

San Francisco Bay Area Rapid Transit District

2150 Webster Street, P. O. Box 12688, Oakland, CA 94612-2688



BART Police Civilian Review Board (BPCRB) DRAFT MINUTES OF THE MEETING TUESDAY, JANUARY 13, 2025

Members of the BPCRB

George Perezvelez, Chair (District 9, BPCRB Representative)
Sonja Shephard, Vice Chair (District 2, BPCRB Representative)
Torin Fischer (District 1, BPCRB Representative)
Veronica Kincaid (District 7, BPCRB Representative)
Dana Lang (District 4, BPCRB Representative)
Lester. M. Mensinger (District 6, BPCRB Representative)
Gabriel Rodrigues, (BPMA/BPOA/Union Representation, BPCRB Representative)
Nichin Sreekantaswamy, (District 5, BPCRB Representative)
William White (District 3, BPCRB Representative)
David Rizk (District 8, BPCRB Representative)

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
2150 Webster Street, P.O. Box 12688, Oakland, CA 94604-2688
BART Police Civilian Review Board Meeting Minutes
Monday, January 13, 2025

A regular meeting of the BART Police Civilian Review Board (BPCRB) was held on **January 13, 2025**, convening at 4:03 p.m. in the BART Board Room, 2150 Webster Street, 1st Floor, Oakland, California 94612.

The meeting was called to order by Chairperson George Perezvelez; and Mag Tatum, Recording Secretary.

Chairperson George Perezvelez gave instructions on the in-person meeting, with an option for public participation via teleconference, accessing the presentation materials online, Public comments, and Members' remarks.

1. Call to Order.

The regular meeting was convened at 4:03 p.m. by Chairperson George Perezvelez.

Members Present in Oakland, CA: Members Torin Fischer, Veronica Kincaid
Dana Lang, Lester. M. Mensinger,
Gabriel Rodrigues, Nichin Sreekantaswamy,
William White, and George Perezvelez.

Member Present in Tarrytown, NY: Member William White (via Teleconference).

Absent: Members David Rizk and Sonja Shephard.

The Pledge of Allegiance was recited.

2. Approval of Minutes of the Meeting of December 9, 2024.

Member Rodrigues moved that the Minutes of the Meetings of **December 9, 2024**, be approved. Member Lang seconded the motion, which was carried by a roll call vote. Ayes – 8: Members Fischer, Kincaid, Lang, Mensinger, Rodrigues, Sreekantaswamy, White, and Perezvelez. Noes – 0. Abstain – 0. Absent – 2: Members Rizk and Shephard. Vacant – 1.

Public Comment: No comments were received.

3. Public Comment.

Chairperson Perezvelez called for Public Comments.

Public Comment: Janice Adam and Aleta Dupree addressed the Board.

4. **The Request for Information Regarding the Use of an Outside Contractor by the BART Police Department to Conduct an Investigation into the November 18th, 2024, Critical Incident. (Chair Perezvelez’s Request).**

Chairperson Perezvelez presented information regarding the Request for Information Regarding the Use of an Outside Contractor by the BART Police Department to Conduct an Investigation into the November 18th, 2024, Critical Incident. (Chair Perezvelez’s Request), before the Board. The item was discussed.

Russell Bloom, Independent Police Auditor, and Kevin Franklin, Chief of Police, addressed the Board.

Public Comment: Aleta Dupree addressed the Board.

5. **Reporting Out Announcement from BART Police Citizen Review Board (BPCRB) Subcommittees.**

Chairperson Perezvelez and Member Lang presented information regarding the various BART Police Citizen Review Board (BPCRB) Subcommittees. The item was discussed.

Public Comment: No comments were received.

6. **Amendments to the BART Police Civilian Review Board – Bylaws. (Chair Perezvelez’s Request).**

Chairperson Perezvelez presented the Amendments to the BART Police Civilian Review Board – Bylaws, before the Board. The item was discussed.

Public Comment: Aleta Dupree addressed the Board.

Member Mensinger moved that the **Amendments to the BART Police Civilian Review Board – Bylaws (Affixed)**, be approved. Member Lang seconded the motion, which was carried by a roll call vote. Ayes – 8: Members Fischer, Kincaid, Lang, Mensinger, Rodrigues, Sreekantaswamy, White, and Perezvelez. Noes – 0. Abstain – 0. Absent – 2: Members Rizk and Shephard. Vacant – 1.

Please note attached to the Minutes are the Amendments to the BART Police Civilian Review Board – Bylaws.

7. **Creation of BART Police Civilian Review Board - Quarterly Report Ad Hoc Subcommittee, and Selection and Appointment of Members to the Subcommittee (Chair Perezvelez’s Request).**

Chairperson Perezvelez presented the Creation of BART Police Civilian Review Board - Quarterly Report Ad Hoc Subcommittee, and Selection and Appointment of Members to the Subcommittee, before the Board. The item was discussed.

Chair Perezvelez created the BART Police Civilian Review Board - Quarterly Report Ad Hoc Subcommittee.

Appointed Members Dana Lang, Sonja Shephard and George Perezvelez, to the newly created BART Police Civilian Review Board - Quarterly Report Ad Hoc Subcommittee.

Public Comment: No comments were received.

8. Review of Draft Language and Definitions for BART Police Department’s Lexipol Policy 300 – Use of Force (Chair Perezvelez’s Request).

Chairperson Perezvelez brought the matter of the Draft Language and Definitions for BART Police Department’s Lexipol Policy 300 – Use of Force and continued the item to a future BPCRB meeting.

Public Comment: No comments were received.

9. Chief of Police’s Report(s).

a. BART Police Department’s Monthly Report(s) for November 2024.

Chief Kevin Franklin presented the BART Police Department’s Monthly Report(s) for November 2024, before the Board. The item was discussed.

Public Comment: No comments were received.

10. Independent Police Auditor’s (OIPA) Report(s).

a. Office of the Independent Police Auditor (OIPA) Monthly Report(s) for July 2024, August 2024, September 2024, October 2024, and November 2024.

Russell Bloom, Independent Police Auditor, presented the Report(s) for July 2024, August 2024, September 2024, October 2024, and November 2024, before the Board. The item was discussed.

Public Comment: No comments were received.

Chairperson Perezvelez announced that the Board would enter into a closed session under item 11-A, Update on Appeal of Case 24-17 per Chapter 1-04, section (B) (iv) of the BART Citizen Oversight Model (Amended 7/12/2018) of the regular meeting agenda, and that the Board would reconvene in open session at the conclusion of the closed session.

The Meeting recessed at 5:55 p.m.

The Meeting reconvened in Closed Session at 6:00 p.m.

11. Closed Session.

- a. To Consider an Update on Appeal of Case 24-17 per Chapter 1-04, section (B) (iv) of the BART Citizen Oversight Model (Amended 7/12/2018). Govt. Code §54957.

Members Present in Oakland, CA:

Members Torin Fischer, Veronica Kincaid
Dana Lang, Lester. M. Mensinger,
Gabriel Rodrigues, Nichin Sreekantaswamy,
William White, and George Perezvelez.

Member Present in Tarrytown, NY:

Member William White (via Teleconference).

Absent:

Members David Rizk and Sonja Shephard.

Public Comment: No comments were received.

12. Open Session.

The Meeting reconvened into an Open Session at 6:30 p.m.

Chair Perezvelez announced that the Board had concluded its Closed Session and that there were no announcements to be made.

Public Comment: No comments were received.

13. Adjournment.

The Meeting was adjourned at 6:31 p.m.

Date: January 13th, 2025
To: BART Board of Directors
From: BART Police Civilian Review Board George Perezvelez, Chairperson,
District 9
Subject: BPCRB 2025 Proposed Bylaw Changes

Enclosed are proposed changes to the BPCRB Bylaws to conform with the 2024 Model review and other outstanding internal changes. The proposed changes were unanimously approved by the BPCRB at its regular meeting on January 13th, 2025 for submission, review and approval by the BART Board of Directors.

BART Police Citizen Review Board Members:

Torin Fischer	District 1
Sonja Shephard (Vice Chairperson)	District 2
William White	District 3
Dana Lang	District 4
Nichin Sreekantaswamy	District 5
Lester M. Mensinger	District 6
Veronica Kincaid	District 7
David Rizk	District 8
George Perezvelez (Chairperson)	District 9
Vacant	Public-At-Large
Gabriel Rodriques	BART Police Officers and Managers Associations

BART CITIZEN REVIEW BOARD BYLAWS

Definitions

Capitalized terms in these Bylaws are defined as follows:

1. *Oversight Model* – *The BART CITIZEN OVERSIGHT MODEL* adopted by the BART Board of Directors as of January 13, 2011.
2. CRB - The Citizens Board defined and described in Chapter 2 of the Oversight Model.
3. Brown Act – The Ralph M. Brown Act of 1953, California Govt. Code §§ 54950-54960.5
4. Independent Auditor – The Independent Auditor defined and described in Chapter 1 of the Oversight Model.

5. Appointed Member – All duly appointed members of the CRB, regardless of whether they participate in a vote
6. Voting Member – The Appointed Members who cast an affirmative or negative vote (not an abstention) on a particular issue or election.

C in BPCRB to mean civilian instead of citizen- change to take effect throughout the document

Introduction

The CRB will carry out its functions as defined in the *Oversight Model* and these Bylaws. No provisions in these Bylaws are intended to be in conflict with the *Oversight Model* or Brown Act. In the event of conflicts between these Bylaws and the *Oversight Model*, the *Oversight Model* or Brown Act shall take precedence.

Under Introductions

Change to BPCRB from CRB - change to take effect throughout the document

Article I. Purposes

1. To increase visibility for the public into the delivery of BART police services.
2. To provide community participation in the development and review of BART Police Department policies, procedures, practices and initiatives.
3. To receive citizen complaints or allegations regarding BART Police personnel.
4. To review and report on the results of the Independent Auditor's investigations into allegations of misconduct by BART Police and recommendations for corrective actions, including discipline.

BART Citizen Review Board Bylaws. Originally adopted: 11/14/11. Amended: 1/9/12; 3/19/12; 6/10/13; 7/8/13; 3/10/14; 9/14/15; 2-12-18. Adopted as Amended on 9/26/19 Board of Directors meeting.

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Article II. Functions

As defined in the *Oversight Model*, the functions of the CRB are:

1. To receive citizen complaints or allegations concerning BART Police personnel.

2. To review recommendations by the Independent Auditor for corrective actions.
3. To develop and review recommendations for BART Police Department procedures, practices, and training.
4. To meet periodically with the BART Police Managers Association (BPMA) and BART Police Officers Association (BPOA).
5. To develop and maintain a program of community outreach.
6. To file quarterly reports with the Office of the District Secretary.
7. To review and comment on drafts of the annual report prepared by the Independent Auditor.
8. To monitor the implementation of recommendations made in periodic studies of the BART Police Department.

Article III. Members

1. Appointment of Members

CRB Members are appointed by the procedures as outlined in the *Oversight Model, Chapters 2-02 and 2-03*.

2. Vacancies

Within ten (10) days of a vacancy occurring on the CRB, the Chairperson shall notify the BART Board of Directors and request a new appointment be made as soon as possible.

3. Recommendation for Removal of a Member

a. A recommendation can be made to the BART Board of Directors to remove a Member of the CRB pursuant to Chapter 2-04 of the Oversight Model. This recommendation shall be made by motion and approved by two thirds of the Appointed Members at a regular meeting for which the proposed recommendation is an item on the agenda published before such meeting.

b. The Chair (or the Vice Chair, if the member to be removed is the Chair) shall promptly convey that recommendation, and the reasons therefore, to the Secretary of BART and the President of the BART Board of Directors.

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Article IV. Officers

1. Election of officers

a. A chair and vice chair shall be elected as described below for a term ending on

the election of their successors. After serving for one year, an officer shall serve in an interim capacity until they are reelected or their successor is elected. No person shall serve in the same office for more than two consecutive elected terms, or for more than one elected term immediately after assuming (by succession or special election) a predecessor's office as a result of a vacancy in the office .

b. The annual election of CRB officers shall occur during the regular meeting in the month of July. At that meeting of election, if no candidate for an office receives a majority of the Voting Members' votes on the first ballot, the candidate(s) with the fewest votes shall be eliminated and another vote taken. This process will continue until a candidate receives the support of a majority of Voting Members. The results of each round of balloting shall be publicly announced and the vote recorded in the minutes.

Under ARTICLE IV. OFFICERS

Under election of officers:

Change b to read:

The annual election of BPCRB officers shall occur during the regular meeting in the month of July . All elections will be held at the end of the agenda. The election for Chair will occur before the election for Vice-Chair. The current Chair will ask for nominations from the floor. In instances in which the current Chair and Vice-Chair are both running for office, the most senior member by appointment date to the BPCRB will preside over the election process. All candidates for office must be nominated via a motion requiring a second to the motion per parliamentary procedures. The Chair will call for nominations twice before closing the nomination process. Once the nomination process is closed, all candidates will have up to two (2 minutes) to present their credentials. Once all have spoken, the secretary will call the roll and count the votes. This process will be followed for both the Chair and Vice-Chair election process.

New C to read:

At that meeting of election, if no candidate for an office receives a majority of the Voting Members' votes on the first ballot, the candidate(s) with the fewest votes shall be eliminated and another vote taken. This process will continue until a candidate receives the support of a majority of Voting Members. The results of each round of balloting shall be publicly announced and the vote recorded in the minutes.

2. Duties of Officers

The chairperson, or in her/his absence, the vice chairperson, or in the absence of both, a Chair *pro tem* elected by a plurality of the Voting Members at each meeting,

performs the following duties:

- a.* Presides at all meetings of the CRB and ensures that the work of the committee is accomplished.
- b.* Appoints committee members.
- c.* Approves the agenda prior to distribution.
- d.* Signs correspondence on behalf of the CRB.
- e.* Represents the CRB before the BART Board of Directors.
- f.* Approves and signs CRB reports to the BART Board of Directors. *g.*

Schedule periodic meetings with BPMA & BPOA

- h.* Performs other duties necessary or customary to the office.

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3. Removal and Replacement of Officers

- a.* Two thirds of the Appointed Members may remove a Chair or Vice- Chair from office by a motion at a regular meeting for which the proposed removal is an item on the agenda published before such meeting. Such an action, and the reasons therefore, shall be promptly conveyed to the Secretary of BART and the President of the BART Board of Directors.
- b.* A vacancy in the office of Chair shall be filled by the Vice Chair for the remainder of the Chair's original term. A vacancy in the office of Vice Chair shall be filled by an election in the manner described above at the next regular meeting of the CRB, with the newly elected Vice Chair to serve the remainder of the previous Vice Chair's term.

Article V. Meetings

1. The CRB shall meet at the BART Board of Directors Room at the Kaiser Center on the second Monday of each month at 4:00 p.m. or at such other places, dates, or times designated by the Chair. Such meetings shall be designated regular monthly meetings. Other meetings called by the Chairperson or the Vice Chairperson and meetings scheduled for a time or place other than the regular meetings shall be designated special meetings.

Under Article V. Meetings (change address to)

The BPCRB shall meet at the BART Board of Directors Room at 2150 Webster St, Oakland, CA 94612 on the second Monday of each month at 4:00 p.m. or at such other places, dates, or times designated by the Chair. Such meetings shall be designated regular monthly meetings. Other meetings called by the Chairperson or the Vice Chairperson and meetings scheduled for a time or place other than the regular meetings shall be designated special meetings.

2. Meetings shall terminate two hours after the scheduled starting time. The time can be extended for separate periods of up to 30 minutes by a vote of the majority of the Appointed Members.
3. The Chair, or the Vice Chair, in the absence of the chair, (a) may, at his or her discretion, and (b) shall, at the request of a majority of the Appointed Members, call a special meeting. Such meetings shall be subject to the Brown Act's rules regarding notice and quorum.
4. Any Member of the CRB can send the Chair, or the Vice Chair in the absence of the Chair, a request to include an item on the agenda for the next regular meeting. The Chair, or the Vice Chair in the absence of the Chair, shall include all such items that are submitted no less than 14 days prior to the day of the next regular meeting.

Article VI. Parliamentary Authority

The rules contained in Alice Sturgis' *Standard Rules of Parliamentary Procedure*, 4th edition, shall govern the CRB in all cases to which they are applicable and in which they are not inconsistent with these Bylaws, any special rules of order, the Brown Act, the *Oversight Model*, or other BART policies or procedures. Proxy voting is not allowed.

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Article VII. Reports and Recommendations

1. A quarterly report will be presented to the BART Board of Directors and the public.

Change language to:

Article VII. Reports and Recommendations

A quarterly report will be presented to the BART Board of Directors and the public. The Chair, Vice-Chair and the Chair of the outreach sub-committee shall be designated as the members responsible for the writing of all reports. For all intents and purposes the 4th quarterly report will be the yearly report.

2. The CRB may make reports, findings and recommendations to the Independent Auditor, the Chief of Police, the General Manager or the BART Board of Directors as appropriate.
 - a. Findings and recommendations regarding discipline, corrective action or dismissal, shall only be made to the Chief of Police and the General Manager
3. When evaluating reports and investigation findings regarding allegations of misconduct CRB members shall make their decisions using the standard of clear and convincing evidence. The following are possible dispositions for allegations of misconduct:
 - a. Unfounded – The investigation clearly established that the allegation is not true, or that the complaint was frivolous per Penal Code section 832.5 (c).
 - b. Exonerated - The investigation clearly established that the act, which provided the basis for the allegation of misconduct, did occur but was justified, lawful, and proper.
 - c. Sustained – The investigation disclosed sufficient evidence that the act occurred and that it did constitute misconduct.
 - d. Not-Sustained – The investigation established that there is not sufficient evidence to either sustain the allegation or to fully exonerate the employee. This includes situations in which the reporting party and/or witness(es) fail to cooperate in disclosing information needed to further the investigation, or they are no longer available.
4. After determining that the allegation(s) of misconduct are sustained and when making recommendations for discipline, corrective action or dismissal, the CRB should consider the seriousness of the misconduct and any mitigating or aggravating circumstances such as the employee's years of service, past performance and disciplinary history.

Article VIII. Administrative Staff

The CRB shall utilize staff supplied as necessary by the Independent Auditor to carry out its functions as defined in the *Oversight Model*, Chapter 2-07 (D, I, and J).

Article VIII. Administrative Staff (Change language to)

The CRB shall utilize staff supplied as necessary by the District to carry out its functions as defined in the *Oversight Model*, Chapter 2-07 (D, I, and J).

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Article IX. Committees

1. Standing and special committees may be established by the Chair or by a majority of Voting Members at a meeting.
2. The Chairperson shall appoint the members of each committee, and the members of each committee may elect a chair.

Article X. Media Contacts

1. When responding to media or other public inquiries, members of the CRB 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. (BART Citizen Oversight Model Chapter 2-08)
2. Unless they are speaking in support of a recommendation or position that has been approved by a majority of the CRB, members should make it clear in any public statements that they are speaking as individuals and not as representatives of the entire board.
3. Whether a CRB member does or does not choose to respond to a media inquiry, the member should also consider referring the inquiry to the Chair/Vice-Chair, the Independent Auditor and the BART Public Affairs Office.

Article XI. Attendance at NACOLE Conference

The BART Board of Directors has budgeted/allocated funds for members of the Citizen Review Board to attend the National Association for Citizen Oversight of Law Enforcement (NACOLE) annual conference. Full and/or partial reimbursement for CRB member expenses will be based on BART standard administrative procedures and the following guidelines.

1. As soon as practical after the conference registration has been announced, the CRB chairperson will then poll the members to determine which members would like to attend. The chairperson shall determine the equal distribution of available funds (\$3,500 for FY 15/16) for any and all members who express interest and register for the conference.

2. The budgeted/allocated funds shall be used for reimbursement costs associated with conference attendance (including conference fees, transportation from the Bay Area to the conference, accommodations at the conference's designated hotel, or other similar hotel, and customary per diem

Change language to

Article XI. Attendance at NACOLE Conference

The BART Board of Directors has budgeted/allocated on a yearly basis funds for members of the Citizen Review Board to attend the National Association for Citizen Oversight of Law Enforcement (NACOLE) annual conference. Full and/or partial reimbursement for CRB member expenses will be based on BART standard administrative procedures and the following guidelines.

1. As soon as practical after the conference registration has been announced, the BPCRB chairperson will then poll the members to determine which members would like to attend. The chairperson shall determine the equal distribution of available funds for any and all members who express interest and register for the conference.
2. The budgeted/allocated funds shall be used for reimbursement costs associated with conference attendance (including conference fees, transportation from the Bay Area to the conference, accommodations at the conference's designated hotel, or other similar hotel, and customary per diem for meals.

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Article XII. Amendments of Bylaws

1. A proposal to amend these Bylaws shall be submitted in writing by any Member in time to be included in the agenda package for the next regular meeting of the CRB.
2. A motion to accept the amendment can be made by any Member at that meeting and shall be adopted if approved by two thirds of the Appointed Members and shall be forwarded to the BART Board of Directors for adoption

BART Citizen Review Board Bylaws. Originally adopted: 11/14/11. Amended:

1/9/12; 3/19/12; 6/10/13; 7/8/13; 3/10/14; 9/14/15; 2-12-18. Adopted as Amended on 9/26/19 Board of Directors meeting.

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