recommended by the California Department of Health Care Services.

407.4.4 MAINTENANCE AND REPLACEMENT

1. BPD personnel issued a Naloxone kit, shall be responsible for inspection of the Naloxone kit. BPD personnel should inspect the kit before the start of their shift. Naloxone kits shall be stored in such a way as to avoid exposing the kit to extreme temperatures.
2. The BPD Property Specialist will keep and maintain an inventory of Naloxone kits and replace supplies when depleted and/or expired.
3. Missing or damaged Naloxone kits will be reported to the officer's immediate supervisor. The sergeant will notify the Naloxone Specialist who will re-issue supplies. A departmental memo will be generated for any missing or damaged Naloxone kits.
4. Naloxone can only be obtained by prescription and will be ordered for the BART Police Department on an as needed basis by the California State Health Officer.

407.4.5 DOCUMENTATION AND REPORTING

Upon administering Naloxone and advising the appropriate medical staff, the involved BPD personnel shall complete an incident report describing the details, circumstances, and results of the incident. The incident report shall include any information of victims, witnesses or suspects and include a detailed narrative describing symptoms observed and any evidence of drug use observed at the scene. The BPD Records unit shall forward the approved report to the local EMS Agency where the Naloxone was administered and will report the usage to the California Department of Health Services. This report is necessary for the State and local EMS Agencies to conduct an audit of Naloxone administration within their jurisdictions and for California Department of Health Services as the supplier of Naloxone and standing order provider.



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

January 2019

Issue date: February 11, 2019

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (B), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **January 1, 2019 through January 31, 2019**.¹

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

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
January 2018	7	32	0	0	0
February 2018	10	34	0	1	0
March 2018	6	35	1	0	0
April 2018	13	49	0	0	0
May 2018	6	51	1	0	0
June 2018	10	56	0	0	0
July 2018	8	54	0	0	0
August 2018	14	64	1	0	0
September 2018	9	69	1	0	0
October 2018	10	69	1	0	0
November 2018	13	69	1	0	0
December 2018	5	62	0	0	0
January 2019	15	64	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	12
Informal Complaints ⁷	2
Administrative Investigations	1
TOTAL	15

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁸

OIPA	2
BART Police Department	10
TOTAL	12

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During January 2019, **2 Citizen Complaints** were received by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #19-02) (IA2019-012)	Officer #1: • Performance of Duty	OIPA notified BPD, which initiated an investigation.	13
	Officers #1-3: • Conduct Unbecoming an Officer	OIPA notified BPD, which initiated an investigation.	34
2 (OIPA #19-01) (IA2019-005)	Officers #1-2: • Search or Seizure		
	Officer #2: • Arrest or Detention		
	Officer #3 • Performance of Duty		

During January 2019, **10 Citizen Complaints (Formal)** were received by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2019-001)	Officer #1: • Force	BPD initiated an investigation.	40
	Officers #1-3: • Conduct Unbecoming an Officer	BPD initiated an investigation.	35
2 (IA2019-003)	Officer #2: • Performance of Duty		
	Officer #3: • Force • Reporting Misconduct		
3 (IA2019-004)	Unknown Officers #1-4: • Force	BPD initiated an investigation.	35
4 (IA2019-006)	Officer #1: • Performance of Duty	BPD initiated an investigation.	27

5 (IA2019-007)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	35
6 (IA2019-008)	Unknown Officer #1: • Force	BPD initiated an investigation.	24
7 (IA2019-009)	Employee #1: • Bias-Based Policing	BPD initiated an investigation.	19
8 (IA2019-011)	Employee #1: • Bias-Based Policing	BPD initiated an investigation.	38
9 (IA2019-013)	Officer #1: • Performance of Duty • Policy/Procedure	BPD initiated an investigation.	13
10 (IA2019-014)	Officer #1: • Bias-Based Policing • Conduct Unbecoming an Officer	BPD initiated an investigation.	11

During January 2019, **2 Informal Complaints** were received by BPD:

Complaint # (IA Case #)	Nature of Allegations	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2019-002)	Officers #1-2: • Performance of Duty	BPD initiated a Supervisor Referral. ⁹	38
2 (IA2019-010)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated a Supervisor Referral.	30

COMPLAINTS/INVESTIGATIONS INITIATED DURING A PRIOR REPORTING PERIOD

During December 2018, **1 Administrative Investigation** was initiated by BPD but not previously reported:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2018-113)	Officer #1: • Force • Policy/Procedure • Axon Camera • Conduct Unbecoming an Officer	BPD initiated an investigation.	47

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During January 2019, **1 Citizen Complaint Investigation** was concluded by OIPA:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (OIPA #18-17) (IA2018-033)	One officer improperly detained a subject, two officers did not properly document a law enforcement contact, and four officers used excessive force during an arrest.	Officers #1-4: • Force – Exonerated Officer #3: • Arrest or Detention – Sustained Officers #3-4: • AXON Camera Violation – Sustained	294	260

During January 2019, **3 Citizen Complaints (Formal)** were concluded by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2018-016)	Officers improperly cited complainant for fare evasion.	Officers #1-4: • No allegations listed – Handled as Service Review	350	310
2 (IA2018-039)	Officer targeted a subject for law enforcement action base on subject's race.	Officer #1: • Bias-Based Policing – Unfounded	272	257
3 (IA2018-046)	Officers improperly detained complainant based on complainant's race and inappropriately inquired regarding his parole status.	Officer #1: • Bias-Based Policing – Not Sustained • Conduct Unbecoming an Officer – Exonerated Officer #2: • No allegations listed	247	236

During January 2019, **7 Informal Complaints** were addressed by BPD:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2018-051)	Employee did not properly respond to call for service.	Employee #1: • Courtesy – Supervisor Referral	228	216
2 (IA2018-052)	Officer treated complainant dismissively during phone conversation.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	224	212
3 (IA2018-053)	Employee blocked complainant from using a parking spot.	Unknown Employee #1: • Courtesy – Supervisor Referral	241	214
4 (IA2018-080)	Employee refused to provide identification upon request.	Employees #1-2: • Conduct Unbecoming – Supervisor Referral	147	135
5 (IA2018-087)	Employees were rude.	Unknown Employee #1: • Conduct Unbecoming – Supervisor Referral	125	98
6 (IA2018-097)	Officer was rude to complainant.	Officer #1: • Conduct Unbecoming an Officer – Supervisor Referral	96	62
7 (IA2019-010)	Officer recklessly operated patrol vehicle.	Unknown Employee #1: • Courtesy – Supervisor Referral	30	18

Also during the month of January 2019, BPD classified IA2018-071 as an **Inquiry** and administratively closed the complaint after making the determination that the complainant was satisfied with the dismissal of an improperly issued parking citation.¹⁰

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING PREVIOUS REPORTING PERIODS

During December 2018, **1 Informal Complaint** was concluded by BPD:

Investigation # (IA Case #)	Nature of Allegations	Disposition	Days Elapsed Since Investigation Initiated	Days Taken to Address Allegation
1 (IA2018-073)	Officer rudely gestured with a flashlight and yelled at a subject.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Supervisor Referral 	172	133

DISCIPLINE ISSUED DURING REPORTING PERIOD

During January 2019, BPD took the following actions in cases where one or more allegations of misconduct were sustained:

Case #	Nature of Sustained Allegation(s)	Classification of Sustained Allegation(s)	Action Taken
1	One officer used excessive force, improperly reported the force, and spoke disparagingly about the subject of the force. One officer did not properly review the use of force.	Officer #1: <ul style="list-style-type: none"> • Force • Performance of Duty • Conduct Unbecoming an Officer Officer #2: <ul style="list-style-type: none"> • Performance of Duty 	Officer #1: <ul style="list-style-type: none"> • Written Reprimand Officer #2: <ul style="list-style-type: none"> • Oral Counseling
2	Officer operated a motor vehicle while intoxicated.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer • Policy/Procedure (AXON Camera) 	Officer #1: <ul style="list-style-type: none"> • Letter of Discussion
3	Officer used profanity toward multiple subjects and did not properly document law enforcement contacts.	Officer #1: <ul style="list-style-type: none"> • Performance of Duty 	Officer #1: <ul style="list-style-type: none"> • Letter of Discussion
4	Officer did not properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure (AXON Camera) 	Officer #1: <ul style="list-style-type: none"> • Letter of Discussion
5	Officer did not properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure (AXON Camera) 	Officer #1: <ul style="list-style-type: none"> • Written Reprimand
6	Officer improperly accessed database.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure 	Officer #1: <ul style="list-style-type: none"> • Written Reprimand

7	Officers did not properly document a law enforcement contact.	Officers #1-2: • Policy/Procedure (AXON Camera)	Officers #1-2: • Letter of Discussion
8	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion

ADDITIONAL NOTES

In accordance with the BART Citizen Oversight Model (Model), OIPA investigates certain complaints, conducts complainant-initiated appeals, and also monitors and/or reviews complaint investigations conducted by BPD. Though potentially work-intensive, some complaint investigation reviews are completed informally, with any concerns being addressed through a conference with BPD's Internal Affairs investigators. Noting the various kinds of work that OIPA undertakes with regard to complaints and investigations, the following chart includes some of the pending cases in which OIPA is involved as of the end of this reporting period.

Investigations Being Conducted	7
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	20
Investigations Reviewed During Current Month	17 [†]

[†]This number does not include all OIPA reviews, as OIPA commonly looks at a variety of cases in the Internal Affairs database to obtain updates on both pending and completed investigations.

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.¹¹

¹ In addition to reporting on complaints received by the BART Police Department, the Citizen Oversight Model requires reporting on all complaints received by the "Citizen Board, Office of the District Secretary, and other District departments." As complaints received by the BART Police Citizen Review Board are customarily directed to OIPA for further action, such complaints are included in the Quantitative Report above; OIPA is also made aware of additional complaints about the BART Police Department by the Office of the District Secretary or other District departments.

² This number includes all Citizen Complaints filed against members of the BART Police Department, as well as Administrative Investigations generated internally by BART Police Department members (as opposed to being filed by a citizen). This number also includes OIPA previously completed cases that have been re-opened during the current reporting period.

³ This number indicates all investigations that are open as of the end of the reporting period. It includes Citizen Complaints (regardless of whether the investigation is being conducted by OIPA, the BART Police Department, or both) and Administrative Investigations.

⁴ This number includes all cases completed by OIPA during the reporting period for which OIPA's findings are required by the BART Citizen Oversight Model to be submitted to the BART Police Citizen Review Board. It therefore includes independent investigations, as well as reviews of completed BART Police Department investigations initiated via appeal from a complainant. Unless otherwise noted, it does not include reviews of BART Police Department investigations initiated at the discretion of OIPA, which happen commonly and do not always generate a formal report; it also does not include reviews conducted by OIPA of complaint investigations where the complaint was filed with OIPA but did not fall under OIPA's investigative jurisdiction.

⁵ This number refers to appeals filed with OIPA by complainants who have been issued the findings of the BART Police Department's internal investigation into their complaint regarding on-duty incidents. OIPA has a responsibility to review such appeals pursuant to the BART Citizen Oversight Model, Chapter 1-04 (E).

⁶ This number refers to all appeals initiated by the BART Police Citizen Review Board after receiving and reviewing the findings issued by OIPA in a given case. The routes of all such appeals are described in detail in the BART Citizen Oversight Model, Chapter 1-04 (B) (iv-v).

⁷ The BART Police Department defines an Informal Complaint as, "A comment on the actions of a Department employee, where the reporting party expressly states that he or she does not feel that the matter should be formally investigated with the understanding that an Informal Complaint does not hold the potential to result in disciplinary action against the employee." (BART Police Department Policy Manual, Policy 1020.1.1(d)).

⁸ It is important to note that OIPA does not separate citizen complaints it receives into "Formal" and "Informal" classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

⁹ A Supervisor Referral refers to an instance involving an Inquiry or an Informal Complaint. An assigned supervisor addresses the issue informally with the involved employee and documents the content of the conversation with a memorandum to IA.

¹⁰ Administrative Closure refers to allegations that are received and documented; however the Chief of Police or his/her designee determines, based on a preliminary investigation, that further investigation is not warranted. Under these circumstances, the complaint will be Administratively Closed and documented in a summary memorandum to the case file. Employees will be documented as witnesses only, not as subjects to the complaint. Internal Affairs will send a letter to the complainant notifying them that the case was closed following a preliminary investigation.

¹¹ OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: BART Police Citizen Review Board DATE: January 31, 2019

FROM: Office of the Independent Police Auditor

SUBJECT: **Proposed Revisions to BPD Policy #451 – Body Worn Camera**

Chapter 1-04(G) of the Citizen Oversight Model (Model) states that the Office of the Independent Police Auditor (OIPA) shall develop recommendations concerning General Orders and Directives, procedures, practices, and training of the BART Police Department (BPD), with the goal of improving professionalism, safety, effectiveness, and accountability. In accordance with these sections of the Model, OIPA developed the following recommendation for changes to *BPD Policy 451 – Body Worn Camera*.

BART Police Department (BPD) Policy #451, titled “Body Worn Camera” is intended to assist officers in the performance of their duties by providing an objective, unbiased video and audio record of a contact and/or incident. According to the language of the policy, officers are required to utilize the AXON camera in accordance with the provisions of this policy in order to maximize the effectiveness of the device, enhance transparency, and ensure the integrity of evidence.

The Office of the Independent Police Auditor (OIPA) proposes the following revisions to the existing policy, with specific language to be determined through discussion and collaboration between BPD Chief Carlos Rojas, the BART Police Officers Association, the BART Police Managers Association, BPD command staff, the BART Police Citizen Review Board (BPCRB) and OIPA:

- Update language to reflect equipment and technology upgrades
- Require Chief of Police’s or designee’s authorization to view critical incident recordings
- Specify and define a “timely activation”
- Reprogram AXON camera buffering period from 30 seconds to 60 seconds with audio
- Add language requiring AXON recording auditing by BPD personnel
- Add language regarding OIPA’s review of fare inspection activities
- Require officers to notify supervisors each time a camera becomes dislodged
- Specify and define a “law enforcement contact”
- Require confirmation of equipment failures via review of required equipment tests

OIPA proposes that all references to the “AXON Flex” video recorder be changed to reflect the Department’s transition the AXON Body 2 video recorder in order to bring the policy manual in line with the currently-issued equipment.

OIPA recommends the addition of language requiring express written or verbal authorization from the Chief of Police or his designee prior to the viewing of a critical incident recording by any subject or witness officer and/or any officer's attorney or representative. This serves to protect the integrity of any administrative or criminal investigation in keeping with the Department's position that such viewings are to be authorized by the Chief on a case-by-case basis after consultation with appropriate County prosecutors and/or District Attorneys.

OIPA recommends the addition of language defining a timely activation and related instruction specifying that a determination of timeliness is not dependent on video images that may be captured during any buffering (non-audio) period. OIPA believes that any thorough review of a law enforcement contact should include review of the verbal commands issued by an officer, particularly when related to the analysis of a use of force.

In connection with the previous recommendation, OIPA proposes that BPD reprogram the camera buffering period from the current 30-second setting to a 1-minute buffering period including audio. In connection with this proposal, OIPA suggests that officers who activate their cameras after the initiation of a law enforcement contact, but still capture the entirety of a use of force (both audio and video) during the pre-activation buffering period would receive a Training Point regarding the late activation instead of disciplinary action and the required escalation of discipline pursuant to the negotiated progressive discipline process. This recommendation is suggested as a technological solution for unavoidable human error related to dynamic and rapidly evolving circumstances. This proposal will reduce the disciplinary consequences of late activations while increasing the ability of the Department and OIPA to review video related to citizen complaints, administrative investigations, and criminal investigations.

OIPA proposes the addition of language requiring regular periodic auditing by BPD personnel of the accuracy and consistency of video labeling, titling, and categorization pursuant to Section 451.2.1. Relatedly, OIPA recommends the inclusion of language reflecting OIPA's participation in the monitoring of fare inspection activities via review of body-worn camera video recordings.

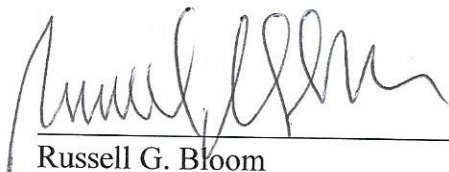
In an effort to identify and address any potential equipment hardware issues, OIPA recommends the addition of language requiring officers to notify supervisory personnel each time a camera becomes dislodged during a law enforcement contact. As OIPA has already discussed with BPD, there has been a significant increase in dislodged cameras since the distribution of the AXON Body 2 camera. Any lack of supervisory awareness of this equipment issue may increase the likelihood that a critical incident would not be captured on video because any lack of awareness may delay the Department's efforts to seek a remedy from the manufacturer.

OIPA recommends the addition of specific language clarifying the definition of a law enforcement contact. For example, OIPA is aware that in some instances officers have not characterized efforts to enforce Penal Code Section 640(d)(4) (re "Willfully blocking the free movement of another person in a system facility or vehicle") as a law enforcement activity that requires the activation of the AXON camera. Therefore, OIPA suggests additional language clarifying that any contact during which an officer issues a command or makes a demand for compliance therewith qualifies as a law enforcement contact.

OIPA is aware that on some occasions failed activations have been attributed to malfunctioning AXON equipment. OIPA recommends the addition of language requiring the confirmation of the required equipment test prior to reaching any supervisory determination regarding such malfunctions. OIPA further suggests the addition of language which provides that no failed activation may be mitigated by the assertion of an unconfirmed equipment failure unless the required pre-deployment test was properly performed and recorded.

As always, I welcome the opportunity to further discuss and work together to refine policy language as appropriate. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell G. Bloom", written over a horizontal line.

Russell G. Bloom
Independent Police Auditor

Body Worn Camera

451.1 PURPOSE AND SCOPE

The San Francisco Bay Area Rapid Transit District Police Department (BART) is providing each of its sworn sergeants and officers with a wearable body worn camera for use while on-duty. The body worn camera is designed to record both video and audio activity of members during the course of their official police duties. The body worn camera is intended to assist officers in the performance of their duties by providing an objective, unbiased video and audio record of a contact and/or incident.

The use of the body worn camera provides documentary evidence for criminal investigations, civil litigation, and allegations of officer misconduct. Such evidence shall be maintained by the Police Department as an investigatory record if it supports a criminal investigation based on reason to believe the subject of the investigation is or may be involved in criminal conduct, or for purposes of an administrative investigation on the conduct of a member(s) of the Police Department.

Officers shall utilize the body worn camera in accordance with the provision of this Policy in order to maximize the effectiveness of the device, enhance transparency, and ensure the integrity of evidence.

451.2 DEFINITIONS

- a. "AXON camera" This refers to the camera system that captures audio and video signals that is individually worn by officers and that includes at a minimum a recorder, microphone, and paired monitoring device.
- b. "Audio Recording" is the electronic recording of sound. "Evidence.com" is the online web-based digital media storage facility. The virtual warehouse stores digitally- encrypted data (photographs, audio and video recordings) in a highly secure environment. The digital recordings are accessible to authorized personnel based upon a security clearance and maintain an audit trail of user activity.
- c. "Evidence Transfer Manager" (ETM) is a docking station that simultaneously recharges the AXON camera and uploads all data captured from the camera's point of view during officer's shift to bartpd.evidence.com. The ETM ensures that evidence handling is secured and cannot be altered.
- d. The AXON camera manages the video compression and storage and is capable of playback via a Bluetooth paired smart device. The AXON camera ensures that evidence handling is secured and cannot be altered. Once plugged into the docking station, the AXON camera will upload digitally-encrypted data through the Evidence Transfer Manager to bartpd.evidence.com.
- e. [OIPA1]"AXON Technician" An employee of the department assigned by the system administrator that will assign, oversees, and tracks Department equipment. The AXON Technician shall oversee needed repairs or replacement of the AXON cameras and Evidence Transfer Manager equipment through AXON representatives.
- f. "System Administrator" The Administrative Services Supervisor will be the bartpd.evidence.com system administrator with full access to user rights who controls passwords, coordinates with the AXON Technician, and acts as liaison with AXON representatives.
- g. "Video Recording" is the electronic recording of visual images with or without audio component.
- h. "Impound" is the process by which video and audio files are uploaded to Evidence.com by docking the AXON camera to the Evidence Transfer Manager thereby ensuring files are secure and unable to be altered.

451.2.1 CATEGORIES AND RETENTION PERIODS

The BART Police Department has twelve (12) categories to tag and retain our cases in Evidence.com. Each one is listed below with the current retention cycle. It should be noted that retention times can be extended at any time by a Supervisor, Internal Affairs, Evidence Specialist, BPD System Administrator for evidence.com, or by the Chief of Police or his/her designee. Categories can also be added if needed.

1. INFRACTION VIOLATIONS (2 YEARS)
2. DETENTIONS (2 YEAR)
3. SERVICE TO CITIZENS (1 YEAR)
4. COLD REPORT (1 YEAR)
5. ARREST (UNTIL MANUALLY DELETED)
6. OUTSIDE ASSIST (1 YEAR)
7. CONSENSUAL CONTACTS (1 YEAR)
8. SICK OR INJURED PATRONS (3 YEARS)
9. STATEMENTS (UNTIL MANUALLY DELETED)
10. USE OF FORCE (UNTIL MANUALLY DELETED)
11. UNATTENDED DEATH / HOMICIDE (UNTIL MANUALLY DELETED)
12. TESTING / ACCIDENTAL (30 DAYS)

451.3 UNIFORMED OFFICER RESPONSIBILITIES

Prior to going into service, each uniformed patrol officer equipped with a Department issued AXON camera will be responsible for making sure that the AXON camera is in good working order. The AXON camera shall be conspicuously placed on the officer's person and worn in such a way as to provide an unobstructed camera view of officer/citizen contacts. The camera shall be considered mounted correctly if it is mounted using an AXON approved mounting accessory.

Members of the Department that are assigned an AXON camera shall receive mobile video training prior to deployment of the device in an operational setting. At this training, each officer will be provided a standard checklist of steps they are required to complete in order to ensure their AXON camera and mounting systems are in good working order.

451.4 NON-UNIFORMED OFFICER RESPONSIBILITIES

Any officer assigned to a non-uniformed position may carry a Department-issued AXON camera at any time the officer believes that such a device may be utilized in order to assist the officer in the performance of their duties by providing an objective, unbiased video and audio record of a contact and/or incident. However, whenever a non-uniformed officer is working a uniformed patrol assignment he/she shall wear a Department - issued AXON camera in accordance with this policy.

451.5 ACTIVATION OF THE VIDEO/AUDIO RECORDER

Penal Code Section 632 prohibits any individual from surreptitiously recording any conversation (confidential communication) in which any party to the conversation has a reasonable belief that the conversation is private or confidential. This excludes a communication made in a public gathering or in any legislative, judicial, executive or administrative proceeding open to the public, or in any other circumstance in which the parties to the communication may reasonably expect that the communication may be overheard or recorded. However Penal Code Section 633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation as follows:

- a. No member of the Department may surreptitiously record a contact with or conversation of any other member of this Department without the expressed knowledge and consent of all parties present, including the member whose acts or conversation are being recorded. Nothing in this Section is intended to interfere with an officer's right to openly record any interrogation pursuant to Government Code Section 3303(g).
- b. Any member of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation:
 - 1. For the purpose of this Policy, any officer contacting an individual suspected of violating any law or during the course of any official, law enforcement-related activity shall be presumed to be engaged in a criminal investigation. This presumption shall not apply to contacts with other employees conducted solely for administrative purposes.
 - 2. For the purpose of this Policy, it shall further be presumed that any individual contacted by a uniformed officer wearing a conspicuously mounted body worn camera will have knowledge that such a contact is being recorded. This subsection shall not apply to contact between a member of the Department wearing a conspicuously mounted body worn camera and other member(s) of the Department or employees of the BART Office of the Independent Police Auditor. For purposes of this policy, contact between members of this Department is governed by section 451.5(a), and 451.5(b) (1).
- c. All on-scene officers (inclusive of all initiating and witness officers) equipped with a body worn camera shall activate their cameras prior to making contact with individuals in any of the following circumstances:
 - 1. Any law enforcement contact:
 - a. detentions (as outlined in Policy section 322.3.1),
 - b. vehicle stops
 - c. walking stops
 - d. notification of a rule or law
 - e. Probation and parole searches
 - f. Service of a search or arrest warrant
 - g. Any contact with a subject suspected of criminal behavior
 - h. Processing, transporting, and booking of all prisoners.
 - 2. Any contact with a subject for a welfare check or suspicious person
 - 3. When speaking with a reporting party and/or witness regarding a crime
 - 4. Officers are also encouraged to activate their body worn camera on consensual encounters.
- d. A timely activation of the body worn camera shall be defined as:
 - 1. For law enforcement contacts initiated by the officer, the officer activates prior to contacting a suspect or as soon as it is safe to do so.
 - 2. For calls for service, the officer activates either upon receipt of a call, or prior to arriving in the area of the incident when traveling to the location from a distance.
 - 3. The camera buffering period will capture the 60 seconds of audio and video prior to activation.
- e. Members of the Department are expected to activate their body worn camera any time they reasonably believe that a recording of an on-duty contact with a member of the public may be of future benefit to the Department.
 - 1. At no time should an officer jeopardize his/her safety or the safety of another in order to activate their body worn camera.
 - 2. Members of the Department are expressly prohibited from utilizing Department recorders and recorded media for personal use.
 - 3. Members of the Department will not make copies of any recordings for their personal use and are prohibited from using a recording device (such as a phone camera or secondary video camera) to record media from bartpd.evidence.com or the AXON camera unit. Nothing in this policy shall be construed as limiting an officer's right to carry and use a personal device such as a smart-phone, however officers shall not carry or use another mobile video recorder in addition to the District issued body worn camera without express approval of the Chief of Police.

- f. When an equipment malfunction is identified as a reason for a non-activation or a late activation, a supervisor must confirm whether the officer performed the required equipment test prior to deployment.

451.6 AXON CAMERA OPERATING PROCEDURES

Prior to going into service each officer shall perform an inspection and record a test video, to ensure that his/her AXON camera is operational. If problems are encountered with any component of the system, the AXON camera equipment will not be used. The officer to whom the problematic equipment is assigned shall report the problem to their immediate supervisor upon becoming aware of it. A spare AXON camera shall be issued to that officer through a supervisor prior to the officer going into service. The officer and supervisor shall inform the AXON Technician via email of problems that are occurring with the problem unit as well as what spare AXON camera was assigned to the officer (number of AXON camera unit). The problematic AXON camera shall be routed to the AXON Technician to diagnose and shall reassign a new unit to the affected employee.

- a. The officers shall report the loss or theft of an AXON camera to their immediate supervisor. The officer shall prepare a memo to be routed via the chain of command to their Bureau Deputy Chief documenting the circumstances surrounding the loss or theft of the device. The AXON technician should be informed via email from the immediate supervisor of the loss. A spare AXON camera shall be issued to the officer through a supervisor prior to going back into service. The officer and supervisor shall inform the AXON Technician via email of what spare was issued (number of AXON camera unit). The AXON Technician shall assign a new unit to the officer as soon as possible after receiving notification of the loss or theft of the camera.
- b. Once the AXON camera is activated pursuant to Section 451.5 of this policy, it shall remain on until the event giving rise to the activation has reached a conclusion and/or the officer leaves the scene of the event, whichever occurs first. Officers shall record further interaction with suspects, including searching, processing, transporting, and booking. Any exceptions will be documented in the police report and reported to a supervisor. When the officer reasonably believes the event giving rise to the activation is over, he/she may deactivate the AXON camera from the recording mode. If the event giving rise to the activation resumes following the officer's termination of the AXON camera recording the officer shall reactivate their AXON camera.
- c. When the AXON camera is used in any incident, investigation, or during a traffic stop, this fact will be documented on any relevant citation and/or report prepared regarding the incident. Conversely, when the AXON camera is not used in any incident, investigation, or during a traffic stop, the reason for non-use will be documented on any relevant citation and/or report prepared regarding the incident. Conversely, whenever the AXON camera is not activated as required by Section 451.5 of this policy, the reason for the lack of activation will be documented on the relevant citation and/or police report prepared regarding the event that otherwise would have given rise to activation. For the purposes of capturing the recording or lack of recording in the police report it should be mentioned at the beginning of the narrative summary.
- d. Except in circumstances prohibited by statute, or as directed by the Chief of Police, or his or her designee, an officer may have access to review his/her recordings when preparing written reports and/or statements relevant to any incident, to help ensure accuracy and consistency of accounts. Recordings of critical incidents (i.e. Officer Involved Shootings) may only be viewed by the involved officer(s) when express permission is granted by the Chief of Police, or his or her designee.
- e. Department personnel shall not intentionally erase, alter, reuse, modify or tamper with audio-video recordings, nor shall they attempt to erase, alter, reuse, modify or tamper with audio-video recordings.
- f. If the AXON camera is accidentally activated, the officer shall inform his or her immediate supervisor requesting the recording be deleted. The request shall be sent via email and routed to the AXON Administrator. Once the video has been reviewed by the supervisor and administrator and deemed to have no evidentiary value the video will be categorized as "Testing/ Accidental" and retained for thirty (30) days prior to deletion. Officers should note accidental recordings by labeling them using their Department issued device prior to download.

- g. Once an officer has completed a recordable encounter he or she shall label the recording using their Department issued device. The officers shall provide the event number, category, and title of the video. This information will be uploaded along with the video once docked into the ETM at the end of shift. Supervisory personnel shall conduct regular audits to determine whether recordings are labeled in compliance with this section.
- h. Officers working overtime assignments outside of their direct report locations will ensure they bring their issued AXON camera to the location of their overtime assignment.
- i. When an officer discovers that his/her AXON camera battery is becoming depleted (as evidenced by a yellow indicator light and/or a sounding tone when recording), the officer shall immediately exchange the camera for a spare located in the Integrated Security Response Center (ISRC). If the officer will be delayed in exchanging the camera, or if the officer is unable to locate a charged spare Axon camera, the officer shall notify a supervisor and the supervisor will locate a charged spare Axon camera for the officer's use as soon as possible.
- j. If a camera becomes dislodged during a recording (e.g. during a use of force), the officer must notify his or her immediate supervisor afterwards. The supervisor will address any needed equipment issues.

451.7 AXON CAMERA IMPOUNDING PROCEDURE

To download the videos from their AXON cameras, officers shall place the AXON camera into an assigned open slot on the Evidence Transfer Manager (docking station). This will allow the data to be transferred from the AXON camera, via the docking station, to bartpd.evidence.com. The data is considered impounded at this point and the AXON camera is cleared of existing data.

Officers will ensure all videos capturing arrests, uses of force, and/or any incident deemed necessary by a supervisor, have been downloaded when not leaving their AXON camera in an ETM at the completion of a work shift. Any exceptions to this requirement will only be made in unusual circumstance and with supervisory approval.

451.8 REVIEW OF RECORDED MEDIA

Recorded files may be reviewed in any of the following situations:

- a. Recordings of critical incidents (i.e. Officer Involved Shootings) may only be viewed by the involved officer(s) when express permission is granted by the Chief of Police, or his or her designee.
- b. By a supervisor investigating a specific incident, issue, and/or act of officer conduct.
- c. By any member of the Department who is authorized to participate in an official investigation in the following type of cases only: personnel complaints, administrative investigations, or criminal investigations.
- d. Pursuant to a lawful process or by members of the District Attorney's office or court personnel otherwise authorized to review evidence in a related case.
- e. By the Independent BART Police Auditor or his/her investigator.
- f. The Office of Independent Police Auditor is authorized to audit videos recorded by Fare Inspectors conducting Proof of Payment checks.
- g. Patrol Sergeants and Lieutenants are responsible for auditing videos recorded by personnel in their chain of command. Any policy violations should be addressed as appropriate.
- h.
- i. By the "System Administrators" for the purpose of managing the video evidence, quality assurance, and to categorize, label, provide case numbers to videos when needed.

451.9 MOBILE VIDEO RECORDERS

The Department assigned AXON camera shall be the only mobile video recorder allowed for Department employees while on-duty. Any other mobile video recorder shall only be used with the expressed permission of the Chief of Police.

Body Worn Camera

451.1 PURPOSE AND SCOPE

The San Francisco Bay Area Rapid Transit District Police Department (BART) is providing each of its sworn sergeants and officers with a wearable body worn camera for use while on-duty. The body worn camera is designed to record both video and audio activity of members during the course of their official police duties. The body worn camera is intended to assist officers in the performance of their duties by providing an objective, unbiased video and audio record of a contact and/or incident.

The use of the body worn camera provides documentary evidence for criminal investigations, civil litigation, and allegations of officer misconduct. Such evidence shall be maintained by the Police Department as an investigatory record if it supports a criminal investigation based on reason to believe the subject of the investigation is or may be involved in criminal conduct, or for purposes of an administrative investigation on the conduct of a member(s) of the Police Department.

Officers shall utilize the body worn camera in accordance with the provision of this Policy in order to maximize the effectiveness of the device, enhance transparency, and ensure the integrity of evidence.

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- (a) "AXON camera" This refers to the camera system that captures audio and video signals that is individually worn by officers and that includes at a minimum a recorder, microphone, and paired monitoring device.
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- (c) "Evidence Transfer Manager" (ETM) is a docking station that simultaneously recharges the AXON camera and uploads all data captured from the camera's point of view during officer's shift to bartpd.evidence.com. The ETM ensures that evidence handling is secured and cannot be altered.
- (d) The AXON camera manages the video compression and storage and is capable of playback via a Bluetooth paired smart device. The AXON camera ensures that evidence handling is secured and cannot be altered. Once plugged into the docking station, the AXON camera will upload digitally-encrypted data through the Evidence Transfer Manager to bartpd.evidence.com.
- (e) "AXON Controller" is the battery pack and on off switch for the AXON Flex Camera and connects to the Flex Camera via a small gage wire.

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- (f) "AXON Technician" An employee of the department assigned by the system administrator that will assign, oversees, and tracks Department equipment. The AXON Technician shall oversee needed repairs or replacement of the AXON cameras and Evidence Transfer Manager equipment through AXON representatives.
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8. SICK OR INJURED PATRONS (3 YEARS)
9. STATEMENTS (UNTIL MANUALLY DELETED)
10. USE OF FORCE (UNTIL MANUALLY DELETED)
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451.3 UNIFORMED OFFICER RESPONSIBILITIES

Prior to going into service, each uniformed patrol officer equipped with a Department issued AXON camera will be responsible for making sure that the AXON Flex is in good working order. The AXON camera shall be conspicuously placed on the officer's person and worn in such a way as to provide an unobstructed camera view of officer/citizen contacts. The camera shall be considered mounted correctly if it is mounted using a Axon approved mounting accessory.

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- (a) No member of the Department may surreptitiously record a contact with or conversation of any other member of this Department without the expressed knowledge and consent of all parties present, including the member whose acts or conversation are being recorded. Nothing in this Section is intended to interfere with an officer's right to openly record any interrogation pursuant to Government Code Section 3303(g).
- (b) Any member of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation:
 - 1. For the purpose of this Policy, any officer contacting an individual suspected of violating any law or during the course of any official, law enforcement-related activity shall be presumed to be engaged in a criminal investigation. This presumption shall not apply to contacts with other employees conducted solely for administrative purposes.
 - 2. For the purpose of this Policy, it shall further be presumed that any individual contacted by a uniformed officer wearing a conspicuously mounted body worn camera will have knowledge that such a contact is being recorded. This subsection shall not apply to contact between a member of the Department wearing a conspicuously mounted body worn camera and other member(s) of the Department. For purposes of this policy, contact between members of this Department is governed by section 451.5(a), and 451.5(b) (1).

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- (c) All on-scene officers (inclusive of all initiating and witness officers) equipped with a body worn camera shall activate their cameras prior to making contact with individuals in any of the following circumstances:
 - 1. Any enforcement contact e.g. detentions, vehicle stops, walking stops (officers are encouraged to activate their body worn camera on consensual encounters also), as outlined in Policy section 322.3.
 - 2. Probation and parole searches
 - 3. Service of a search or arrest warrant
 - 4. Any contact with a subject suspected of criminal behavior
 - 5. Processing, transporting, and booking of all prisoners.
- (d) Members of the Department are expected to activate their body worn camera any time they reasonably believe that a recording of an on-duty contact with a member of the public may be of future benefit to the Department.
 - 1. At no time should an officer jeopardize his/her safety or the safety of another in order to activate their body worn camera.
 - 2. Members of the Department are expressly prohibited from utilizing Department recorders and recorded media for personal use.
 - 3. Members of the Department will not make copies of any recordings for their personal use and are prohibited from using a recording device (such as a phone camera or secondary video camera) to record media from bartpd.evidence.com or the AXON camera unit. Nothing in this policy shall be construed as limiting an officer's right to carry and use a personal device such as a smart-phone, however officers shall not carry or use another mobile video recorder in addition to the District issued body worn camera without express approval of the Chief of Police.

451.6 AXON CAMERA OPERATING PROCEDURES

Prior to going into service each officer shall perform an inspection and record a test video, to ensure that his/her AXON camera is operational. If problems are encountered with any component of the system, the AXON camera equipment will not be used. The officer to whom the problematic equipment is assigned shall report the problem to their immediate supervisor upon becoming aware of it. A spare AXON camera shall be issued to that officer through a supervisor prior to the officer going into service. The officer and supervisor shall inform the AXON Technician via email of problems that are occurring with the problem unit as well as what spare AXON camera was assigned to the officer (number of AXON camera unit). The problematic AXON camera shall be routed to the AXON Technician to diagnose and shall reassign a new unit to the affected employee.

- (a) The officers shall report the loss or theft of an AXON camera to their immediate supervisor. The officer shall prepare a memo to be routed via the chain of command to their Bureau Deputy Chief documenting the circumstances surrounding the loss or theft of the device. The AXON technician should be informed via email from the immediate supervisor of the loss. A spare AXON camera shall be issued to the officer

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through a supervisor prior to going back into service. The officer and supervisor shall inform the AXON Technician via email of what spare was issued (number of AXON camera unit). The AXON Technician shall assign a new unit to the officer as soon as possible after receiving notification of the loss or theft of the camera.

- (b) Once the AXON camera is activated pursuant to Section 451.5 of this policy, it shall remain on until the event giving rise to the activation has reached a conclusion and/or the officer leaves the scene of the event, whichever occurs first. Officers shall record further interaction with suspects, including searching, processing, transporting, and booking. Any exceptions will be documented in the police report and reported to a supervisor. When the officer reasonably believes the event giving rise to the activation is over, he/she may deactivate the AXON camera from the recording mode. If the event giving rise to the activation resumes following the officer's termination of the AXON camera recording the officer shall reactivate their AXON camera.
- (c) When the AXON camera is used in any incident, investigation, or during a traffic stop, this fact will be documented on any relevant citation and/or report prepared regarding the incident. Conversely, when the AXON camera is not used in any incident, investigation, or during a traffic stop, the reason for non-use will be documented on any relevant citation and/or report prepared regarding the incident. Conversely, whenever the AXON camera is not activated as required by Section 451.5 of this policy, the reason for the lack of activation will be documented on the relevant citation and/or police report prepared regarding the event that otherwise would have given rise to activation. For the purposes of capturing the recording or lack of recording in the police report it should be mentioned at the beginning of the narrative summary.
- (d) Except in circumstances prohibited by statute, or as directed by the Chief of Police, or his or her designee, an officer may have access to review his/her recordings when preparing written reports and/or statements relevant to any incident, to help ensure accuracy and consistency of accounts.
- (e) Department personnel shall not intentionally erase, alter, reuse, modify or tamper with audio-video recordings, nor shall they attempt to erase, alter, reuse, modify or tamper with audio-video recordings.
- (f) If the AXON camera is accidentally activated, the officer shall inform his or her immediate supervisor requesting the recording be deleted. The request shall be sent via email and routed to the AXON Administrator. Once the video has been reviewed by the supervisor and administrator and deemed to have no evidentiary value the video will be categorized as "Testing/ Accidental" and retained for thirty (30) days prior to deletion. Officers should note accidental recordings by labeling them using their Department issued device prior to download.
- (g) Once an officer has completed a recordable encounter he or she shall label the recording using their Department issued device. The officers shall provide the event number, category, and title of the video. This information will be uploaded along with the video once docked into the ETM at the end of shift.
- (h) Officers working overtime assignments outside of their direct report locations will ensure they bring their issued AXON camera to the location of their overtime assignment.

Bay Area Rapid Transit Police Department

BART PD Policy Manual

Body Worn Camera

- (i) When an officer discovers that his/her AXON camera battery is becoming depleted (as evidenced by a yellow indicator light and/or a sounding tone when recording), the officer shall immediately exchange the camera for a spare located in the Integrated Security Response Center (ISRC). If the officer will be delayed in exchanging the camera, or if the officer is unable to locate a charged spare Axon camera, the officer shall notify a supervisor and the supervisor will locate a charged spare Axon camera for the officer's use as soon as possible.

451.7 AXON CAMERA IMPOUNDING PROCEDURE

To download the videos from their AXON cameras, officers shall place the AXON camera into an assigned open slot on the Evidence Transfer Manager (docking station). This will allow the data to be transferred from the AXON camera, via the docking station, to bartpd.evidence.com. The data is considered impounded at this point and the AXON camera is cleared of existing data.

Officers will ensure all videos capturing arrests, uses of force, and/or any incident deemed necessary by a supervisor, have been downloaded when not leaving their AXON camera in an ETM at the completion of a work shift. Any exceptions to this requirement will only be made in unusual circumstance and with supervisory approval.

451.8 REVIEW OF RECORDED MEDIA

Recorded files shall be reviewed in any of the following situations:

- (a) By a supervisor investigating a specific incident, issue, and/or act of officer conduct.
- (b) By any member of the Department who is authorized to participate in an official investigation in the following type of cases only: personnel complaints, administrative investigations, or criminal investigations.
- (c) Pursuant to a lawful process or by members of the District Attorney's office or court personnel otherwise authorized to review evidence in a related case.
- (d) By the Independent BART Police Auditor or his/her investigator.
- (e) With the expressed permission of the Chief of Police or authorized designee.
- (f) By the "System Administrators" for the purpose of managing the video evidence, quality assurance, and to categorize, label, provide case numbers to videos when needed.

451.9 MOBILE VIDEO RECORDERS

The Department assigned AXON camera shall be the only mobile video recorder allowed for Department employees while on-duty. Any other mobile video recorder shall only be used with the expressed permission of the Chief of Police.

Body Worn Camera

451.1 PURPOSE AND SCOPE

The San Francisco Bay Area Rapid Transit District Police Department (BART) is providing each of its sworn sergeants and officers with a wearable body worn camera for use while on-duty. The body worn camera is designed to record both video and audio activity of members during the course of their official police duties. The body worn camera is intended to assist officers in the performance of their duties by providing an objective, unbiased video and audio record of a contact and/or incident.

The use of the body worn camera provides documentary evidence for criminal investigations, civil litigation, and allegations of officer misconduct. Such evidence shall be maintained by the Police Department as an investigatory record if it supports a criminal investigation based on reason to believe the subject of the investigation is or may be involved in criminal conduct, or for purposes of an administrative investigation on the conduct of a member(s) of the Police Department.

Officers shall utilize the body worn camera in accordance with the provision of this Policy in order to maximize the effectiveness of the device, enhance transparency, and ensure the integrity of evidence.

451.2 DEFINITIONS

- a. "AXON camera" This refers to the camera system that captures audio and video signals that is individually worn by officers and that includes at a minimum a recorder, microphone, and paired monitoring device.
- b. "Audio Recording" is the electronic recording of sound. "Evidence.com" is the online web-based digital media storage facility. The virtual warehouse stores digitally- encrypted data (photographs, audio and video recordings) in a highly secure environment. The digital recordings are accessible to authorized personnel based upon a security clearance and maintain an audit trail of user activity.
- c. "Evidence Transfer Manager" (ETM) is a docking station that simultaneously recharges the AXON camera and uploads all data captured from the camera's point of view during officer's shift to bartpd.evidence.com. The ETM ensures that evidence handling is secured and cannot be altered.
- d. The AXON camera manages the video compression and storage and is capable of playback via a Bluetooth paired smart device. The AXON camera ensures that evidence handling is secured and cannot be altered. Once plugged into the docking station, the AXON camera will upload digitally-encrypted data through the Evidence Transfer Manager to bartpd.evidence.com.
- ~~e. [OIPA1] "AXON Controller" is the battery pack and on off switch for the AXON Flex Camera and connects to the Flex Camera via a small gage wire.~~
- ~~f.e.~~ "AXON Technician" An employee of the department assigned by the system administrator that will assign, oversees, and tracks Department equipment. The AXON Technician shall oversee needed repairs or replacement of the AXON cameras and Evidence Transfer Manager equipment through AXON representatives.
- ~~g.f.~~ "System Administrator" The Administrative Services Supervisor will be the bartpd.evidence.com system administrator with full access to user rights who controls passwords, coordinates with the AXON Technician, and acts as liaison with AXON representatives.
- ~~h.g.~~ "Video Recording" is the electronic recording of visual images with or without audio component.
- ~~i.h.~~ "Impound" is the process by which video and audio files are uploaded to Evidence.com by docking the AXON camera to the Evidence Transfer Manager thereby ensuring files are secure and unable to be altered.

451.2.1 CATEGORIES AND RETENTION PERIODS

The BART Police Department has twelve (12) categories to tag and retain our cases in Evidence.com. Each one is listed below with the current retention cycle. It should be noted that retention times can be extended at any time by a Supervisor, Internal Affairs, Evidence Specialist, BPD System Administrator for evidence.com, or by the Chief of Police or his/her designee. Categories can also be added if needed.

1. INFRACTION VIOLATIONS (2 YEARS)
2. DETENTIONS (2 YEAR)
3. SERVICE TO CITIZENS (1 YEAR)
4. COLD REPORT (1 YEAR)
5. ARREST (UNTIL MANUALLY DELETED)
6. OUTSIDE ASSIST (1 YEAR)
7. CONSENSUAL CONTACTS (1 YEAR)
8. SICK OR INJURED PATRONS (3 YEARS)
9. STATEMENTS (UNTIL MANUALLY DELETED)
10. USE OF FORCE (UNTIL MANUALLY DELETED)
11. UNATTENDED DEATH / HOMICIDE (UNTIL MANUALLY DELETED)
12. TESTING / ACCIDENTAL (30 DAYS)

451.3 UNIFORMED OFFICER RESPONSIBILITIES

Prior to going into service, each uniformed patrol officer equipped with a Department issued AXON camera will be responsible for making sure that the AXON [Flexcamera](#) is in good working order. The AXON camera shall be conspicuously placed on the officer's person and worn in such a way as to provide an unobstructed camera view of officer/citizen contacts. The camera shall be considered mounted correctly if it is mounted using a [Axon an AXON](#) approved mounting accessory.

Members of the Department that are assigned an AXON camera shall receive mobile video training prior to deployment of the device in an operational setting. At this training, each officer will be provided a standard checklist of steps they are required to complete in order to ensure their AXON camera and mounting systems are in good working order.

451.4 NON-UNIFORMED OFFICER RESPONSIBILITIES

Any officer assigned to a non-uniformed position may carry a Department-issued AXON camera at any time the officer believes that such a device may be utilized in order to assist the officer in the performance of their duties by providing an objective, unbiased video and audio record of a contact and/or incident. However, whenever a non-uniformed officer is working a uniformed patrol assignment he/she shall wear a Department - issued AXON camera in accordance with this policy.

451.5 ACTIVATION OF THE VIDEO/AUDIO RECORDER

Penal Code Section 632 prohibits any individual from surreptitiously recording any conversation (confidential communication) in which any party to the conversation has a reasonable belief that the conversation is private or confidential. This excludes a communication made in a public gathering or in any legislative, judicial, executive or administrative proceeding open to the public, or in any other circumstance in which the parties to the communication may reasonably expect that the communication may be overheard or recorded. However Penal Code Section 633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation as follows:

- a. No member of the Department may surreptitiously record a contact with or conversation of any other member of this Department without the expressed knowledge and consent of all parties present, including the member whose acts or conversation are being recorded. Nothing in this Section is intended to interfere with an officer's right to openly record any interrogation pursuant to Government Code Section 3303(g).
- b. Any member of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation:
 - 1. For the purpose of this Policy, any officer contacting an individual suspected of violating any law or during the course of any official, law enforcement-related activity shall be presumed to be engaged in a criminal investigation. This presumption shall not apply to contacts with other employees conducted solely for administrative purposes.
 - 2. For the purpose of this Policy, it shall further be presumed that any individual contacted by a uniformed officer wearing a conspicuously mounted body worn camera will have knowledge that such a contact is being recorded. This subsection shall not apply to contact between a member of the Department wearing a conspicuously mounted body worn camera and other member(s) of the Department: or employees of the BART Office of the Independent Police Auditor. For purposes of this policy, contact between members of this Department is governed by section 451.5(a), and 451.5(b) (1).
- c. All on-scene officers (inclusive of all initiating and witness officers) equipped with a body worn camera shall activate their cameras prior to making contact with individuals in any of the following circumstances:
 - 1. Any law enforcement contact e.g.:
 - ~~1.a. detentions, (vehicle stops, walking stops (officers are encouraged to activate their body worn camera on consensual encounters also),~~ as outlined in Policy section 322.3.1),
 - a.b. vehicle stops
 - c. walking stops
 - d. notification of a rule or law
 - 2.e. Probation and parole searches
 - 3.f. Service of a search or arrest warrant
 - 4.g. Any contact with a subject suspected of criminal behavior
 - 5.h. Processing, transporting, and booking of all prisoners.
 - 2. Any contact with a subject for a welfare check or suspicious person
 - 3. When speaking with a reporting party and/or witness regarding a crime
 - 4. Officers are also encouraged to activate their body worn camera on consensual encounters.
- d. A timely activation of the body worn camera shall be defined as:
 - 1. For law enforcement contacts initiated by the officer, the officer activates prior to contacting a suspect or as soon as it is safe to do so.
 - 2. For calls for service, the officer activates either upon receipt of a call, or prior to arriving in the area of the incident when traveling to the location from a distance.
 - 3. The camera buffering period will capture the 60 seconds of audio and video prior to activation.
- ~~d.e.~~ Members of the Department are expected to activate their body worn camera any time they reasonably believe that a recording of an on-duty contact with a member of the public may be of future benefit to the Department.
 - 1. At no time should an officer jeopardize his/her safety or the safety of another in order to activate their body worn camera.
 - 2. Members of the Department are expressly prohibited from utilizing Department recorders and recorded media for personal use.
 - 3. Members of the Department will not make copies of any recordings for their personal use and are prohibited from using a recording device (such as a phone camera or secondary video camera) to record media from bartpd.evidence.com or the AXON camera unit. Nothing in this policy shall be construed as limiting an officer's right to carry and use a personal device such as a smart-phone, however officers shall not carry or use another

mobile video recorder in addition to the District issued body worn camera without express approval of the Chief of Police.

- f. When an equipment malfunction is identified as a reason for a non-activation or a late activation, a supervisor must confirm whether the officer performed the required equipment test prior to deployment.

451.6 AXON CAMERA OPERATING PROCEDURES

Prior to going into service each officer shall perform an inspection and record a test video, to ensure that his/her AXON camera is operational. If problems are encountered with any component of the system, the AXON camera equipment will not be used. The officer to whom the problematic equipment is assigned shall report the problem to their immediate supervisor upon becoming aware of it. A spare AXON camera shall be issued to that officer through a supervisor prior to the officer going into service. The officer and supervisor shall inform the AXON Technician via email of problems that are occurring with the problem unit as well as what spare AXON camera was assigned to the officer (number of AXON camera unit). The problematic AXON camera shall be routed to the AXON Technician to diagnose and shall reassign a new unit to the affected employee.

- a. The officers shall report the loss or theft of an AXON camera to their immediate supervisor. The officer shall prepare a memo to be routed via the chain of command to their Bureau Deputy Chief documenting the circumstances surrounding the loss or theft of the device. The AXON technician should be informed via email from the immediate supervisor of the loss. A spare AXON camera shall be issued to the officer through a supervisor prior to going back into service. The officer and supervisor shall inform the AXON Technician via email of what spare was issued (number of AXON camera unit). The AXON Technician shall assign a new unit to the officer as soon as possible after receiving notification of the loss or theft of the camera.
- b. Once the AXON camera is activated pursuant to Section 451.5 of this policy, it shall remain on until the event giving rise to the activation has reached a conclusion and/or the officer leaves the scene of the event, whichever occurs first. Officers shall record further interaction with suspects, including searching, processing, transporting, and booking. Any exceptions will be documented in the police report and reported to a supervisor. When the officer reasonably believes the event giving rise to the activation is over, he/she may deactivate the AXON camera from the recording mode. If the event giving rise to the activation resumes following the officer's termination of the AXON camera recording the officer shall reactivate their AXON camera.
- c. When the AXON camera is used in any incident, investigation, or during a traffic stop, this fact will be documented on any relevant citation and/or report prepared regarding the incident. Conversely, when the AXON camera is not used in any incident, investigation, or during a traffic stop, the reason for non-use will be documented on any relevant citation and/or report prepared regarding the incident. Conversely, whenever the AXON camera is not activated as required by Section 451.5 of this policy, the reason for the lack of activation will be documented on the relevant citation and/or police report prepared regarding the event that otherwise would have given rise to activation. For the purposes of capturing the recording or lack of recording in the police report it should be mentioned at the beginning of the narrative summary.
- d. Except in circumstances prohibited by statute, or as directed by the Chief of Police, or his or her designee, an officer may have access to review his/her recordings when preparing written reports and/or statements relevant to any incident, to help ensure accuracy and consistency of accounts. Recordings of critical incidents (i.e. Officer Involved Shootings) may only be viewed by the involved officer(s) when express permission is granted by the Chief of Police, or his or her designee.
- e. Department personnel shall not intentionally erase, alter, reuse, modify or tamper with audio-video recordings, nor shall they attempt to erase, alter, reuse, modify or tamper with audio-video recordings.
- f. If the AXON camera is accidentally activated, the officer shall inform his or her immediate supervisor requesting the recording be deleted. The request shall be sent via email and routed to the AXON Administrator. Once the video has been reviewed by the supervisor and administrator and deemed to have no evidentiary value the video will be categorized as "Testing/ Accidental" and

retained for thirty (30) days prior to deletion. Officers should note accidental recordings by labeling them using their Department issued device prior to download.

- g. Once an officer has completed a recordable encounter he or she shall label the recording using their Department issued device. The officers shall provide the event number, category, and title of the video. This information will be uploaded along with the video once docked into the ETM at the end of shift. Supervisory personnel shall conduct regular audits to determine whether recordings are labeled in compliance with this section.
- h. Officers working overtime assignments outside of their direct report locations will ensure they bring their issued AXON camera to the location of their overtime assignment.
- i. When an officer discovers that his/her AXON camera battery is becoming depleted (as evidenced by a yellow indicator light and/or a sounding tone when recording), the officer shall immediately exchange the camera for a spare located in the Integrated Security Response Center (ISRC). If the officer will be delayed in exchanging the camera, or if the officer is unable to locate a charged spare Axon camera, the officer shall notify a supervisor and the supervisor will locate a charged spare Axon camera for the officer's use as soon as possible.
- j. If a camera becomes dislodged during a recording (e.g. during a use of force), the officer must notify his or her immediate supervisor afterwards. The supervisor will address any needed equipment issues.

451.7 AXON CAMERA IMPOUNDING PROCEDURE

To download the videos from their AXON cameras, officers shall place the AXON camera into an assigned open slot on the Evidence Transfer Manager (docking station). This will allow the data to be transferred from the AXON camera, via the docking station, to bartpd.evidence.com. The data is considered impounded at this point and the AXON camera is cleared of existing data.

Officers will ensure all videos capturing arrests, uses of force, and/or any incident deemed necessary by a supervisor, have been downloaded when not leaving their AXON camera in an ETM at the completion of a work shift. Any exceptions to this requirement will only be made in unusual circumstance and with supervisory approval.

451.8 REVIEW OF RECORDED MEDIA

Recorded files ~~shall~~may be reviewed in any of the following situations:

- a. Recordings of critical incidents (i.e. Officer Involved Shootings) may only be viewed by the involved officer(s) when express permission is granted by the Chief of Police, or his or her designee.
- ~~a.b.~~ By a supervisor investigating a specific incident, issue, and/or act of officer conduct.
- ~~b.c.~~ By any member of the Department who is authorized to participate in an official investigation in the following type of cases only: personnel complaints, administrative investigations, or criminal investigations.
- ~~c.d.~~ Pursuant to a lawful process or by members of the District Attorney's office or court personnel otherwise authorized to review evidence in a related case.
- ~~d.e.~~ By the Independent BART Police Auditor or his/her investigator.
- ~~e.f.~~ With the expressed permission The Office of the Chief of Independent Police or Auditor is authorized designee to audit videos recorded by Fare Inspectors conducting Proof of Payment checks.
- g. Patrol Sergeants and Lieutenants are responsible for auditing videos recorded by personnel in their chain of command. Any policy violations should be addressed as appropriate.
- h.
- ~~f.i.~~ By the "System Administrators" for the purpose of managing the video evidence, quality assurance, and to categorize, label, provide case numbers to videos when needed.

451.9 MOBILE VIDEO RECORDERS

The Department assigned AXON camera shall be the only mobile video recorder allowed for Department employees while on-duty. Any other mobile video recorder shall only be used with the expressed permission of the Chief of Police.

Annual Report



Annual Report Fiscal Year 2018



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

DRAFT

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Welcome



Russell Bloom
Independent Police Auditor



Patrick Caceres
Independent Police Investigator



Sarah Celso
Senior Administrative Analyst

During our seventh year of operation, the Office of the Independent Police Auditor (OIPA) has benefitted from the stability of our staff, and from the continued development of an effective working relationship with the Chief of the BART Police Department (BPD), Carlos Rojas, as he marked the end of his first year with the Department. OIPA has adjusted to a number of shifts in appointees to the BART Police Citizen Review Board (BPCRB) and has worked with the BART Board of Directors to facilitate the replacement, appointment, or reappointment BPCRB members as necessary.

As in prior years, OIPA has worked with both the BPCRB and BPD to craft and implement new or revised policies intended to improve policing and to maintain individual and departmental accountability, and to increase transparency. It remains important for OIPA to work toward upholding the established reform and progressive policing practices in place within the Department, even as Chief Rojas adjusts practices and procedures, including shifts in staffing assignments and evolving priorities. OIPA has, for example, been tasked with conducting reviews of BPD activity related to the enforcement of an October 2017 BART Ordinance requiring BART riders to provide proof of payment upon request.

This fiscal year included two BPD officer-involved shootings, one of which resulted in a fatality. OIPA's role after the first incident in November of 2017 was limited to the monitoring of the BPD Internal Affairs investigation because that use of deadly force did not result in a complaint of misconduct to OIPA. Changes to the BART Citizen Oversight Model regarding the eligibility of complainants allowed OIPA to initiate an independent investigation into a fatal officer-involved shooting that occurred in West Oakland in January 2018.

July 2018 marked one year since the implementation of a revised Use of Force Policy at BPD. The establishment of the new policy, which includes language requiring that officers strive to the application of "minimal" force was predicted by some to result in additional personal legal liability to individual officers, increased complaints of misconduct, increased injury to officers and subjects, and a significant reduction of proactive policing due to fears of repercussions for using traditionally acceptable levels of force. BPD data show that in the period following implementation of the revised policy the number of complaints, reported uses of force, and injuries to officers and subjects have decreased, while overall arrests and citations have increased.

Notably, an independent third-party evaluation of the BART police citizen oversight system was completed by the OIR Group in July 2017, and on March 8, 2018 the Board of Directors voted unanimously to approve and implement 50 of the 54 recommendations for improvement that were submitted by the evaluators. OIPA is in the process of working toward full implementation of the recommendations, the substance of which are discussed in more detail elsewhere in this year's report.

Toward the end of the fiscal year, OIPA, BPD, the BPCRB and local media outlets began closely examining data showing that African-Americans were subjected to more arrests, uses of force, and prohibition orders than people of other races and ethnicities. Analysis of these data will be a priority for OIPA in the immediate future, and we look forward to providing recommendations to BPD for improved training, practice, or policies if biases or profiling are shown to play a role in the disparate impact.

It is my expectation that the approved revisions to our mandate and practices and procedures will allow OIPA to improve our responsiveness to the various communities served by BART, to increase and expand our outreach activities, and to provide even more thoughtful well-designed recommendations for improvements to the policing of the District.

A handwritten signature in blue ink, appearing to read "Russell G. Bloom".

RUSSELL G. BLOOM
Independent Police Auditor

About Our Office

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 (OIPA) was created.

What is OIPA?

OIPA was formed by Assembly Bill 1586, signed by the Governor of California in 2010 to provide effective, independent oversight of the BART Police Department (BPD) by ensuring that internal police accountability systems function properly, that behavioral, procedural and policy deficiencies are identified and appropriately addressed, and that complaints are investigated through an objective and fair process. The operation of OIPA and the scope of its duties are defined by the BART Citizen Oversight Model (Model). The Model also defines the role of the 11-member BART Police Citizen Review Board.

Mission & Duties

Mission Statement

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.

Duties

As defined by the BART Citizen Oversight Model adopted by the BART Board of Directors and significantly revised in June 2018, OIPA is charged with a number of different specific duties and responsibilities. Among them are the following:

- Accept complaints of misconduct against BART Police Officers
- Independently investigate complaints or ensure that complaints are timely, thoroughly, objectively, and fairly investigated by BPD
- Review Internal Affairs investigations conducted by BPD, including those cases where the complainant has sought to appeal the findings issued by BPD Internal Affairs Bureau

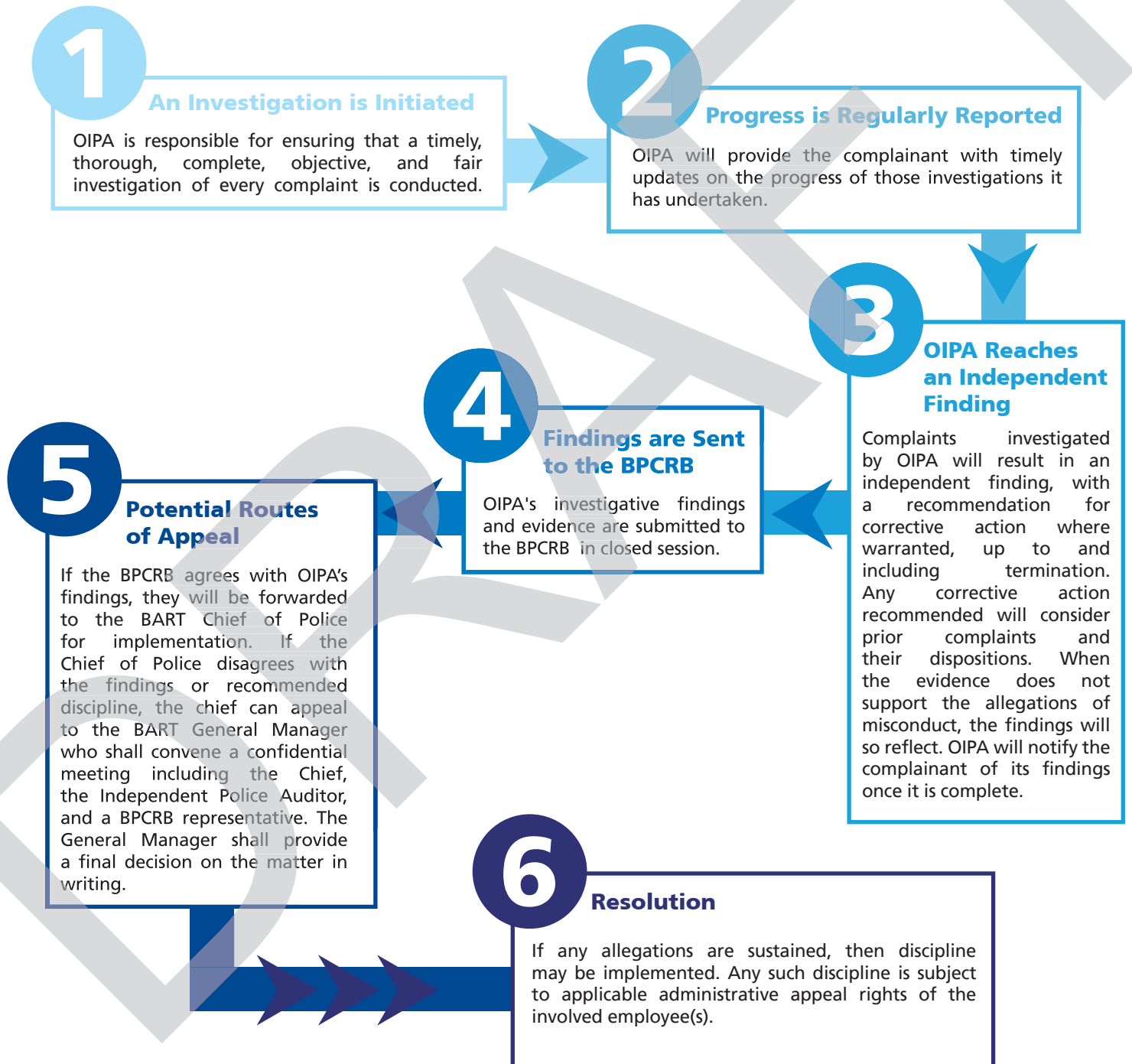


Above: 19th Street BART Station Brochure Kiosk

- Develop an alternative dispute resolution process for resolving some complaints, and provide that option to complainants where appropriate
- Respond to the scene of officer-involved shooting incidents and monitor the ensuing BPD investigation
- Independently investigate any officer-involved shooting incidents and/or monitor the ensuing BPD investigation
- Develop recommendations to improve BPD policies and craft new policy proposals where appropriate
- Maintain a regular program of community outreach
- Prepare annual reports for the public and the BART Board of Directors, and report regularly to the BPCR at their monthly meeting

Every individual regardless of religion, race, immigration or documentation status, or national origin should feel safe to seek and obtain assistance from OIPA. A complaint can be filed if you are not a citizen and regardless of your immigration status.

Complaint Process



Executive Summary

Community Outreach

The Office of the Independent Police Auditor maintained its ongoing commitment and responsibility to conduct community outreach, including a focus on connecting with young people and underrepresented groups in the region. Our goal during outreach events and meetings is to listen, learn, and engage in meaningful discussion about policing in various communities with different perspectives, experiences, and histories. OIPA staff also use these meetings to inform attendees about the various functions and responsibilities of both OIPA and the BPCRB, and to answer questions about the growing field of civilian oversight of law enforcement.

Use of Force Update

OIPA continues to monitor and review the impact of 2017 revisions to the BPD Use of Force policy, including a shift in reporting requirements related to the establishment of a tiered system of identification and review of each incident.

OIR Report

This year's report includes a description of revised policies, practices, and procedures related to the implementation of 50 recommendations for improvement to the oversight system that were approved by the BART Board of Directors in 2018.

Body-Worn Cameras

Because of the importance of body-worn camera video to OIPA's work, we continue to work toward increased activation rates prior to law enforcement contacts. OIPA is also closely following the department's response to hardware issues that are causing cameras to detach from officers' uniforms during some contacts involving use of force.

Policy

Related to the value of capturing every law enforcement contact, regardless of whether the contact is the subject of a complaint or an investigation, OIPA is working on a policy revision to eliminate ambiguities in the language of the existing policy.

OIPA also continues to monitor the impact of its recommendations for changes to the BPD policy regarding aggressive panhandling contacts and the maintenance of Constitutional policing practices.

OIPA is working with BPD to create consistent reporting standards for the Watch Commanders who are responsible for summarizing activity during each shift.

OIPA Staff Training

As in past years, OIPA remained committed to studying and integrating the latest scholarship and best practices with regard to policing and oversight of law enforcement. Some of the training activities included:

- Accountability & Transparency in Law Enforcement
- Implicit Bias Workshop
- Use of Force Investigations

BPCRB Training

This year's Oversight Model revision signals the end of the era in which OIPA facilitated and arranged training sessions for the BPCRB. A list of sessions provided during this reporting is included elsewhere herein.

By the Numbers

In FY2018, there were a total of 115 new or re-opened cases initiated by OIPA or BPD's Internal Affairs Bureau. OIPA's share of all complaints received as compared with BPD Internal Affairs Bureau slightly increased from 17% to 19% for this reporting period.

The three most common categories of alleged misconduct were (in order):

1. Conducting Unbecoming an Officer (25%),
2. Policy/Procedure (24%), and
3. Unnecessary or Excessive Use of Force (15%).

A total of 100 cases were closed by BPD's Internal Affairs Bureau in FY2018. Sixty-seven of those cases were formal complaints and a total of 27 individual allegations were sustained.

The three most common sustained allegations were (in order):

1. Conduct Unbecoming an Officer (41%),
2. Performance of Duty (33%), and
3. Policy/Procedure (19%).

Note that no allegations were sustained for Unnecessary/Excessive Force or Racial Profiling/Bias-based Policing.

The three most common types of discipline issued by BPD's Internal Affairs Bureau included (in order):

1. Informal Counseling (9),
2. Written Reprimand (4), and
3. Letter of Discussion (2).

There were no terminations, suspensions or demotions issued.

OIPA independently investigated six complaints and conducted one case review filed by a complainant as an appeal to BPD's Internal Affairs Bureau investigative case findings. Two of the seven complaints investigated or reviewed by OIPA resulted in at least one sustained allegation. OIPA's recommendations for discipline in those cases included Letters of Discussion for the officers.

Areas of Focus for OIPA 2018



Left: Russell Bloom presenting to Lao Family Community Development, Oakland, CA (June 2018)

Right: Barbershop Forum, Antioch, CA (October 2017)

Community Outreach

The Citizen Oversight Model requires that OIPA maintain a regular program of community outreach and communication for the purpose of listening to and communicating with members of the public and educating the public about the services provided by OIPA, and the functions of the BPCRB. The importance of outreach is regularly illustrated in a number of ways. There are occasions when BPD activity may be the subject of significant community concern, as was the case this year in connection with a January officer-involved shooting in West Oakland. This and other BPD activities were discussed widely on social media and in traditional news outlets including television news. In some instances, an incident or conduct giving rise to the community's concerns may not result in a complaint of misconduct to OIPA, in part due to a lack of awareness of the services provided by our agency. OIPA seeks to inform community members about our mandate, authority, and processes by meeting and talking with groups throughout the Bay Area, particularly students and young people who may be able to help us expand awareness among their peers, organizations, and families. In recent years, OIPA became aware that key BART employees, including station agents, had limited awareness of our existence and role within the BART structure. Because station agents are frequently the primary contact for BART patrons who have any type of complaint about the system, including policing

therein, OIPA maintained its program of education and outreach to the station agents and worked with BART management to supply each station with OIPA informational brochures and complaint forms for appropriate distribution to the public. This program of internal outreach is ongoing as OIPA staff delivers presentations during the station agent recertification program. Further, BART management has recently updated its system for identifying those station agent booths that need to have the supply of brochures and forms re-stocked, which we expect will streamline the process and ensure that information is more readily and reliably available. OIPA worked with BART's Office of External Affairs to redesign and install 140 "car cards" in the trains throughout the BART system. The redesigned cards encouraged riders to contact OIPA with comments and concerns regarding policing in addition to any specific complaint of misconduct or policy violations. In this way, OIPA is better able to participate in the overall mission of improving policing by understanding more about the experiences and impressions of riders separate from individual experiences that may result in a complaint and related investigation.

Use of Force Update

In our last report, OIPA described its participation in the lengthy BPD Use of Force policy revision. The Citizen Oversight Model requires that any proposed changes to BPD policy initiated by the Department must be submitted to the BART Police Citizen Review Board (BPCRB) for its review and comment. In early 2017, BPD sought to revise its policy governing use of force by officers, and specifically sought to create a tiered system for reporting differing levels of force employed by its officers. This revision was reportedly intended to minimize the amount of time that supervisors were required to commit to generating supervisory use of force reports, and created a more cursory "checklist" system for certain lower level force applications. When the language revision was presented to the BPCRB, that body determined that other revisions were appropriate for consideration at that time.

The BPCRB formed a subcommittee which engaged with key BPD personnel and trainers in an effort to craft new policy language. OIPA staff attended and participated in these meetings, mainly delivering relevant data and research to inform the discussion. In July 2017, after extensive public discussion and input from community advocates, attorneys, BPD officers, and union representatives, new policy language was finalized and approved by Chief Carlos Rojas. The new language included a requirement that BPD officers "must strive to use the minimal amount of force necessary" to accomplish a legitimate law enforcement purpose. The new, progressive language "builds upon the Supreme Court's broad principles in *Graham v. Connor* (1989) 490 U.S. 3868 and is more restrictive than the constitutional standard and state law." The revised policy includes a statement of commitment to safeguarding the life, dignity and liberty of all persons. The Department also reaffirmed its commitment at that time to improve its practices by using rapport-building communication, crisis intervention, and de-escalation tactics before resorting to force whenever feasible.

Specific requirements regarding de-escalation include a stated commitment to potentially reducing or eliminating the need to use force and to the prevention of injuries to subjects, officers, and the public. The new policy requires that officers continually assess the dynamics of a situations and make appropriate adjustments as circumstances shift. The policy suggests specific tactics, including slowing down the pace of an incident, waiting out subjects, creating distance and requesting additional resources such as mental health care providers to help resolve

the incident. Notably, the policy now includes language which suggests a number of important considerations when assessing non-compliance. These include medical condition, mental, physical or hearing impairment, language barrier, drug interaction, or emotional crisis. It is noted within the policy that "understanding a subject's situation may enable officers to calm the subject and allow officers to use de-escalation techniques while maintaining public and officer safety." In an era of increased awareness of the importance of public trust, and a deeper understanding of the factors that contribute to the diminution of that trust, the new BPD Use of Force Policy acknowledges and "recognizes that transparency and accountability in the use of force is essential to preserving the trust of the community and to maintaining professional standards." To that end the policy also requires rigorous reporting and review of all instances of the use of force. The revised policy further states that at least annually, the BPD Operations Bureau Deputy Chief should prepare an analysis report on use of force incidents to include the identification of any trends, any training needs recommendations, any equipment needs recommendations, and any policy revision recommendations. That report should be submitted to the Chief of Police, the OIPA, and the BPCRB. The first of these reports was delivered to the BPCRB in March 2018 with an addendum that was delivered in June including a detailed demographic breakdown. The addendum revealed that 66% of all uses of force by BPD officers during the 2017 calendar year were applied to African-American males. As of this writing, BPD, OIPA, and the BPCRB are anticipating a deeper analysis of disparate impact in a report from the University of California Los Angeles Center for Policing Equity.

The collaborative process of revising and implementing the BPD Use of Force Policy is illustrative of the value of involving civilian oversight professionals and volunteers in the process of crafting Department policy. OIPA is committed to remaining attuned to the effect of the policy on individual contacts and has monitored the impact of the implementation and revised training in addition to applying the new standard in our analysis of complaints alleging excessive or unnecessary use of force. BPD is also working toward refining a system by which de-escalation efforts can be tracked and quantified, and OIPA expects to provide input in connection with the design, implementation, and accuracy of that program.

During the public discussions that were held in advance of the approval and implementation of the revised policy, certain specific concerns were presented including a perception that

Use of Force Update (continued)

BPD officers would become tentative in their efforts to control subjects, and that such tentativeness would reduce officers' ability to protect themselves from injury. BPD data show that contacts involving use of force by officers dropped from 329 between July 2016 and June 2017 to 214 from July 2017 through June 2018, and that injuries to officers related to these incidents dropped from 52 to 41. However, while the overall number of officer injuries was reduced after the implementation of the revised policy, the percentage of officer injuries in relation to use of force incidents increased from 15.8% to 19%.

The Department was significantly understaffed in July of 2017, and there were concerns expressed that recruitment and retention of sworn officers would be negatively impacted by the policy revision. BPD reports that the number of officer vacancies has been reduced from a high of 41 to 25, reflecting the Department's best recruitment period in four years. It is reassuring that some of the predicted negative effects of the policy revision have not come to pass and that BPD is successfully eliminating vacancies and engaging in fewer uses of force overall.

The OIR Group Report

OIPA previously reported on the completion of an extensive independent review of the BART oversight system that was conducted by the OIR Group and which was completed and delivered to the Board of Directors in July 2017. The evaluation process was undertaken in compliance with a provision of the BART Citizen Oversight Model and was intended to determine whether the need existed to adjust the system in order to improve its continued performance. After delivery of the report to the Board of Directors, OIPA, in consultation with Chief Rojas provided the Board of Directors with an assessment of the anticipated resources necessary to implement each of the 54 recommendations included in the final report. Over the course of 12 months the Board of Directors collected impressions and input from Chief Rojas, BART General Manager Grace Crunican, the BART Police Officers Association, the BART Police Managers Association, and the BART Police Citizen Review Board before ultimately approving adoption and implementation of 50 of the 54 recommendations. The Citizen Oversight Model was revised by BART's Office of the General Counsel to reflect the adoption of those recommendations, and the document was finalized and ratified as the fiscal year closed. OIPA is now in the process of making appropriate adjustments to practices and procedures and has worked with BPD to draft policy practice revisions reflecting the adoption of certain recommendations.

The revised Model is appended to this report, but significant changes include the following:

OIPA may now accept complaints from any person, where previously complainants were required to be victims of or witnesses to alleged officer misconduct. As an illustration of the limitations of the prior system: under the original Model, the spouse of a person who died in police custody was deemed ineligible to file a complaint of excessive force having not been present at the scene of the arrest. OIPA is now authorized to move forward with an independent investigation regardless of the complainant's presence at the scene of the alleged misconduct.

OIPA may now independently investigate complaints of any type of alleged officer misconduct. OIPA was formerly limited to investigating complaints of unnecessary or excessive force, racial profiling, sexual orientation bias, sexual harassment, deadly force, or suspicious and wrongful deaths. OIPA is no longer prevented from providing an independent review of incidents that may implicate other serious issues such as truthfulness, improper arrest, unreasonable search, or failures to report misconduct.

One practical effect of the adopted recommendations allows the Chief of Police to eliminate parallel investigative processes where OIPA and the Internal Affairs Bureau may be investigating the same complaint. The Chief of Police may now defer an investigation to OIPA, eliminating the dual processes and removing the possibility of reaching two different findings on different completion dates. OIPA is pleased that BPD officer and manager union leadership supported this shift, signifying confidence in the quality and objectivity of OIPA's investigative process and the expertise of our staff.

While OIPA has always been authorized to review any Internal Affairs investigations and to require follow-up investigation, the revised Model provides that OIPA may now present monitored IA investigations to the BPCRB in closed session for its review, comment and input. This adjustment is valuable in its provision of another independent analysis of the investigative process and findings should BPD disagree with OIPA's assessment and/or attempt to reject OIPA's request for additional investigation.

Historically, should the Chief of Police disagree with OIPA's findings and recommendations after the BPCRB has concurred, he or she had the option of appealing to the BART General Manager for a final determination. The revised Model requires the Chief to put forward the reasons for the appeal in writing,

BART BOARD OF DIRECTORS APPROVES 50 RECOMMENDATIONS FOR POLICE OVERSIGHT IMPROVEMENT

Some of the confusion was attributed to the existence of the staff support function described above, and it was suggested that responsibility for administrative support be removed from OIPA. For this reason, staff support functions are now being shifted to the BART District Secretary's Office and will include the assignment of a specific employee who will manage and perform all support tasks including management of the process for solicitation of applications for appointments to the BPCRB as well as any financial matters related to the BPCRB's performance of its duties.

and to be present at a meeting with the General Manager prior to the issuance of any decision on the appeal. Such appeals were previously reviewed behind closed doors without any opportunity for discussion of the merits or analysis of the evidence. Additionally, the Model now requires that the General Manager must set out his or her findings in writing, which was not previously required.

While OIPA previously had access to BPD's internal use of force review documentation, the revised Model provides OIPA with the express authority and responsibility to review each use of force by BPD officers and to publicly report on the results of that review.

The approved recommendations also include a number of suggestions for improvements to the internal practices and procedures of both OIPA and the BPCRB. For example, OIPA has increased the level of detail included in closeout letters to complainants such that there is more information about the quantity and type of evidence reviewed while details protected by state law and other confidentiality requirements are not revealed. In this way

a complainant may have more confidence in the quality of the investigation and may be better positioned to accept that the findings are supported by all the available evidence.

With regard to disciplinary proceedings, the BPCRB previously reported only whether they agreed with OIPA's findings and recommendations by a majority vote. That body must now publicize each member's vote, which allows the public and BPD officers to have further insight into the disciplinary process and outcomes. BPCRB members are now also encouraged to provide a public minority opinion explaining the rationale for dissent from the majority.

Historically, OIPA was required to provide staff support for the BPCRB, including clerical and ministerial duties, preparation and maintenance of meeting minutes, meeting setup, expense reimbursement, distribution of stipends, and more. The OIR report recognized the value in having two entities with complementary oversight roles that are independent of each other and also noted that there existed some confusion about the delineated roles of each entity.



Above: AXON Body 2 Camera

BPD Watch Commander Reporting Requirements

In an effort to maintain transparency, BPD provides a subscription-based service to the public by which daily activity is reported to subscribers including media outlets via email. OIPA recognized that there were certain reporting inconsistencies with regard to the types of events that were included in the emails and the level of detail regarding each reported event. OIPA is currently working with BPD to revise the applicable policy such that the BPD Watch Commanders responsible for generating the public reports will be required to adhere to specific criteria when determining what to report and what to include. For example, in the absence of such guidance one Watch Commander may only include an event in the log if it resulted in an arrest, while another Watch Commander may include a significant crime where the suspect remained out of custody. OIPA believes that by creating specific criteria, BPD and the BART District may better insulate themselves from assertions that certain events or details are being intentionally withheld, when an inconsistency may actually be the inadvertent and unintentional result of a lack of defined reporting criteria.

OIPA Review of Each Use of Force

Though still in the early stages, OIPA is enacting a process by which each use of force is reviewed and tracked. OIPA has had access to the BPD internal use of force review process historically, but limited resources resulted in an incapacity to thoroughly review all incidents. We have now developed an internal system by which a number of different aspects are examined including:

- The use of force, itself

Detaching Body Cameras

As OIPA began devising and implementing a process by which each use of force could be reviewed, it became apparent that the body cameras issued to BPD officers tended to detach from officers' uniforms during many force applications, no matter how minor. The cameras are designed to attach to the center of an officer's uniform shirt with a magnet that sandwiches the material of the shirt. The magnet was not strong enough to consistently remain attached during physical contact. OIPA discovered that while some officers were aware of the relatively frequent detachments, it was not systematically conveyed to supervisory staff and was not consistently recorded by supervisors during their review of uses of force. Further, because a single supervisor does not have access to the use of force reports entered by other supervisors, and because other reviewers in the supervisory chain rotated, there were limited opportunities for reviewers other than OIPA staff to recognize the frequency of the detachments. OIPA brought the concerns to the attention of appropriate BPD personnel, and viable solutions are currently being considered.

Body Camera Activation Policy

BPD Policy requires that officers activate their body camera prior to engaging in a law enforcement contact. OIPA's expanded use of force review process revealed that there were occasions when the cameras were activated after the initiation of a contact for which the explanation provided was that the contact was "consensual" and rapidly evolved to include a use of force. OIPA is currently working to craft new policy language that clarifies the requirements for activation to include all contacts that typically escalate to enforcement activity and/or uses of force. Within the context of a transit system, such contacts would include clearing trains at the end of the line or clearing stations prior to nightly closures. We anticipate the delivery of a draft policy to the BPCRB during the winter of 2018 for its review and comment, and OIPA is confident that BPD will move forward with an understanding that the absence of video connected with a use of force or any law enforcement contact is an issue requiring a remedy.

- The application of the appropriate standard de-escalation efforts
- The accuracy of officers' narratives regarding the use of force
- The timeliness of body camera activations
- The quality of the supervisor-level initial review and associated supervisory report
- The ultimate determination regarding justification for the use of force and any mitigation for failed body camera activations
- Whether appropriate discipline is imposed for any policy violations, including in relation to body camera activation failures
- The effectiveness of the internal BPD review process
- The proper and consistent entry of data related to each use of force

As OIPA moves forward with implementation of the many improvements to the system, we will be able to assess the impact, success and practicality of each such that the next evaluation, scheduled every 3 years, will be able to address whether further adjustments or revisions may be appropriate. With the adoption and implementation of the recommended improvements, OIPA is confident that the BART civilian oversight system is among the most robust in the nation, and that our agency and the volunteers on the BPCRB are better situated to contribute to the improvement of policing of the BART District than ever before.

Aggressive Panhandling Policy Update

On February 22, 2017 OIPA submitted a draft recommendation to the BART Police Department regarding BPD Policy #453 - Aggressive Panhandling. This recommendation for revision was spurred by examination of a specific complaint of officer misconduct and subsequent OIPA review of enforcement contacts related to California Penal Code §647(c) which prohibits aggressive panhandling. The final OIPA recommendation was developed with significant input from Bay Area District Attorneys, and review and input from BPD command staff, the BART Police Citizen Review Board (BPCRB), the BART Police Officers Association, the BART Police Managers' Association, and a number of advocates and scholars including the San Francisco-based Coalition on Homelessness.

Regarding the single excessive force complaint that spurred the review, OIPA discovered that the initial contact was related to the perception by the officer that the subject was panhandling in violation of state law. Closer examination of the underlying panhandling activity revealed that there

was no violation of the law, and that the existing BPD policy regarding enforcement of the law which prohibits aggressive panhandling did not sufficiently differentiate between illegal aggressive conduct and communication protected by the First Amendment to the Constitution. A person may solicit donations but may not "accost" people in an effort to solicit. Our deeper review of contacts initiated in connection with panhandling activity exposed a gap in some officers' understanding, much of which was reasonably attributable to the inaccurate examples of aggressive panhandling included in the language of the existing policy. OIPA conferred with representatives of the District Attorneys for Contra Costa, Alameda, Santa Clara, San Francisco, and San Mateo Counties that citations issued in the absence of aggressive or "accosting" conduct were insupportable under state law.

OIPA drafted a revised policy which offered accurate examples of illegal conduct, and which required additional training for officers. The draft revision was presented to the BPCRB at its regular meeting on February 13, 2017, and that body voted unanimously to accept the proposed draft. OIPA then submitted the revised recommendations to BPD, and the Department adopted and implemented the revised policy.

Panhandling remains a source of concern and irritation for many BART riders, and BPD appropriately responds to those concerns by remaining attentive to panhandling activity and responding to calls for service regarding aggressive panhandling activity. The language of the revised policy ensures that officers recognize and appropriately differentiate between illegal conduct and the freedom of expression that is guaranteed by the US Constitution. It is important to note that a use of force by an officer that is employed to detain an individual without probable cause or reasonable suspicion of criminal activity cannot be justified. An increased awareness of the existence or absence of criminal activity has the potential to reduce the application of unjustified force, which in turn limits opportunities for physical injury to subjects, bystanders, and officers alike while also reducing potential liability to the District for the unjustified application of force in these cases.

Last year, OIPA continued to review the contacts connected with aggressive panhandling activity to ensure that the distinctions between protected and illegal conduct were being recognized and that the additional training required by the new policy was administered by the Department. BPD reported that it has provided updated face-to-face training of 132 officers in the past year, and that each of its sworn officers reviewed and acknowledged the revisions using a required

Aggressive Panhandling Update (continued)

online process. Use of force related to panhandling activity has decreased, and overall contacts for panhandling have decreased as well. Overall, the number of BPD calls for service and responses to on-viewed panhandling activity decreased by nearly 15% (from 1571 in FY2017 to 1337 in FY2018). While BPD and the District remain attentive to customer concerns regarding panhandling, the revised policy has not limited officers' ability to respond appropriately to any activity that includes "accosting," and officers may continue to address any conduct that reasonably creates feelings of fear or intimidation.

Collaboration

While civilian oversight of law enforcement remains a relatively small community when compared with the number of national and international law enforcement agencies, it is a rapidly growing field. More and more communities and municipalities have come to recognize the value of independent review and oversight, and those jurisdictions with existing oversight systems continue to refine and improve their structures and systems. In an effort to support the growth and improvement of oversight, OIPA has gladly engaged in discussions with existing agencies, including the Austin (TX) Office of the Police Monitor, the San José (CA) Independent Police Auditor, the City of Berkeley (CA) Police Review Commission, and the Sonoma County (CA) Independent Office of Law Enforcement Review and Oversight as they consider revisions to their systems. OIPA has engaged with community groups and advocates in jurisdictions seeking to establish civilian review of law enforcement for the first time. And OIPA has been consulted by researchers working to make recommendations about staffing and deployment of officers within the BART District. Overall, OIPA takes great pride in the work we do, and we are extremely encouraged that the BART Board of Directors expressed confidence in our ability to implement important revisions and improvements to our system. As always, OIPA remains committed to working collaboratively toward improving policing within the BART District and the 4 (soon to be 5) counties through which it runs by applying a thorough, fair, and objective approach to all the tasks for which we are responsible. We look forward to maintaining a healthy working relationship with all stakeholders including complainants, community members, advocates, the Chief of Police, BPD officers and employees, and the dedicated volunteers that make up the BPCRB.



Left: OIPA Car Card

Center: BART to Antioch Opening Ceremony (May 2018)

Right: MacArthur BART Station Platform (Oakland)

OIPA Staff

Commitment to Effective Training for OIPA Staff

As in past years, OIPA remained committed to studying and integrating the latest scholarship and best practices with regard to policing and oversight of law enforcement. Some of the training activities included:

- NACOLE 23rd Annual Training Conference - Civilian Oversight in a Changing Landscape
- Accountability & Transparency in Law Enforcement
- Role of Journalism in Police Accountability
- Implicit Bias Workshop
- Updates on New Case Law Regarding Law Enforcement
- Diversity Awareness
- Use of Force Investigations
- 2018 Axon Accelerate Annual Conference

Green Policy

OIPA is committed to making a positive impact on the environment and has developed and implemented effective practices and procedures.

Over the past fiscal year, OIPA has taken the following actions to achieve its green vision by reducing its carbon footprint, reducing the amount of waste it produces, and increasing its green knowledge.

Some of the departmental changes OIPA has instituted include:

- Telecommuting
- Utilizing webinars for training
- Using local vendors that use recyclable products & resources
- Printing department stationary, brochures & forms on recyclable paper
- Using applications to facilitate paperless meetings

Diversity Employee Resource Group

The District is committed to ensuring diversity and supporting the Diversity Employee Resource Group (ERG) in its efforts to promote diversity. BART's Diversity Initiative (est. 2015) supports and encourages diversity and its value to the organization. Through outreach, education, and training, the Diversity Initiative promotes the benefits working productively in a culturally diverse environment.

The Diversity Initiative:

1. Promotes workforce diversity and organizational effectiveness.
2. Enhances the diversity, cultural competence skills, and performance of our current workforce.
3. Expands recruitment resources by assessing and monitoring inclusive hiring practices and employment opportunities.

In January 2018, OIPA's Senior Administrative Analyst, Sarah Celso joined ERG and has helped to plan and organize the Dr. Martin Luther King, Jr. Celebration, Asian Pacific Heritage Celebration, Women's History and LGBTQ+ Pride Celebration. Being a part of ERG has proven to be educational and collaborative. Working together with employees from a variety of cultures and different departments within BART, helps OIPA to promote the Diversity Initiative and expands its understanding of the different people and cultures that make up BART.



Above: (From left to right) Malcom Penton/Transportation, Terrance Massey/Office of Civil Rights (OCR), Yvonne Rusting/BPD, Sharon Moore/OCR, Pejman Noroozi/Transportation, Sarah Celso/OIPA, Kay Tate/OCR, and Jennella Sambour-Wallace/OCR at the ERG LGBTQ+ Event (June 2018)

BART Police Citizen Review Board



Above: BART Police Citizen Review Board Meeting (August 2017)

Commitment to Effective Training for BPCRB

OIPA facilitated training for the BPCRB. In the fiscal year 2018, the following training topics were presented to them at the BPCRB's monthly meetings:

- Mindful Policing
- BART Citizen Oversight Model Basics
- Investigation Processes of BPD Internal Affairs Bureau & OIPA
- Beat Review & Public Safety Outlook

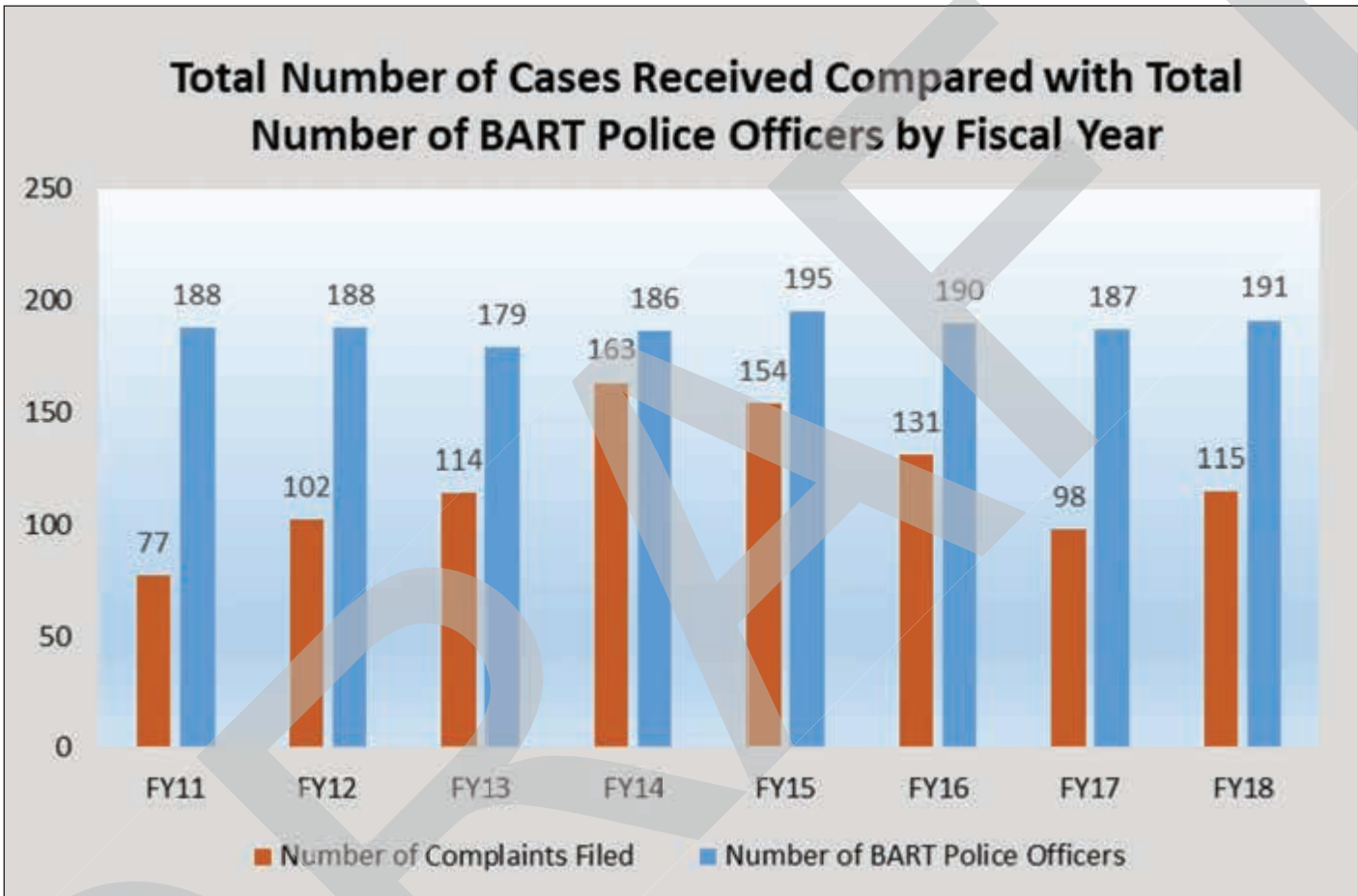


Above: Placeholder picture

Since the adoption and implementation of the Citizen Oversight Model in 2011, OIPA's duties included the provision and facilitation of training for the BART Police Citizen Review Board Meeting (BPCRB). It became apparent in early years that it was challenging to arrange training sessions for the BPCRB volunteers outside of the time allotted for their regularly scheduled monthly meetings. Each BPCRB member had differing demands on their schedules outside of the monthly time commitment for meetings and separate from the hours spent preparing for these meetings, reading agenda materials, and reviewing OIPA investigative reports. In 2015, OIPA presented a plan to deliver training sessions to the BPCRB at every other monthly meeting over a two-year period. A schedule was generated and the BPCRB voted to approve the training plan in January 2016. Since that time, OIPA has endeavored to produce presenters on a number of topics related to policing and to the effective administrative of BPCRB's duties and interests. With the shifting of staff support from OIPA to the BART District Secretary's Office which became effective this year, OIPA will no longer be responsible for the

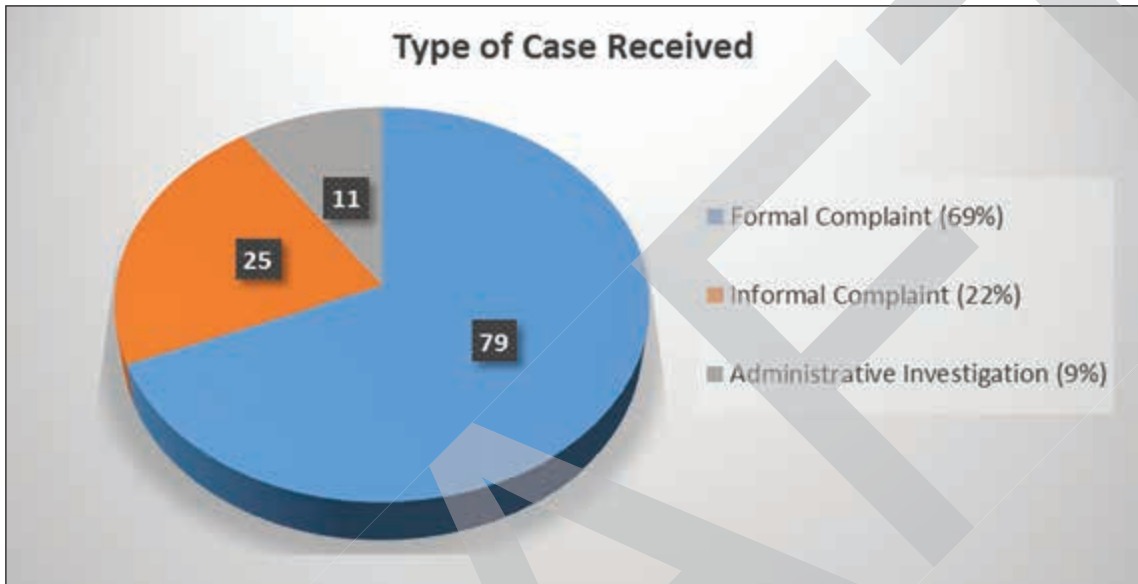
provision of training sessions, but we are aware that the plan for bi-monthly delivery of relevant presentations remains in place as originally designed by OIPA and approved by the BPCRB. A list of the trainings provided by OIPA is included in this report and the original plan as presented to the BPCRB is attached as Appendix C.

2018 By The Numbers

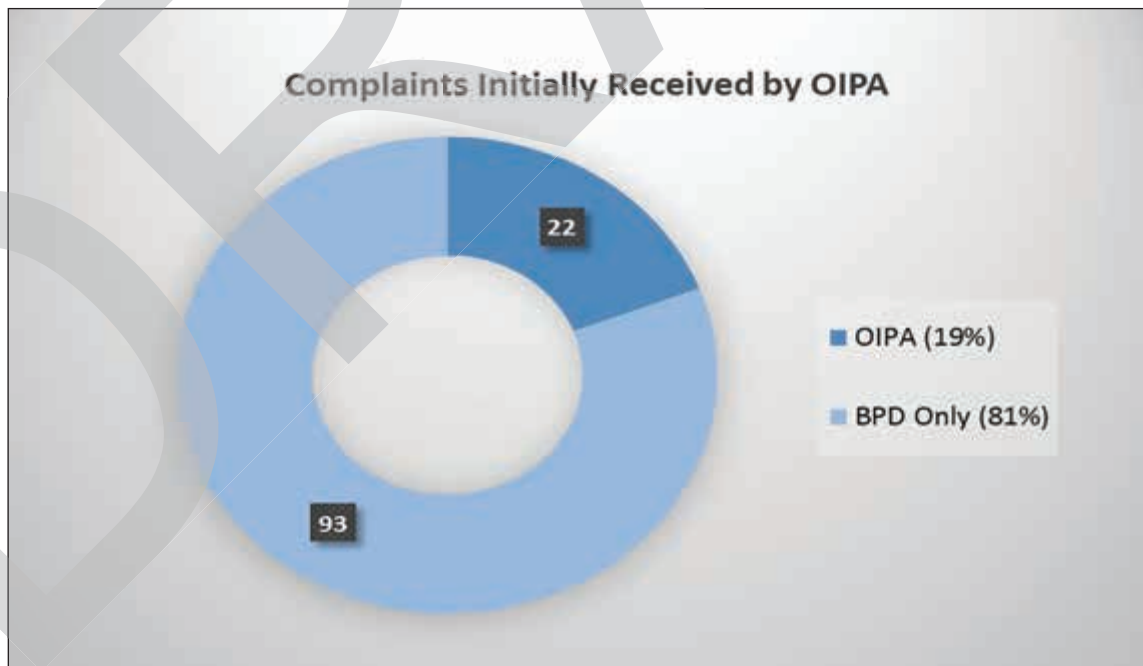


Graph 1. The total number of cases received by BPD annually includes all formal complaints, informal complaints, and administrative investigations.¹ The total number of sworn BPD officers annually is provided for comparison with the total number of complaints received. The total number of BPD officers is the number of positions budgeted minus the vacant positions. There was a 17% increase in the total number of complaints filed with BPD in FY2018 compared with the prior fiscal year, up from 98 to 115.

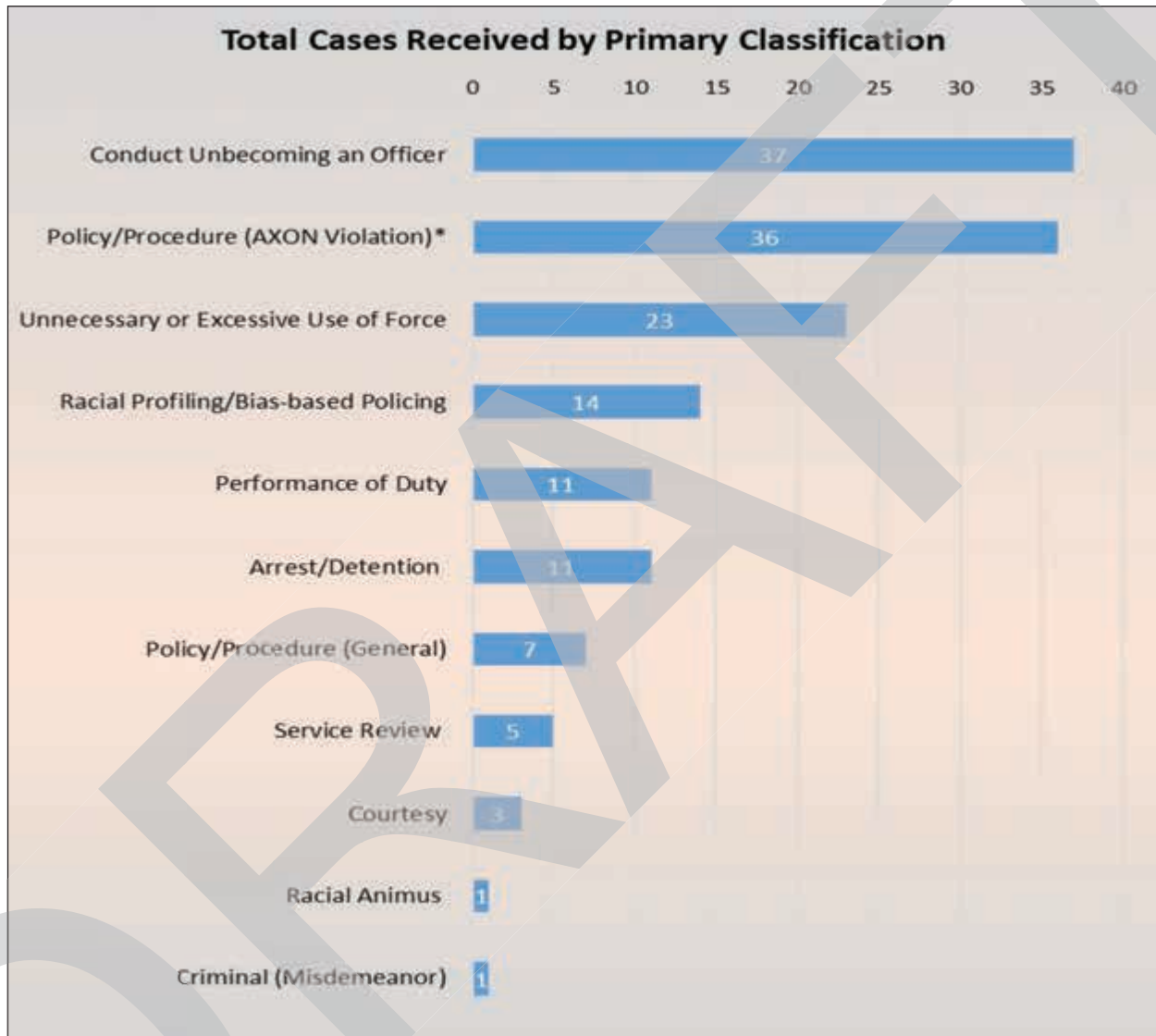
¹ Administrative investigations are cases internally generated and initiated by BPD after a review of an incident. Complaints by BPD officers against other BPD officers are also classified as Administrative Investigations.



Graph 2. Complainants may choose to have their complaint addressed informally or formally by the BPD Internal Affairs Bureau. Formal complaints represent the largest percentage of cases received during this reporting period. 22% of all cases filed in FY2018 were informal complaints and were addressed through a Supervisor Referral process requiring the supervisor of the subject officer(s) to discuss with the officer(s) the nature of the complaint and document that the conversation occurred.



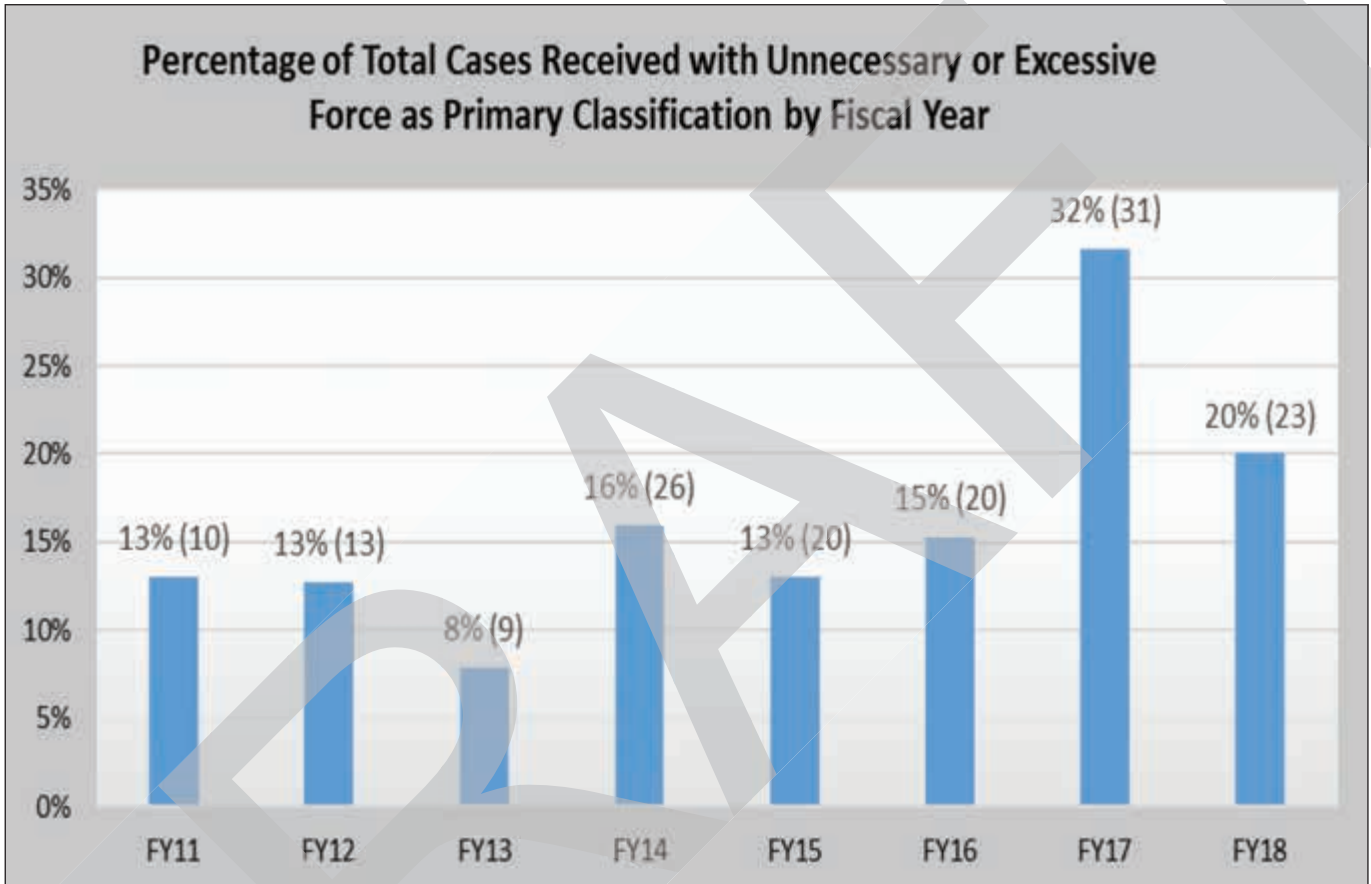
Graph 3. Complaints received by OIPA are a subset of the total number of cases addressed by BPD. Approximately 19% of all complaints were initially received by OIPA. OIPA received 22 total complaints in FY2018. OIPA does not investigate all the complaints received. Complaints received by OIPA that are not investigated by OIPA are referred to BPD and the investigation is monitored by OIPA.



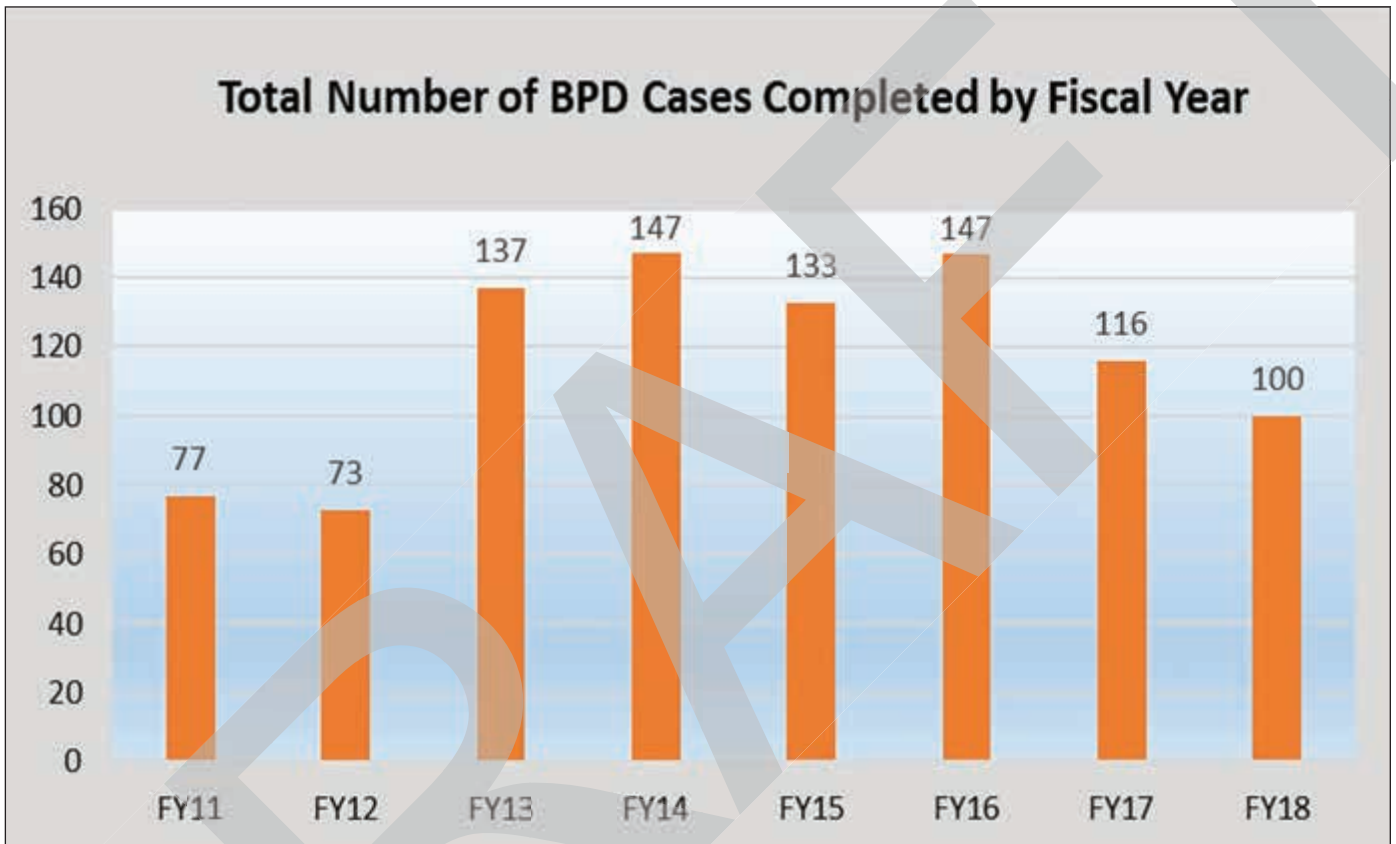
Graph 4. Complaints of misconduct are classified by specific allegations. Complaints often include multiple types of allegations but are given a primary classification by BPD for data keeping purposes. The primary classification is generally the most serious type of misconduct that has been alleged in the complaint. This graph is a breakdown of the cases alleging misconduct that were filed or reopened during the FY2018 reporting period, separated by primary classification.

The three most common primary classification allegations received were: Conduct Unbecoming an Officer, Policy/Procedure for AXON Camera Violations and Performance of Duty. 23 cases included an allegation of Unnecessary or Excessive Use of Force. 14 cases included an allegation of Racial Profiling/Bias-Based policing during this reporting period.

*Added to the list of Primary Classifications are Policy/Procedure violations for not properly activating officer body-worn cameras (AXON Camera). BPD's Internal Affairs Bureau reviews and documents late and failed camera activations.



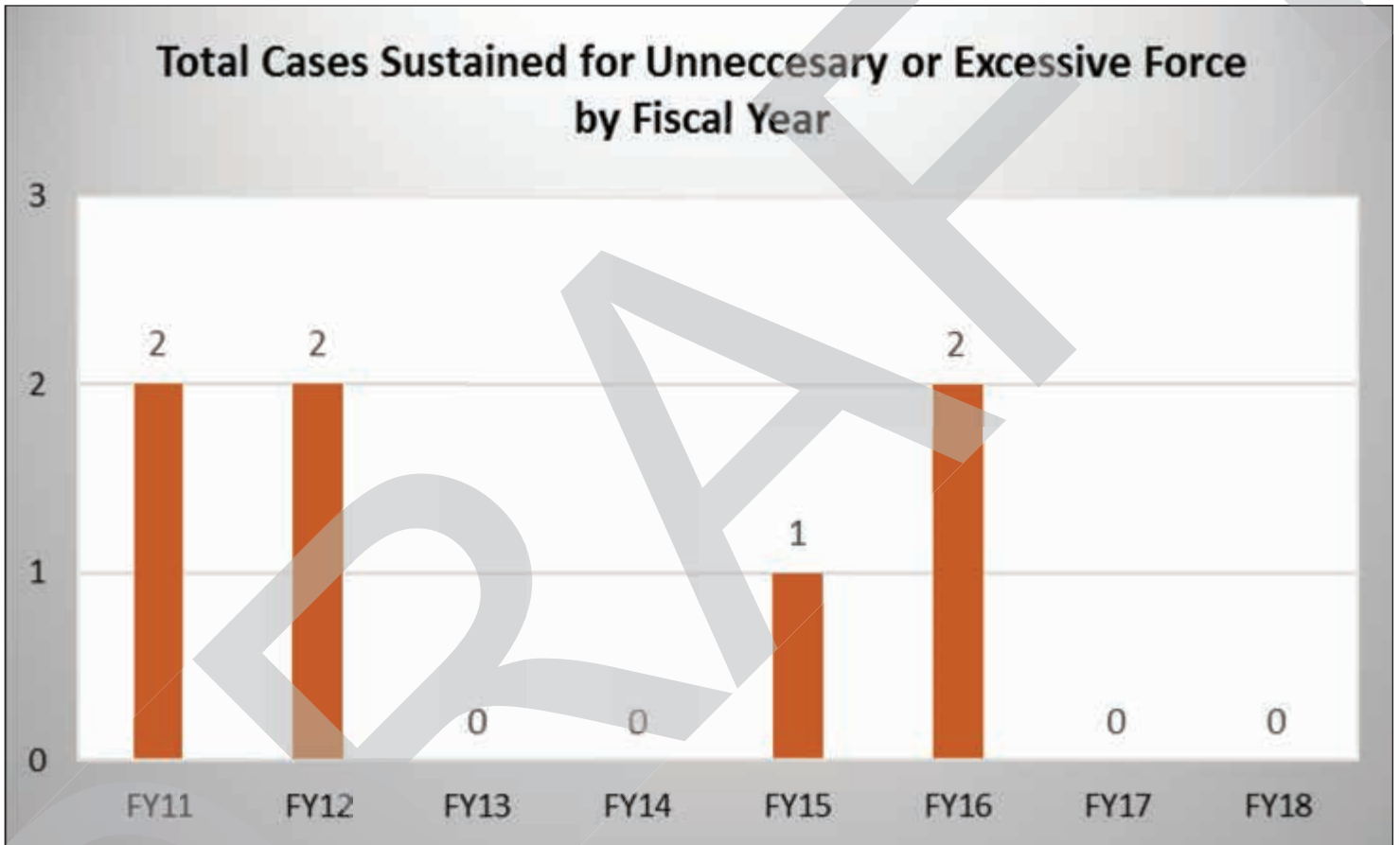
Graph 5. 20% percent or 23 cases received in FY2018 included at least one allegation of Unnecessary or Excessive Force. This percentage is down from 32% from the prior fiscal year.



Graph 6. There were 100 cases closed or re-closed in FY2018. There were more cases received than completed during this reporting period, creating a caseload challenge into the next fiscal year. According to Graph 1, there were 115 cases received compared to 100 cases closed in FY2018.

TOTAL SUSTAINED ALLEGATIONS FY2018	
ALLEGATION	
Arrest or Detention	0
Conduct Unbecoming an Officer	11
Courtesy	0
Criminal	0
Unnecessary or Excessive Force	0
Performance of Duty	9
Policy/Procedure	5
Property	2
Racial Profiling/Bias Based Policing	0
Racial Animus	0
Supervision	0
Untruthfulness	0
TOTAL	27

Chart 1. The two allegations with the highest number of sustained findings in FY2018 were Conduct Unbecoming an Officer and Performance of Duty.



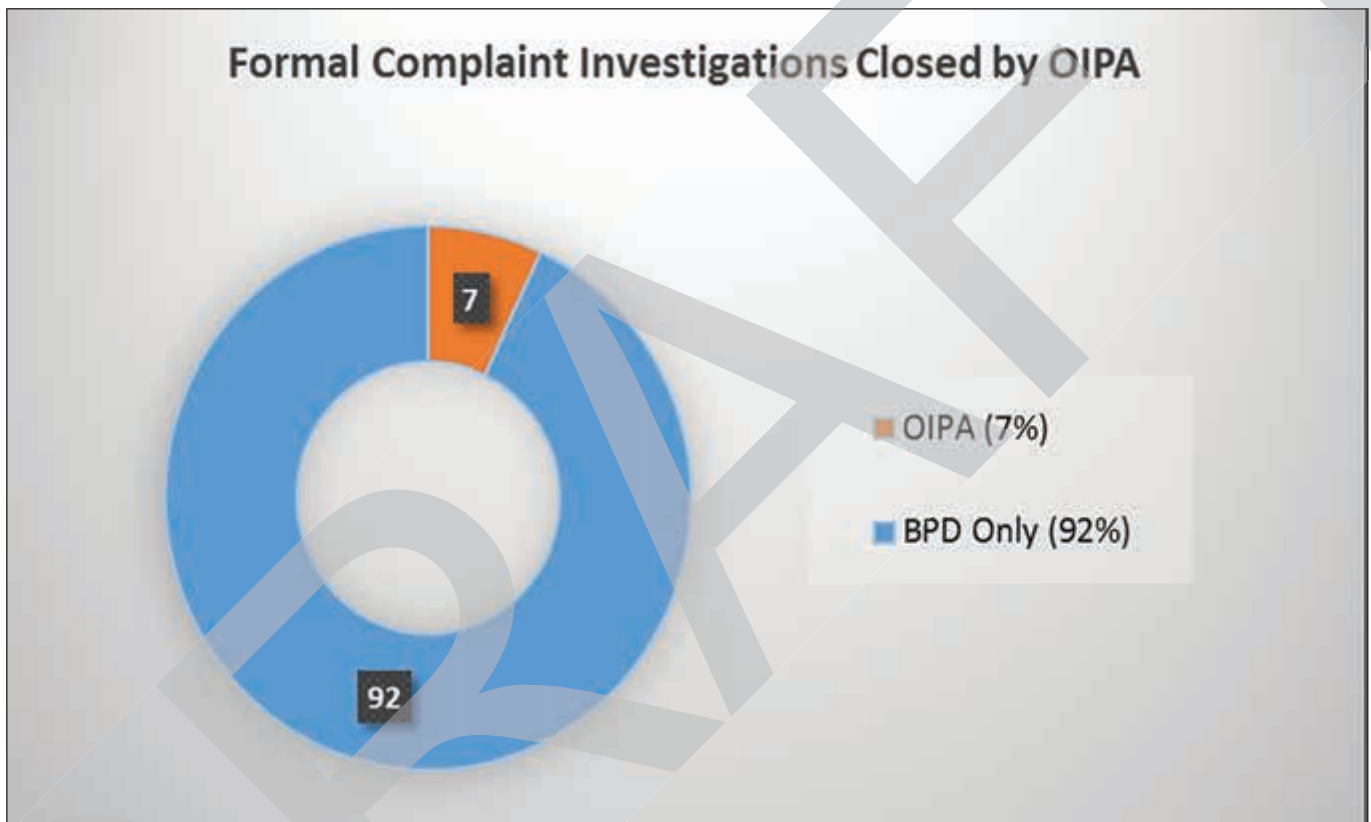
Graph 7. In FY2018, there were no allegations of Unnecessary or Excessive Force sustained. Since FY2011 a total of seven cases included at least one sustained allegation of Unnecessary or Excessive Force.

TYPES OF DISCIPLINE	NUMBER
Demotion	0
Informal Counseling	9
Letter of Discussion	2
Oral Counseling	1
Pay Step Reduction	0
Resign Prior to Discipline	0
Retire Prior to Discipline	1
Supervisor Addressed through Training	1
Suspensions	0
Suspension in Abeyance	0
Termination	0
Written Reprimand	4
TOTAL	18

Chart 2. In some cases, there were multiple officers that received discipline in a single case. In FY2018, nine officers received Informal Counseling which is not documented in the officer's personnel file but is addressed by the officer's supervisor.

Four officers received Written Reprimands, one received Oral Counseling and two received Letters of Discussion. All are forms of formal discipline.

There were no terminations, suspensions, demotions or pay reductions. Suspension in Abeyance refers to a suspension unimposed in consideration of specific terms or agreements between the officer and department intended to ensure that the behavior resulting in the suspension is discontinued, otherwise the suspension and/or additional discipline will be imposed.



Graph 8. Complaints investigated and closed by OIPA represent a percentage of the total number of cases closed. 7% of all formal complaints closed in FY2018 were also closed by OIPA. OIPA closed seven total complaints.

OIPA CASE DISPOSITIONS						
Case No.	OIPA Case No.	Nature of Complaint	Allegation Types	Findings	Discipline	Action Taken by BPD
1	17-09	Officer used excessive force while improperly detaining the complainant.	-Excessive Force -Arrest or Detention	-Exonerated -Exonerated	N/A	N/A
2	17-29	Officer improperly detained the complainant based on the complainant's race. Officer was discourteous by failing to reply to the complainant's question and did not properly record the contact on their body-worn camera.	-Racial Profiling -Arrest or Detention -Policy/Procedure -Policy/Procedure -Courtesy	-Not Sustained -Unfounded -Exonerated -Sustained -Sustained	Letter of Discussion	Accepted
3	17-34	Officer improperly detained, cited and mistreated complainant based on the complainant's race.	-Racial Profiling -Arrest or Detention -Courtesy	-Unfounded -Exonerated -Exonerated	N/A	N/A
4	17-35	Officers used excessive force to handcuff and arrest a subject. Officers unnecessarily used WRAP device to prevent subject from kicking.	-Excessive Force (4) -Policy/Procedure (2)	-Exonerated (4) -Exonerated (2)	N/A	N/A
5	17-44	This complainant was an appeal of BPD Internal Affairs Bureau's findings. Officers used excessive force when using the baton, tasing and handcuffing the complainant.	-Excessive Force (2)	-Exonerated (2)	N/A	N/A
6	17-39	Officer improperly detained and mistreated subjects based on the subjects' race.	-Racial Profiling -Arrest or Detention -Courtesy	-Unfounded -Sustained -Sustained	Letter of Discussion	Accepted
7	17-42	Office improperly detained a juvenile based on the juvenile's race. Officer also failed to provide proper identification during the detention.	-Racial Profiling -Arrest or Detention -Policy/Procedure	-Exonerated -Unfounded -Exonerated	N/A	N/A

Chart 3. OIPA independently investigated six complaints and conducted one case review filed by a complainant as an appeal to BPD Internal Affairs Bureau's findings. Two of the seven complaints investigated or reviewed by OIPA resulted in at least one sustained allegation. OIPA's recommendations for discipline in those cases included Letters of Discussion for the officers. In those cases OIPA recommended Letters of Discussion for the officers. BPD agreed and imposed the OIPA recommended discipline.

Looking Forward

The BART Police Department under the leadership of Chief Rojas has demonstrated a clear commitment to working collaboratively with OIPA in our shared effort to maintain the safety of BART ridership while protecting the rights of all those whom the Department has pledged to serve.

OIPA's unfettered access to BPD records and materials will continue to allow and facilitate efforts to identify and address any areas for improvement of the services, practices, policies, and procedures of the Department. In particular, the implementation of 50 recommendations for improved oversight of the police department that were approved by the Board of Directors will allow OIPA to expand individual review of specific misconduct allegations, expand accessibility of the oversight system to more people, enhance the real-time monitoring of Internal Affairs investigations, and review all use of force incidents as well as the effectiveness of BPD's internal use of force review processes. The delineation between OIPA and the BART Police Citizen Review Board will strengthen the complementary roles of each of these two prongs of the civilian oversight system and will allow OIPA to re-allocate resources to investigations, review of policing practices and policies as required by the Citizen Oversight Model.

BPD's enhanced effort to recruit and hire additional personnel provides an opportune moment for the Department and the oversight system to work toward continuing to shift and advance the culture of the agency and set the expectations of officers to fit with the continuing national movement toward 21st Century Policing tenets and the preservation of the life and dignity of policed communities.

No effort or OIPA project is offered for its own sake, and we believe that our work serves the purposes of improving safety while maintaining trust and accountability. As always, OIPA is open to learning and adjusting as knowledge and best practices shift over time in this dynamic national landscape. What remains constant, however, is OIPA's commitment to conducting fair, thorough, objective and timely investigations with reasoned analysis and evidence-based conclusions. We look forward to generating more awareness of our function and role within the BART District and we are excited to engage in our work in the upcoming year.

Appendices

APPENDIX A

- Independent Review of the BART Oversight Structure - OIR Group: Executive Summary

APPENDIX B

- BART Citizen Oversight Model

APPENDIX C

- BART 2016 Training Proposal



APPENDIX A

Independent Review of the BART Oversight Structure - OIR Group: Executive Summary
For the full report, please visit www.oirgroup.com.

DRAFT

Independent Review of the BART Police Oversight Structure

June 2017



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I. Executive Summary

Overview of the review: Chapter 3-01 of the BART oversight model (hereinafter the “Model”) provides as follows:

The Board of Directors, with input from the BART Police 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.¹

This review and report were commissioned and conducted in furtherance of BART’s compliance with this provision of the Model; that is, to facilitate the Board of Directors’ evaluation of the oversight structure.

Our review began in January 2017. We interviewed the stakeholders whose input is expressly set out in the Model, but we conducted many additional interviews with a broad range of other significant parties. We ensured that the evaluation takes account of the original impetus for the establishment of the oversight system – the January 1, 2009, shooting of Oscar Grant by a BART Police Department (BART PD) officer – as well as the subsequent systemic reviews of policies and practices. Because oversight’s effectiveness depends heavily on the community’s trust, engagement, and support, we placed a high premium on community attitudes and concerns regarding the oversight system. We measured these factors in a variety of ways.

During our review, all individuals we met were generous with their time, accessibility, and candor. Representatives of the Board of Directors, the BART Police Citizen Review Board, and the BART PD were particularly helpful in providing both relevant documents and important insights regarding the issues discussed herein. The Office of the Independent Police Auditor (OIPA) was especially helpful in facilitating the mechanics of our work, and was continually available to provide documents and important perspective. To the degree that our findings and recommendations may help enhance the current civilian oversight system, it reflects the cooperation, assistance, and acumen provided by these stakeholders.

The oversight system: The BART PD oversight system, established in July 2010 following a process that involved community input, consists of the OIPA and the BART Police Citizen Review Board. According to the Model, OIPA (with a current staffing level of three) is to conduct investigations of complaints alleging serious officer misconduct, make recommendations on BART PD policies and practices, audit Internal Affairs (IA) investigations, conduct close monitoring of officer-involved shootings, conduct community outreach, issue

¹ The Oversight Model is available on the website of the Office of the Independent Police Auditor: <https://www.bart.gov/about/policeauditor> and attached to this report as Attachment A.

public reports on investigation outcomes and trends, and provide staffing and other resources to the BART Police Citizen Review Board.

The BART Police Citizen Review Board consists of 11 members. Each of the nine Directors selects one member, while one is appointed by the police associations, and one is “at-large.” According to the Model, the Review Board is to hold monthly public meetings, review OIPA’s investigations, review BART PD and OIPA recommendations regarding BART PD policies, make its own recommendations regarding BART PD policies, conduct community outreach, and issue reports on its activities. Its members are also authorized under the Model to participate in officer and executive hiring.

Overview of findings: We found that the Model devised in response to the tragic shooting of Oscar Grant created two oversight entities that have served a valuable purpose in establishing effective civilian oversight over an agency that had no such previous external influences. The fact that we offer numerous recommendations designed to strengthen and clarify the original Model should in no way diminish the work of those who have worked diligently to fulfill the overarching objectives of accountability, advancing progressive police practices, and fostering greater community trust in law enforcement. Instead, this Report seeks to fulfill a key part of the Model’s original vision: one that recognized that a constructive re-assessment of BART’s nascent oversight program should be built into the design.

From that starting point, we found several areas in which the Model could benefit from revision and reform. These include significant omissions in the Model relating to investigations and auditing authority, and the ambiguities in provisions relating to outreach, reporting, investigations, and policy recommendations.

The review features a total of fifty-three recommendations. They range in scope from broad issues of jurisdiction and structure to more particular or technical adjustments to specific provisions in the Model. Among the key categories that produced specific suggestions for reform are the following:

Recommendations to expand authority and related findings: We recommend expanding the oversight system’s authority in two areas:

- **Broader audit authority:** First, we recommend expanding the auditing authority to allow OIPA to review any operational aspect of BART PD – as opposed to merely reviewing IA’s operations.
- **Investigations absent a complaint:** Second, we recommend authorizing OIPA to conduct its own independent investigation or review into any use of force or potential act of misconduct without the need to await receipt of a qualifying citizen complaint.

Other recommendations and findings:

- **Independence** from each other’s roles and responsibilities should be reinforced through structural changes to OIPA and the BART Police Citizen Review Board for the sake of their respective and mutual effectiveness. OIPA’s obligations relating to staffing the

Review Board should be removed, the requirement of a Review Board performance evaluation of the IPA should be eliminated, and orientation and training for Review Board members should be enhanced to delineate roles and responsibilities.

- **Case Auditing** should be conducted in a more consistent and thorough manner that allows for not only pre-completion input into the IA investigation, but also the ability to influence dispositions and discipline prior to BART PD's final decision.
- A **Systemic Auditing** protocol should be developed and implemented. OIPA should analyze trends and patterns, and it should be involved in BART PD procedures relating to use-of-force reviews and early identification of officers who may require remedial interventions.
- **Investigations** should address a broader range of complaints; any person should be able to file a complaint; and written protocols should be developed regarding investigative techniques, procedures, and coordination with other BART components to ensure confidence in OIPA's investigations and to ensure that it receives all complaints coming in to BART.
- **Use of Force Review** should become an arena in which OIPA more regularly participates, including assessing individual incidents, and contributing to holistic discussions of tactics and training, and other potential elements of constructive feedback.
- **Policy, procedure, and practice recommendations** should constitute a regular and formalized element of OIPA's interactions with and influence on BART PD.
- **Public reporting** by OIPA should be enhanced, in the form of greater detail with regard to its case monitoring role of internal investigations initiated by BART PD. Similarly, OIPA should report on the increased activities proposed in this report.
- **Mediation** should continue to be studied for ways to make it more attractive to complainants and officers.
- **An oversight system evaluation** should be conducted periodically.

APPENDIX B
BART Citizen Oversight Model

DRAFT

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
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 that the San Francisco Bay Area Rapid Transit District (BART) provides to the public by ensuring that internal police accountability system functions 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 BART Police Citizen Review Board.

Chapter 1:

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

Chapter 2:

- 2-01 BART POLICE CITIZEN REVIEW BOARD
- 2-02 APPOINTMENT OF BPCRB MEMBERS
- 2-03 BPCRB MEMBER QUALIFICATIONS AND RESTRICTIONS
- 2-04 BPCRB MEMBER MEETING ATTENDANCE
- 2-05 BPCRB VACANCIES
- 2-06 SCOPE
- 2-07 DUTIES AND RESPONSIBILITIES
- 2-08 RELATIONSHIP BETWEEN THE BPCRB AND OIPA
- 2-09 CONFIDENTIALITY OF RECORDS AND INFORMATION
- 2-10 CODE OF ETHICS

Chapter 3:

- 3-01 PERIODIC OVERSIGHT SYSTEM EVALUATION

Chapter 1-01 OFFICE OF THE INDEPENDENT POLICE AUDITOR

Pursuant to California Public Utilities Code Section 28767.8, the Office of the Independent Police Auditor (OIPA) shall be established by the Board of Directors (Board) in keeping with the Core Principles for an Effective Police Auditor's Office.¹

Chapter 1-02 APPOINTMENT OF THE INDEPENDENT POLICE AUDITOR

The Independent Police Auditor (IPA) shall be appointed by and report directly to the Board.

Chapter 1-03 SCOPE

OIPA shall have the authority to exercise its duties and responsibilities as outlined below, regarding any and all law enforcement and police activities or personnel operating under the authority of the BART Police Department (BPD). OIPA shall be authorized to investigate any complaints alleging police officer misconduct that implicate the policies of the BPD. OIPA shall be committed to the prompt, timely, and efficient resolution of all complaints, including, but not limited to, adherence to all applicable statutory requirements. OIPA's scope of authority shall not extend beyond the BPD.

Chapter 1-04 DUTIES AND RESPONSIBILITIES

A. Complaints Received from Members of the Public

Any person may file a complaint or allegation of wrongdoing with the OIPA against any BPD employee. Upon receipt of a complaint or allegation, OIPA shall:

- i) Ensure that a timely, thorough, complete, objective, and fair investigation into the complaint is conducted by OIPA or BPD.
- ii) Provide the complainant and all other officers who are the subject(s) of the investigation with timely updates on the progress of all investigations conducted by OIPA, unless the specific facts of the investigation would prohibit such notification.
- iii) Reach an independent finding as to the facts of an investigation.
- iv) The OIPA shall assess the conduct of the BPD employee considering the facts discovered through investigation, the law, the policies, and training of the BPD.

B. Recommendations for Corrective Action

- i) Independent investigative findings of "Sustained" made by OIPA shall include recommendations for corrective/punitive action, up to and including termination where warranted, and shall include prior complaints and their disposition. When the evidence does not support the allegations of misconduct, the IPA shall recommend a finding of Unfounded, Exonerated, or Not Sustained.
- ii) In a confidential personnel meeting, the IPA shall submit his/her investigative findings and recommendations to the BART Police Citizen Review Board (BPCRB) for review. Should the BPCRB agree by simple majority 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) The BPCRB shall announce each member's vote regarding its acceptance of the OIPA findings and recommendations for discipline in open session, and in cases in which a non-unanimous majority agrees with the OIPA findings and recommendations, the dissenting

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

- members should generate a memorandum including the rationale for diverging from the majority opinion without divulging privileged or confidential information and evidence.
- iv) Should the Chief of Police disagree with the findings and recommendations of OIPA and the BPCRB, the Chief of Police may appeal to the General Manager (GM) within 45 calendar days of the issuance of the findings and recommendations. The Chief of Police will submit his/her appeal in a writing setting forth his/her disagreements with the findings and provide recommendations to the IPA, the BPCRB, and the GM. After receipt of the appeal, the GM shall convene a confidential personnel meeting to include the Chief of Police, the IPA, and a representative of the BPCRB. After receiving input from the Chief of Police, the IPA, and the BPCRB representative, the GM shall rule and submit his/her decision in writing to the Chief of Police, the IPA and the BPCRB. The Chief of Police shall implement the GM's decision.
 - v) Should the BPCRB disagree with the OIPA findings by simple majority, in a confidential personnel meeting, the IPA and the BPCRB shall attempt to come to a consensus. If the BPCRB and the IPA fail to come to a consensus, by simple majority, the BPCRB may appeal. The efforts made to achieve consensus shall be documented by the BPCRB and shall be forwarded to the GM as a part of the appeal. All appeals regarding findings and recommendations for corrective/punitive action or dismissal, between the BPCRB and the IPA will be appealed to the GM, in a confidential personnel meeting to include the Chief of Police. At the confidential personnel meeting, The BPCRB Chair and the IPA will submit their disagreements and recommendations to the GM. The GM shall rule on the matter and make his/her decision known to the Chief of Police, the BPCRB and the IPA. The Chief of Police shall implement the GM's decision, which will be final.
 - vi) Discipline recommended pursuant to these processes 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. Any final determinations that modify or rescind initial dispositions and arbitration determinations shall be evaluated by the IPA to identify any systemic issues and/or potential for the serious erosion of accountability related to such modifications, and shall be included in a public IPA report. The IPA shall work with BPD to remedy any such issues identified by the evaluation.

C. Review Legal Claims, Lawsuits, and Settlements

- i) OIPA shall be authorized to review any legal claims and/or lawsuits against BART that relate to the conduct of BPD personnel to ensure that all allegations of misconduct are thoroughly investigated by OIPA and/or BPD, and to identify any systemic issues regarding BPD practices and/or policies.
- ii) OIPA shall be authorized to review any significant settlements and adverse judgments involving BPD.
- iii) OIPA shall work with BPD to develop corrective action intended to remediate any systemic issues identified through review of any significant settlements or adverse judgements involving the BPD.
- iv) OIPA shall publicly report its involvement in the review of legal claims, lawsuits and settlements in a manner consistent with all applicable confidentiality requirements.

D. Review Investigations Conducted by BPD

- i) OIPA shall be authorized to review BPD Internal Affairs Bureau (IA) investigations to determine whether the investigations are complete, thorough, objective, and fair.

- ii) The IPA shall, subject to his or her discretion, have authority to monitor or require follow-up investigation into any citizen complaint or allegation that is investigated by BPD.
 - iii) OIPA should provide recommendations to the BPD regarding investigative quality and/or appropriateness of disciplinary recommendations prior to the finalization of the investigative report and notification of disposition to subject officers and complainants.
 - iv) OIPA is authorized to publicly report any resistance by the BPD to conduct reasonable additional investigative tasks, including by way of notification to the Board, the BPCRB, and the GM.
- E. Review Uses of Force by BPD Officers
- i) OIPA shall have the authority and responsibility to review all Use of Force (UOF) incidents by BPD officers to determine whether the UOF should be the subject of an IA investigation and/or whether other issues are implicated for the individual officer or for BPD, including but not limited to training, equipment, supervision, and policy.
 - ii) OIPA shall be authorized to regularly participate in the BPD UOF Review Board process by attending meetings and/or reviewing determinations made by the BPD UOF Review Board.
 - iii) OIPA shall report publicly on its involvement in the BPD UOF review process including determinations made by BPD UOF reviewers in a manner consistent with all applicable confidentiality requirements.
- F. BPD Early Intervention Systems
- i) OIPA shall be involved in the review and evaluation of data, alerts, and reports related to the BPD Early Intervention System (EIS).
 - ii) The OIPA may use the EIS data to determine whether conduct or disciplinary issues regarding BPD or individual officers exist.
 - iii) OIPA shall regularly report on the status and effectiveness of the BPD EIS in a manner consistent with all applicable confidentiality requirements.
- G. Auditing
- i) OIPA shall have the necessary access and authority to review BPD data, records, and staffing information for the purpose of conducting systemic audits of BPD functions that impact the quality of the Department and the services provided by BPD to the public.
 - ii) OIPA shall have the necessary access and authority to monitor any audits conducted by the BPD regarding BPD functions that impact the quality of the Department and the services provided by the BPD to the public.
 - iii) OIPA shall be authorized to publicly report on the results of any audits or monitored audits as described in this section in a manner consistent with all applicable confidentiality requirements.
- H. Mediation
- OIPA shall develop a voluntary alternative dispute resolution (ADR) process for resolving complaints which involve conduct that may most appropriately be corrected or modified through alternative means. OIPA shall review a draft of the voluntary ADR process with the BPCRB and BART Police Associations and secure their concurrence prior to implementation.

I. Appeal of IA Findings

Any complainant may file an appeal of an internal investigation conducted by BPD with the OIPA. Upon receipt of an appeal, OIPA shall:

- i) Review the completed BPD investigation.
- ii) Determine whether 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. A follow-up investigation may, at the discretion of the IPA, be conducted by the OIPA, the BPD or any other competent investigative agency.
- iii) Provide timely updates on the progress of the review and any follow-up investigation to the complainant and the BPD employee who was the subject of the original investigation, to the extent permitted by law unless the specific facts of the investigation would prohibit such notification.
- iv) Based on the review of the original investigation and, where appropriate, the results of any follow-up investigation, OIPA shall reach an independent finding as to the facts of the underlying allegation or complaint.
- v) Independent investigative findings of "Sustained" made by OIPA shall include recommendations for corrective/punitive action, up to and including termination where warranted. When the evidence does not support the allegations of misconduct, the IPA shall recommend a finding of Unfounded, Exonerated, or Not Sustained.
- vi) All BPD investigative findings that are appealed to OIPA shall be subject to the procedures defined in Chapter 1-04(B).

J. Critical Incidents

- i) The IPA shall be notified immediately by BPD personnel to respond to the investigative scene(s) of any BPD officer-involved shooting, use of force resulting in life threatening injury, use of force resulting in bodily injury requiring transportation and admittance to a hospital, , or in-custody death.
- ii) The BPD officer in charge at the investigative scene(s) shall provide the IPA and OIPA staff with access to the investigative scene(s) equivalent to BPD Internal Affairs Investigators upon their arrival at the investigative scene.
- iii) The OIPA shall have the authority to monitor all aspects of the ensuing investigation that the BPD Internal Affairs investigators have authority to monitor while the investigation is in progress. The BPD will grant the OIPA access equivalent to BPD Internal Affairs investigators to the site(s) of all interviews related to a critical incident involving BPD personnel.
- iv) The IPA may observe interviews of employees, public complainants, and witnesses that are conducted by BPD Internal Affairs Investigators and may submit questions to the interviewer to be asked by the interviewer in accordance with state and federal law.

K. Recommendations on Procedures, Practices and Training

- i) OIPA shall develop specific recommendations concerning policies, procedures, practices, and training of BPD personnel. The goal of the above OIPA recommendations, shall be improving the professionalism, safety record, effectiveness, and accountability of BPD employees. OIPA shall consult with the Chief of Police and other stakeholders and shall present its recommendations to the BPCRB for review and comment.

- ii) Should BPD reject policy recommendations submitted by OIPA, the IPA may forward the recommendations to the GM and/or the Board for further consideration.
- iii) OIPA shall have the authority and responsibility to provide input to the BPD during the development of any significant BPD-initiated policy creation or revision.
- iv) OIPA shall publicly report on its involvement in the development and revision of BPD policies and shall report annually regarding any outstanding recommendations and the degree to which they were endorsed by the BPCRB and accepted by BPD.

L. BART Police Associations

- i) The IPA shall meet periodically with and seek input from the BART Police Managers Association (BPMA) and the BART Police Officers Association (BPOA) regarding the work of OIPA.
- ii) OIPA shall report annually on whether meetings with BPMA and BPOA occurred.

M. Community Outreach

OIPA 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. The OIPA community outreach program shall set out to educate the public regarding the responsibilities and services of OIPA and the functions of the BPCRB.

N. Reporting

The IPA shall prepare annual reports to the Board and the public in a manner consistent with all applicable confidentiality requirements, which prior to being finalized shall be reviewed, in draft form, by the BPCRB. 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/punitive 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 OIPA, BPD, BART District Secretary (DSO), and other District departments.

O. Public Statements

The IPA shall be authorized to make public statements regarding any aspect of BPD policies and practices, the Citizen Oversight Model, and in conjunction with any public report or findings in a manner consistent with all applicable confidentiality requirements.

Chapter 1-05 RELATIONSHIP BETWEEN OIPA AND THE BPCRB

- A. OIPA and the BPCRB shall be established and operated as separate, complementary entities with different roles that are and shall remain independent of one another.
- B. On a no less than monthly basis, the BPCRB shall receive reports from OIPA in a manner consistent with all applicable confidentiality requirements, including the number and types of cases filed, number of open cases, the disposition of and any action taken on cases, recommendations for corrective/punitive action, including discipline and dismissals, and the number of independent investigations concluded by OIPA. The report shall also include the

number and outcome of cases being appealed either to OIPA by members of the public, the BPCRB or the Chief of Police pursuant to the appeals process described in Chapter 1-04(B), above.

- i) Reports shall include all complaints received by OIPA, BPD, BPCRB, DSO, and other District departments.
 - ii) For tracking and timeliness purposes, this report shall include the number of days that have elapsed between the date of the complaint and the date of the written report to the BPCRB.
- C. OIPA may present reports related to OIPA-monitored BPD investigations to the BPCRB in closed session for its input and feedback. BPD personnel may be present during the closed session to respond to any BPCRB inquiries regarding the investigation and/or related investigative processes.
- D. OIPA shall, for informational purposes, promptly notify the Chair of the BPCRB whenever the IPA is informed of a critical incident as described in Chapter 1-04(J).
- E. The BPCRB and OIPA will coordinate community outreach activities and communication with the public.

Chapter 1-06 RELATIONSHIP BETWEEN OIPA, BPD, DSO, AND OTHER DISTRICT DEPARTMENTS

- A. The Chief of Police, DSO and other Executive Managers with employees that routinely receive comments/complaints from the public shall each, jointly with the IPA, develop standard operating procedures to govern the relationship and flow of communication regarding complaints involving police officers between OIPA and each of their respective departments.
- B. OIPA 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 OIPA

- A. OIPA 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 BPD, the District, and all state and federal laws.
- B. During an investigation, all involved BPD personnel shall be compelled to meet and cooperate with OIPA in accordance with Government Code Section 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 OIPA.

Chapter 1-08 INDEPENDENCE OF OIPA

- A. The IPA and any employee of the OIPA shall, at all times, be totally independent. All investigations, findings, recommendations, and requests made by OIPA shall reflect the views of OIPA alone.
- B. No District employee or Director shall attempt to unduly influence or undermine the independence of the IPA or any employee of the OIPA in the performance of his or her duties and responsibilities set forth herein.

- C. DSO staff shall perform administrative and organizational tasks for the BPCRB, which will be intended to clarify, strengthen, and maintain the delineation and separation of the BPCRB and OIPA.

Chapter 1-09 CONFIDENTIALITY OF RECORDS AND INFORMATION

OIPA 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 OIPA shall adhere to the National Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics.

Chapter 1-11 TIMELINESS

Nothing in this Model is intended to delay or interfere with the timely investigation and disposition of internal affairs investigations of alleged police misconduct. OIPA and the BPCRB shall jointly develop a timeline for completion of the disciplinary process that will be concluded within 365 days from the time of discovery by BPD Internal Affairs, BPD supervisory level personnel, the OIPA, or the BPCRB.

Chapter 2-01 BART POLICE CITIZEN REVIEW BOARD

A BART Police 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 BPD policies, procedures, practices and initiatives, and to receive citizen complaints and allegations of misconduct by BPD employees. Results of investigations into allegations of misconduct by BPD employees and recommendations for corrective/punitive action, including discipline, will be reviewed by the BPCRB. The members of the BPCRB 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.

Chapter 2-02 APPOINTMENT OF BPCRB MEMBERS

- A. The BPCRB shall report directly to the Board.
- B. The BPCRB shall consist of eleven (11) members appointed as follows:
 - i) Each BART Director shall appoint one (1) member.
 - ii) The BPMA and BPOA shall jointly appoint one (1) member.
 - iii) There shall be one (1) Public-at-Large member to be appointed by the Board.
 - iv) All appointments or re-appointments to the BART Police 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.

- v) Service on the BPCRB shall be voluntary.
- vi) A newly-elected Director may replace the seated BPCRB appointee representing their District within ninety 90 calendar days of taking office, otherwise the seated BPCRB member will continue to serve until expiration of the applicable term, unless otherwise disqualified as described herein

Chapter 2-03 BPCRB MEMBER QUALIFICATIONS AND RESTRICTIONS

- A. Members of the BART Police Citizen Review Board must reside within Alameda, San Francisco, Contra Costa, or San Mateo County.
- B. BPCRB members shall agree to adhere to the Code of Ethics described in Chapter 2-10.
- C. BPCRB members must be fair-minded and objective with a demonstrated commitment to community service.
- D. No person currently employed in a law enforcement capacity, either sworn or non-sworn, shall be eligible for appointment to the BPCRB.
- E. No current or former BPD employee shall serve on the BPCRB, and no relative of any current or former BPD employee shall serve on the BPCRB.²
- F. All appointees to the BPCRB shall be subject to background checks.
- G. No person convicted of a felony shall serve on the BPCRB.
- H. Members serving on the BPCRB are not required to be U.S. citizens.

Chapter 2-04 BPCRB MEMBER MEETING ATTENDANCE

- A. BPCRB members may not miss three regularly scheduled meetings per year.
 - i) The appointment of any BPCRB 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 OIPA to the DSO, except in the case of an approved absence or leave of absence as described herein.
 - ii) The DSO shall notify any BPCRB member whose appointment has automatically terminated, and report to the Board and the BART Police Associations that a vacancy exists on the BPCRB. The vacancy shall then be filled in accordance with Chapter 2-06.
- B. Excused Absences from Regularly Scheduled Meetings
 - i) A BPCRB Member may request an excused absence from their appointing Director, and that excuse shall be transmitted to the DSO. Such excused absences shall be granted by the Board President regarding the Public-at-Large appointee, or from the Police Associations regarding the Police Associations' appointee. Such excused absences will not count against the member's absence limitations.
 - ii) BPCRB members may be granted a leave of absence by their appointing Director not to exceed three (3) months. When such a leave of absence is granted, the seat may be

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

filled for the period of such leave and may be filled in accordance with the procedure described herein, subject to ratification by the Board. Such leaves of absence shall be granted by the Board President regarding the Public-at-Large appointee, or from the Police Associations regarding the Police Associations' appointee.

Chapter 2-05 BPCRB VACANCIES

- A. Vacancies on the BPCRB shall be filled for the unexpired portion of the term, subject to ratification by the Board.
- 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 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 shall solicit new applications.
- E. The IPA may provide input to the Board regarding the performance of any BPCRB member who seeks reappointment.
- F. The Board should consider a BPCRB member's annual outreach activity when deciding whether to reappoint a member to the BPCRB.

Chapter 2-06 SCOPE

The BPCRB shall have the authority to exercise its duties and responsibilities as outlined below, regarding law enforcement and police activities or personnel operating under authority of BART.

Chapter 2-07 DUTIES AND RESPONSIBILITIES

- A. **Complaints Received from Members of the Public**
Any person may file a complaint or allegation of wrongdoing against any BPD employee with the BPCRB. Upon receipt of a complaint or allegation, the BPCRB shall immediately turn the complaint or allegation over to the OIPA, and OIPA shall proceed according to Chapter 1-04 above.
- B. **Recommendations for Corrective Action**
 - i) The IPA shall submit his/her investigative findings and recommendations to the BPCRB for review in a confidential personnel meeting, where the processes described in Chapter 1-04(B)(ii-vi) including, but not limited to, appeal procedures shall apply.
 - ii) The BPCRB shall announce each member's vote regarding its acceptance or rejection of the OIPA findings and recommendations for discipline in open session, and in cases in which a non-unanimous majority agrees with the OIPA findings and recommendations, the dissenting members should generate a memorandum including the rationale for diverging from the majority opinion without divulging privileged, protected, or confidential information and evidence.

- C. Recommendations on Policies, Procedures, Practices and Training
- i) The BPCRB shall develop and review recommendations as to the policies, procedures, and practices of BPD in consultation with the IPA.
 - ii) The goal of BPCRB recommendations shall be to improve the professionalism, safety record, effectiveness, and accountability of BPD employees.
 - iii) The BPCRB may make recommendations to the Chief of Police, GM, and Board, as appropriate.
 - iv) The BPCRB 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 BPD or OIPA and make recommendations to the Board.
- D. Disagreements Regarding Proposed Policies, Procedures, Practices, and Training
- The Board shall review and resolve all disagreements regarding proposed policies, procedures, practices and training that may arise between the BPCRB and the Chief of Police, IPA, or GM. The Board shall make the final determination in all such instances.
- E. BART Police Associations
- The BPCRB shall meet periodically with and seek input from the BPMA and BPOA on issues of interest to the parties. The BPCRB shall report annually on whether meetings with the BPMA and the BPOA occurred.
- F. Community Outreach
- The BPCRB 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. The BPCRB community outreach program shall seek to educate the public about the responsibilities and services of OIPA and functions of the BPCRB.
- i) The DSO will provide staff support to and facilitate training for the BPCRB.
 - ii) The BPCRB should endeavor to conduct meetings in varying locales, where feasible to increase exposure of its work to a wider array of community members.
- G. Reporting
- The BPCRB shall file quarterly reports of its activities with the DSO for distribution to the Board and shall prepare an annual report on its accomplishments and activities (including recommendations to improve BPD services) for presentation to the Board and the public.
- H. Monitor Study Recommendations
- The BPCRB shall report on the accomplishments and progress made by BPD in implementing recommendations resulting from periodic studies that may be conducted to look at departmental policies, procedures, practices, and training.
- I. Public Statements
- The Chair of the BPCRB shall be authorized to make public statements on behalf of the BPCRB regarding the role and processes of the BPCRB when an exigency to respond to an inquiry is presented.

- J. Selection of the Chief of Police
The BPCRB (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.
- K. Staff Support for the BPCRB
The DSO will provide staff support to the BPCRB including but not limited to the following:
 - i) Facilitation of training for the BPCRB.
 - ii) Preparation and maintenance of records of meetings of the BPCRB.
 - iii) Distribution of reports by the BPCRB to the Board and the public.
 - iv) Facilitation of the application process for appointment to the BPCRB and coordination of the selection and ratification processes with the Board.
 - v) Provision of training including a curriculum designed for newly-appointed BPCRB members.
 - vi) Provision and maintenance of an ongoing in-service training program.

Chapter 2-08 RELATIONSHIP BETWEEN THE BPCRB AND OIPA

- A. No less than monthly, the BPCRB shall receive reports from the IPA including the number and types of cases filed, number of open cases, the disposition of and any action taken on cases, recommendations for corrective/punitive action, including discipline and dismissals, and the number of independent investigations concluded by OIPA.
 - i) The report shall also include the number of cases being appealed either to OIPA by members of the public or by the BPCRB pursuant to the appeals process described in Chapter 1-04(B), above.
 - ii) OIPA reports to the BPCRB shall include all complaints received by OIPA, BPD, the BPCRB, DSO, and other District departments.
 - iii) This report shall also include the number of days that have elapsed between the date of the complaint and the report to the BPCRB.
 - iv) OIPA reports shall include the degree to which OIPA and BPCRB disciplinary recommendations were implemented by BPD.
- B. The Chair of the BPCRB shall, for informational purposes, be promptly informed by the OIPA of all critical incidents involving BPD.
- C. The BPCRB may report to the Board of Directors' Personnel Committee on the performance and effectiveness of OIPA.
- D. The BPCRB (as well as the BART Police Associations) shall participate in an advisory role in the process of selecting all successors to the first IPA.
- E. The BPCRB will participate in a regular program of community outreach and communication with the public, in conjunction with OIPA.
- F. The BPCRB shall make forms available at BPCRB meetings to accept complaints and allegations of police misconduct from the public and shall forward any received complaints to OIPA for appropriate action.

Chapter 2-09 CONFIDENTIALITY OF RECORDS AND INFORMATION

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

Chapter 2-10 CODE OF ETHICS

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

Chapter 3-01 OVERSIGHT SYSTEM EVALUATION

The Board, with input from the BPCRB, IPA, BART Police Associations, GM, DSO, complainants and the public will evaluate the BART Police citizen oversight structure every 3 years to determine whether the need exists to make changes and/or otherwise make adjustments to the system to improve its continued performance. These evaluations shall in no way be intended to eliminate the BART Police citizen oversight structure.

APPENDIX C
BART 2016 Training Proposal

DRAFT

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: BART Police Citizen Review Board DATE: December 29, 2015

FROM: BART Office of the Independent Police Auditor

SUBJECT: **Proposal re Facilitation of Training for BART Police Citizen Review Board**

The BART Citizen Oversight Model (Model) states that the BART Office of the Independent Police Auditor (OIPA) will facilitate training for the BART Police Citizen Review Board (BPCRB). In consideration of the limited time available to the volunteer BPCRB members outside of their regular monthly meetings, it seems practical to provide the BPCRB with opportunities for training during the meetings, and that these trainings would be scheduled every other month for a total of 6 sessions per calendar year¹.

OIPA suggests that a schedule of proposed trainings be developed on an annual basis and presented to the BPCRB by the Chairperson as an agenda item for discussion and action at the first regular meeting of each calendar year. During that meeting BPCRB members may elect to accept the proposed trainings as presented, or they may choose to re-arrange, replace, or eliminate certain sessions. OIPA also recommends that every other month the Chairperson agendaize a discussion of whether to move forward and confirm the training session scheduled for the following meeting in order to avoid late cancellations and other unnecessary expenditures of funds, time, and labor by OIPA and its staff. This will also allow the BPCRB to focus its attention on any unanticipated issues or concerns that may arise during the course of the year without unreasonably extending the length of monthly meetings to a degree that becomes unmanageable for individual members.

The BPCRB chair would be able to weigh and balance the time requirements for each meeting at which a training session has been approved and scheduled, and would be able to adjust the agenda to accommodate such trainings. Because this proposal contemplates scheduling a training session every other month, OIPA can plan and facilitate the upcoming training session while remaining positioned to address its other duties and responsibilities, including but not limited to complaint intake and investigation, generation of policy recommendations, and regular outreach to the community.

It is OIPA's opinion that trainings should be limited to 30-45 minutes in order to permit discussion and action on other agenda items, including disciplinary recommendations and an opportunity to fully entertain monthly reports from the Chairperson, the Independent Auditor and the Chief of Police.

¹ This proposal also includes one additional training to be presented at the January 2016 meeting, and to consist of an introduction to the Dropbox Business web-based document distribution software.

The National Association for Civilian Oversight of Law Enforcement (NACOLE) has generated recommendations for the orientation and training of civilian oversight board members, on which OIPA has relied heavily in developing the proposed list of 2016 trainings for the BPCRB². It is noted within the NACOLE recommendation that “...[p]roviding new members with the information they need to perform effectively is a critical step in the development of a strong board or commission. The responsibilities for developing and implementing an effective program of board orientation are shared between oversight practitioners and the board itself. There must be a commitment to developing a well-informed board, one with the knowledge needed to lead an effective organization.” For this reason OIPA believes that a dynamic and interactive process that allows for adjustment and redirection during the course of the year is well-suited to providing valuable sessions for BPCRB members. As a matter of course and in keeping with this viewpoint, BPCRB members in addition to the Chairperson are welcome and invited to provide specific suggestions for substitutions and/or enhancements to any of the tentatively scheduled sessions for the upcoming year, and those suggestions can be presented as motions to the entire body for discussion and action.

Once the BPCRB has voted and determined how they wish to proceed, OIPA will move forward with arrangements for board-approved training sessions. OIPA will also research, collect and distribute appropriate materials for each training session as dictated by the topic of the training and/or the direction of the trainers.

Suggested Training Schedule for 2016 BPCRB Meetings:

Note: Though this proposal suggests scheduled trainings every other month, the proposed schedule for 2016 would include sessions in both March and April in order to allow sufficient time for BPCRB discussion and action, session planning, and general preparation.

- ❖ January 11
 - Presentation of proposed training schedule for 2016
 - **Dropbox Business**
 - Introduction and demonstration of document distribution software
- ❖ February 8
 - No Training
- ❖ March 14
 - **Oversight Agency Basics**
 - Model establishing oversight of BART Police Department (BPD)
 - Comparison with other oversight models
 - Public records and public meeting laws (Brown Act)
 - Sturgis review
 - Laws relating to peace officers’ personnel actions, rights, and privacy
 - POBOR Review

² <https://nacole.org/resources/recommended-training-for-board-and-commission-members/>

- Copley Press and other applicable case law
- Confidentiality requirements
- ❖ April 11
 - **BPD Structure and organization**
 - BPD Chain of command and supervisory responsibilities
 - Patrol practices and procedures
 - Duties of officers, sergeants, command staff, Community Service Officers, civilian personnel, and dispatchers
 - BPD Technology
 - CAD
 - RMS
 - MDC
 - Trittech FBR
 - Radios
 - MVR – AXON Flex
 - ◆ Operation
 - ◆ Policy requirements
- ❖ May 9
 - No training
- ❖ June 13
 - **Crowd Management / Crowd Control**
 - First Amendment activities
 - Policy review and discussion
 - Mutual Aid considerations
 - Review of existing policies and procedures in other local jurisdictions
- ❖ July 11
 - No training
- ❖ August 8
 - **Use of Force**
 - Policy review and discussion
 - Defensive tactics
 - Use of Force review process
 - Reporting by officers
 - Supervisor's Use of Force Reports and approval process
- ❖ September 12
 - No training
- ❖ October 10 (Columbus Day Holiday – Possible move to October 17 TBD by BPCRB)
 - **OIS and In-Custody Death Investigations**
 - Responsibilities of responding personnel
 - First supervisor on scene
 - Other officers on scene

- IA
- OIPA
- District Attorney

❖ November 14

- No training

❖ December 12

- **Bias-based policing / Racial profiling**

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