



OFFICE OF THE INDEPENDENT
POLICE AUDITOR
BAY AREA RAPID TRANSIT

MONTHLY REPORT

June 2024

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 **June 1, 2024 through June 30, 2024.**¹ *(The Quantitative Report includes all complaints received and administrative investigations initiated by both OIPA and the BART Police Department (BPD) Internal Affairs Bureau (IA)).*

QUANTITATIVE REPORT

	Cases Filed ₂	Open Cases ₃	Investigations Resolved	OIPA Investigations Concluded ₄	Cases Appealed to OIPA ₅	Cases Appealed by BPCRB ₆
June 2023	7	103	6	1	2	0
July 2023	18	106	7	1	0	0
August 2023	18	114	8	1	0	0
September 2023	11	115	11	1	0	0
October 2023	4	106	14	2	0	0
November 2023	6	109	3	0	0	0
December 2023	9	114	4	0	0	0
January 2024	5	107	10	1	0	0
February 2024	12	118	7	1	0	0
March 2024	11	116	9	2	0	0
April 2024	9	115	9	1	0	0
May 2024	16	123	8	0	0	0
June 2024	8	123	8	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	8
Informal Complaints ⁷	0
Administrative Investigations	0
Inquiries ⁸	0
TOTAL	8

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	5
BART Police Department	3
TOTAL	8

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During June 2024, **5 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #24-34) (IA2024-055)	Officers #1-3: <ul style="list-style-type: none"> • Bias-Based Policing • Force • Policy/Procedure • Performance of Duty 	OIPA initiated an investigation.	91
2 (OIPA #24-35) (IA2024-056)	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing • Policy/Procedure • Arrest/Detention 	OIPA initiated an investigation.	90
3 (OIPA #24-36) (IA2024-057)	Unknown Officer(s): <ul style="list-style-type: none"> • Policy/Procedure • Arrest/Detention 	OIPA initiated an investigation.	80
4 (OIPA #24-32) (IA2024-060)	Officers #1-3: <ul style="list-style-type: none"> • Performance of Duty • Arrest/Detention • Policy/Procedure Officers #1-2: <ul style="list-style-type: none"> • Force • Conduct Unbecoming an Officer 	BPD initiated an investigation.	77
5 (OIPA #24-29) (IA2024-064)	Unknown Officer(s): <ul style="list-style-type: none"> • Conduct Unbecoming an Officer • Performance of Duty • Policy Procedure 	OIPA forwarded the complaint to BPD, which initiated an investigation.	88

During June 2024, **3 Citizen Complaints (Formal)** were received by BPD:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-052)	Officer #1: <ul style="list-style-type: none"> • Force 	BPD initiated an investigation.	96

2 (IA2024-058)	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing • Policy/Procedure (Axon Camera) • Conduct Unbecoming an Officer • Policy/Procedure • Arrest/Detention 	BPD initiated an investigation.	77
3 (IA2024-059)	Officers #1-3: <ul style="list-style-type: none"> • Force 	BPD initiated an investigation.	77

During May 2024, **2 Citizen Complaints (Formal)** were received by BPD but not previously reported:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2024-053)	Officer #1: <ul style="list-style-type: none"> • Truthfulness • Performance of Duty • Conduct Unbecoming an Officer • Policy/Procedure (Axon Camera) 	BPD initiated an investigation.	101
2 (IA2024-054)	Officer #1: <ul style="list-style-type: none"> • Bias-Based Policing • Policy/Procedure (Axon Camera) • Conduct Unbecoming an Officer • Policy/Procedure • Arrest/Detention 	BPD initiated an investigation.	77

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During June 2024, **1 Citizen Complaint** was concluded by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (OIPA #23-31) (IA2023-079)	Officers engaged in bullying, intimidating, and threatening behavior and spoke about other BART employees in a derogatory manner. One officer engaged in favoritism and released confidential, protected information.	Officers #1-2: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer – Sustained • Policy/Procedure (Rumors/Bullying) – Sustained Officer #1: <ul style="list-style-type: none"> • Policy/Procedure (Release of Confidential Personnel Information) – Sustained • Workplace Discrimination / Harassment – Not Sustained • Favoritism – Exonerated • Supervision – Not Sustained 	392	296

During June 2024, **7 Citizen Complaints** were concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2023-059)	Officers did not properly respond to a crime.	Officers #1-2: <ul style="list-style-type: none"> • Performance of Duty – Unfounded 	434	346

2 (IA2023-060)	Officers refused to provide requested assistance because of complainant's race.	Officers #1-2: • Bias-Based Policing – Unfounded • Performance of Duty – Exonerated	431	341
3 (IA2023-062)	Officers used excessive force and failed to provide medical attention.	Officers #1-5: • Performance of Duty – Unfounded Officers #1-2: • Force – Exonerated Officer #3: • Force – Not Sustained	413	331
4 (IA2023-063)	Officer was aggressive and intimidating and threatened physical harm.	Officer #1: • Force – Exonerated • Conduct Unbecoming an Officer – Exonerated	427	345
5 (IA2023-064)	Officers were physically and verbally aggressive.	Officers #1-3: • Force – Exonerated • Conduct Unbecoming an Officer – Unfounded	422	340
6 (IA2023-067)	Officers did not document the handcuffing of a Welfare Check subject.	Officer #1: • Policy/Procedure (Documentation) – Sustained	415	327
7 (IA2023-047)	Officers used excessive force.	Officers #1-2: • Force – Administratively Closed ¹⁰	482	357

8 (IA2023-009)	Officer was verbally abusive and aggressive, failed to provide identification upon request, and failed to properly document a law enforcement contact. Two other officers failed to properly document the contact.	Officer #1: <ul style="list-style-type: none"> • Conduct Unbecoming an Officer (Count 1) – Sustained • Conduct Unbecoming an Officer (Count 2) – Not Sustained Officers #1-2: <ul style="list-style-type: none"> • Policy/Procedure (Axon Camera) – Sustained Officer #3: <ul style="list-style-type: none"> • Policy/Procedure (Axon Camera) – Not Sustained 	579	457*
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DISCIPLINE ISSUED DURING REPORTING PERIOD

During June 2024, BPD took the following actions in cases where one or more allegations of misconduct were sustained:

Case #	Nature of Sustained Allegation(s) †	Classification of Sustained Allegation(s)	Action Taken
1	Officer did not properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure (Body Worn Camera) 	Officer #1: <ul style="list-style-type: none"> • Oral Counseling¹¹
2	Officer engaged in bullying, dissemination of rumors/gossip, and other generally unacceptable conduct including speaking disparagingly about BPD employees and others.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure (Rumors/Bullying) • Conduct Unbecoming an Officer 	Officer #1: <ul style="list-style-type: none"> • Oral Counseling

*IA determined that this investigation was tolled for 264 due to an officer's unavailability.

†Some details regarding the nature of sustained allegations may be withheld to avoid unintentionally breaching mandatory confidentiality requirements. In some instances, the relative infrequency of the alleged misconduct may tend to allow for identification of the subject officer in violation of the applicable CA Penal Code section (832.7).

3	Officer refused to provide identification upon request and failed to properly document a law enforcement contact.	Officer #1: <ul style="list-style-type: none"> • Policy/Procedure (Body Worn Camera) • Conduct Unbecoming an Officer 	Officer #1: <ul style="list-style-type: none"> • Written Reprimand¹²
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In accordance with the BART Citizen Oversight Model (Model), OIPA investigates certain complaints, conducts complainant-initiated appeals, and 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	17
Complainant-Initiated Appeals	2
BPD-Initiated Appeals	0
Investigations Being Monitored	31
Investigations Reviewed During Current Month	22†

†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.

ISSUES DETECTED

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD.¹³ The OIPA Monthly Report will reflect information regarding monitored cases, investigations, and contacts with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during this period did generate some recommendations for revisions or additional investigation and these items will be compiled and included in a subsequent report.

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

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

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

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

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

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

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

⁸ BPD policy provides that if a person alleges or raises an issue that does not constitute a violation of Department policy, procedure, rules, regulations, or the law, the Department will classify the issue as an inquiry.

⁹ 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.

¹⁰ Administrative Closure is defined as follows in the BPD Policy Manual: 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 Oral Counseling (third level of pre-discipline): An oral counseling may be the next step of the informal process. It is documented in a memorandum to the employee entitled "Oral Counseling." Prior to issuance, the supervisor should discuss the performance or infraction in detail with the employee. The purpose of the discussion is for the employee to be made aware of the unacceptable behavior. An employee who is covered by a collective bargaining agreement and who may be issued an Oral Counseling is entitled to appropriate association representation. An Oral Counseling is pre-disciplinary, however, if the employee fails to correct the behavior, there will be cause to move to progressive discipline.

¹² Written Reprimand (first level of formal discipline): If there have been no re-occurrences at the end of the time frames as determined by the collective bargaining agreement (up to 3 years), the

immediate supervisor shall meet with the employee and advise him/her that the progressive discipline has become inactive and has been removed from the employee's personnel files.

¹₃ 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.