



BART Office of the Inspector General
2150 Webster Street, 4th Fl.
Oakland, CA 94612
T: 510-464-6141

Appendix 2

September 20, 2024

San Francisco Bay Area Rapid Transit
Board of Directors
Via District Secretary's Office

Dear Directors,

I respectfully encourage you to vote in favor of Independent Police Auditor, Russell Bloom's *Motion for Oversight Independence*. Doing so will solidify the Office of the Independent Police Auditor's (OIPA) independence by providing the office control over its budget, spending, and staffing, as is appropriate for oversight functions that do not report to management. It will also strengthen compliance with Section 1-08 of the BART Civilian Oversight Model, which states,

"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."

I also respectfully request that you extend Mr. Bloom's motion to cover the Office of the Inspector General (OIG) and other offices of Board Appointed Officials as may be appropriate. Like the BART Civilian Oversight Model, the OIG's professional standards require safeguarding against undue influence. Generally Accepted Government Auditing Standards (GAGAS) define undue influence as,

"influences or pressures from sources external to the audit organization [that] affect an auditor's ability to make objective judgments."

GAGAS explicitly cites "restrictions on funds or other resources" and interference with employee "assignment, appointment, compensation, and promotion" as examples of undue influence as they can be used to control an audit organization, thus affecting its ability to maintain impartiality without suffering negative consequences. To maintain public trust, it is best to establish safeguards against those possibilities before problems occur. Doing so provides assurances that auditors can observe integrity, objectivity, and independence in discharging their professional responsibilities to serve the public interest.

Currently, the District's administrative processes require Board Appointed Officials, such as the Independent Police Auditor and Inspector General, to seek approvals from the General Manager for certain OIPA and OIG spending and staffing decisions. By design, this creates the threat of undue influence. It is, therefore, in the District's best interest to establish an administrative process that guards against restrictions and interference that could arise under the District's current structure.

I would like to note that my support of Mr. Bloom's motion is not intended to imply that the OIG is experiencing problems. Rather, it is my duty to identify risks that threaten independence and take necessary precautions. It is also incumbent upon me as the Inspector General to support actions that bolster independent oversight.

Just as a refined administrative process should support independence, so should it ensure that independent offices are held accountable in the use of public funds. While approvals should shift to the independent offices, it remains crucial that they follow protocols that allow for compliance with the law and, as appropriate, BART rules and policies. For example, it would be prudent for independent offices to still use existing hiring practices that ensure competitive and fair recruitments and keep salaries within District approved pay bands. Likewise, budgets should be approved by the Board and based on the needs identified by the independent office. I am happy to assist in informing an administrative process designed with independent oversight in mind.

Voting in favor the proposed motion and my additional request will demonstrate the Board's commitment to the independent oversight desired by all BART stakeholders, including the Board itself. I thank you for this opportunity to express my support of Mr. Bloom's motion. He has been a tremendous supporter of mine and helped me navigate my role with the District when I was administering the duties of the Inspector General prior to my appointment and then as the newly appointed Inspector General. As you can imagine, those were challenging times, and I was and remain grateful for Mr. Bloom's steadfast support. I am now grateful to have this chance to provide him with my support.

With appreciation,
Claudette Biemeret



Inspector General



September 19, 2024

VIA E-MAIL ONLY

Board of Directors

BART

BoardofDirectors@bart.gov

Re: Supporting Independent Police Oversight

Dear Hon. Members of the Board of Directors:

I write on behalf of Secure Justice in support of a request and proposed motion to establish consistent and fair funding from the Office of the Independent Police Auditor (“OIPA”) scheduled for September 26.

Secure Justice is a non-profit organization located in the San Francisco Bay Area, California, that advocates against state abuse of power and for reduction in government and corporate overreach. We target change in government policy and contracting, and corporate complicity with government policies and practices that are inconsistent with democratic values and principles of human rights.

We strive to create municipal civilian oversight frameworks that provide the community with a meaningful voice and a seat at the table when crafting rules for the use of surveillance technologies, and the data collected from such use.

In 2015, I led an effort in Oakland to create the nation’s first municipal privacy commission, long considered the gold standard. I have chaired the commission since its inception in March 2016. Secure Justice helped San Diego enact the second privacy commission in the country, and we consulted on Chula Vista’s successful effort to follow with a privacy commission of its own.

Stating the obvious, independent oversight requires independence. We have personally witnessed countless times across the country with the many jurisdictions we work with, where the administration has interfered with, obstructed, or defunded oversight bodies so that, although they may continue to exist in name, they stop functioning in a meaningful manner.

We encourage you to consider the most important factor in this equation – the public. When administrative interference (by any means, including defunding) occurs, there is always a commensurate loss of faith in that entity. San Diego is a perfect example. After receiving two unanimous votes to enact a surveillance technology ordinance like yours, and a privacy commission like Oakland, a new mayor gave the board no resources of any kind, has prevented them from speaking to the press and quite often their own police department. Not one meaningful recommendation of the board has ever been adopted by the city council. As you

would expect, attendance at these meetings has plummeted, the media disappeared, and board members started resigning. To the public, it's been a complete farce.

Public safety is defined in many ways. In this specific context, many would define it as the absence of police misconduct. We all know the futility of self-regulation, whether it be a public entity or a private corporation. To ensure true accountability, and provide greater transparency and responsiveness to the public, an independent body needs to exist and be adequately resourced. For one example of under-resourcing, we have been informed that every other department head at BART has a deputy. This is a glaring inequality, and it tells the community that BART isn't committed to this office and its important mission.

It's also at least a potential conflict of interest when the boss of the police department is the same individual as the boss of OIPA, the general manager. Experts and laypeople alike will look at this as being problematic at best.

As the conservative movement of the past few decades has shown us, there are many ways to "starve the beast." The general manager could refuse to sign off on expenses, cut staffing, prevent ongoing continuing education and training efforts, and reduce OIPA's budget to a point where they can no longer fulfill their mission.

OIPA has made a very reasonable request, and it demonstrates that they acknowledge and share the Board's concerns about BART's current financial condition. By only seeking a tiny allocation equal to 1.5 percent of the police department's budget, your hands are not tied to any particular threshold which could cause great harm if the "fiscal cliff" becomes a reality. It is quite probable that you will need to make some very tough budgetary decisions in the near future, which could include reducing your police department's budget – and this would also reduce OIPA's budget in a corresponding manner.

As you know, in politics, perception can outweigh reality. BART has come a long way since the Oscar Grant era, but there have been some significant civil rights claims since then. If the public sees interference or defunding of OIPA, BART will lose credibility. This will negatively impact the police department itself, because the public may infer that the police now routinely get away with misconduct while suffering no consequences. Whether that's reality is secondary.

We respectfully request your support of OIPA's request. It's to the benefit of all of BART, and it's customers.

Sincerely,



Brian Hofer
Executive Director
(510) 303-2871
brian@secure-justice.org
<https://secure-justice.org/>
San Francisco Bay Area, CA



September 13, 2024

Board of Directors
San Francisco Bay Area Rapid Transit District
P.O. Box 12688
Oakland, CA 94604-2688

Dear BART Board of Directors,

We reach out today on behalf the National Association for Civilian Oversight of Law Enforcement (NACOLE) to express our support for any efforts to enhance independent civilian oversight of law enforcement. NACOLE is a not-for-profit 501(c)(3) association of law enforcement agencies, oversight practitioners, and supporters of civilian oversight that works to enhance accountability and transparency in law enforcement and build community trust through civilian oversight.

The first principle of effective civilian oversight of law enforcement is independence. Among the thirteen, it is one of the most important and defining concepts and speaks to the need for structural, political, and organizational independence. It allows for oversight to exist free from the real or perceived influence of law enforcement, elected officials, or others who may want to have influence over the oversight process. It allows for an oversight agency to build legitimacy and allow them to act impartially, fairly, and in a manner that maintains the trust of all stakeholders. The *Motion for Oversight Independence* to the BART Board of Directors (Board) that the Bay Area Rapid Transit (BART) Independent Police Auditor (IPA) is submitting for a vote on September 26, 2024, is consistent with this principle and its passage will allow for the IPA to operate more effectively. The *Motion for Oversight Independence* provides true independence to BART's Office of the Independent Police Auditor (OIPA) consistent with the BART Civilian Oversight Model. This motion places budget and staffing control with the Independent Police Auditor. If the Board approves the motion, OIPA will get full control over its budget, removing the general manager and his direct reports from budgetary decisions and interference with the independence of OIPA.

Community trust and public safety for all riders is bolstered when OIPA independently investigates police misconduct allegations, reviews police department investigations, makes policy recommendations to improve the performance of the police department, reviews uses of force, and communicates regularly and reliably with the public. To do this work effectively and sustainably, the OIPA must have adequate staff and resources to carry out its mandate. The *Motion for Oversight Independence's* provision that automatically allocates an amount equal to 1.5% of the BART Police Department (BPD) budget to OIPA and, therefore, will allow for the staff and resources necessary.

Supporting OIPA's independence and its ability to more effectively carry out its mandate will increase police accountability and improve relationships between the police and all the communities that BART

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E-mail: info@nacole.org ♦ Website: www.nacole.org

serves. Passing this motion is an opportunity for the Board to invest in OIPA which provides objective and just oversight that values all BART riders.

NACOLE believes that the *Motion for Oversight Independence* is key to maintaining robust and effective oversight of BPD. The passage of this motion will support the key principles of effective civilian oversight of law enforcement and will support OIPA's important and necessary work.

Sincerely,

Handwritten signature of Anthony Finnell in blue ink.

Anthony Finnell
President
NACOLE

Handwritten signature of Cameron McElhiney in blue ink.

Cameron McElhiney
Executive Director
NACOLE

Board of Directors:

Īa Tanyua Brown-Thompson
President

Vacant
1st Vice President

Cri Campbell Schine
2nd Vice President

Secretary
Sangeeta Golani

Jeremy Taubman
Treasurer

Don Green
Director

Al Farmer
Director

John Gallagher
Director

Emily O'Connor
Director

Angela Ferguson
Director

Rena Moore
Director

Gigi R. Crowder
Chief Executive Officer

September 18, 2024

Supporting Independent Police Oversight at BART

Dear BART Board of Directors,

We at NAMI CC are pleased to support the Bay Area Rapid Transit BART Independent Police Auditor as they submit a motion for oversight independence. It's our understanding that this vote will take place on 9/26/2024. The motion is necessary for improving the riding experience and safety for all riders but at NAMI CC we are especially interested in the positive changes it could product for those living with mental illness. We are an agency birthed from advocating for what makes sense and benefits the masses. We agree with the Independent Police Auditor and don't believe the General Manager should interfere with the operations, and budget allocations, spending or staffing.

Supporting OIPA's independence will increase police accountability and improve relationships between the police and all the communities that BART serves. Let's remember, in response to the killing of Oscar Grant by a BPD officer on New Year's Day in 2009, the BART Board took decisive and proper action in 2011 and created OIPA to be independent. The BART Civilian Oversight Model prohibits anyone from undermining the independence of OIPA. Passing this motion is an opportunity for the Board to invest in OIPA which provides objective and just oversight that values all BART riders.

Having worked closely with OIPA over the last few years to champion lifesaving and honoring polices that benefit those impacted by behavioral health challenges. We are fully confident the OIPA with more independence will enhance the civil rights of those we at NAMI CC are charged with supporting. If you have any further concerns are need clarification about anything, please contact me at Gigi@namicontracosta.org.

Sincerely,



Gigi R. Crowder
CEO
NAMI Contra Costa
510-990-2670



September 19, 2024

Board of Directors
San Francisco Bay Area Rapid Transit District
P.O. Box 12688
Oakland, CA 94604

Dear BART Board of Directors,

I served in the BART Police Internal Affairs Unit for over six years, beginning just months after the tragic death of Oscar Grant. I worked for both Chief Kenton Rainey and Chief Carlos Rojas. During my tenure, the Office of Independent Police Auditor (OIPA) was established and structured. I was initially apprehensive and skeptical with the concept of civilian oversight, but over time I gained an appreciation for the important role that OIPA played in the reform of BART Police into a modern, progressive department.

In my opinion, the existence of OIPA assisted and motivated the Police Department to adopt progressive policy and to conduct thorough Internal Affairs investigations. Over time, the BART OIPA built a strong reputation of professionalism and objectivity.

I have more collective experience with OIPA than any other BART Police employee, former or current. Based on my observations, I believe that Russell Bloom and his staff are inherently and intentionally more objective regarding police policy and personnel issues than BART Police Internal Affairs and department or district leadership. OIPA is able to maintain objectivity through their independence; they are not subject to ties of personal relationship, bargaining unit pressure and/or fiscal consequence.

A key to objectivity for OIPA is their autonomy. I believe that an increase in autonomy for OIPA through *The Motion for Oversight Independence* will result in enhanced independence, continued objectivity and further progress for both OIPA and the BART Police Department.

Sincerely,

A handwritten signature in blue ink that reads "Lance Haight".

Lance Haight
Chief of Police



POLICE



September 19, 2024

Dear BART Board members,

The Coalition for Police Accountability (CPA) has placed two initiatives on Oakland ballots which were both approved by over 80% of voters. The issues before the BART Board are very similar to the issues that we have faced in Oakland. We urge you to support police oversight that follows the recognized best practices.

Oversight must have structural independence both to achieve genuine oversight but also, not insignificantly, to have the confidence of residents. We continue to hear disturbing reports of uses of force, especially against Black and Brown men, by BART police.

We hope you will strengthen the independence of the Office of the Independent Police Auditor so we can encourage people to file reports of such instances they experience or witness and so we can credibly assure them that the process is genuinely free of influence from BART management and BART police. Thank you for your service in ensuring that we have a vibrant public transportation system. Thank you also for your commitment to transparent and independent oversight to ensure constitutional policing.

Millie Cleveland Chair, Steering Committee

Coalition for Police Accountability



LONDON BREED
MAYOR

CITY AND COUNTY OF SAN FRANCISCO
Department of Police Accountability
ONE SOUTH VAN NESS AVE., 8th FLOOR
SAN FRANCISCO, CA 94103



PAUL DAVID HENDERSON
EXECUTIVE DIRECTOR

Dear BART Board of Directors:

The Bay Area Rapid Transit (BART) Independent Police Auditor is submitting the *Motion for Oversight Independence* to the BART Board of Directors (Board) for a vote on September 26, 2024. This motion is necessary for improving the safety of all BART riders. The *Motion for Oversight Independence* provides true independence to BART's Office of the Independent Police Auditor (OIPA) consistent with the BART Civilian Oversight Model. Right now, BART's general manager can interfere with OIPA's operations, efficacy, and authority and he is allowed to make decisions about OIPA's budget allocation, spending, and staffing. This motion places budget and staffing control with the Independent Police Auditor. If the Board approves the motion, OIPA will get full control over its budget, removing the general manager and his direct reports from budgetary decisions and interference with the independence of OIPA.

Community trust and public safety for all riders is bolstered when OIPA independently investigates police misconduct allegations, reviews police department investigations, makes policy recommendations to improve the performance of the police department, reviews uses of force, and communicates regularly and reliably with the public. As a result of the increased police staffing and resources, which was more than \$8.5 million in addition to the regular allocated BART Police Department (BPD) budget in 2023, OIPA's police oversight work has increased, but without the necessary infusion of additional funding and human resources. That imbalance does not represent a commitment to robust oversight and accountability.

The *Motion for Oversight Independence* includes a provision that automatically allocates an amount equal to 1.5% of the BART Police Department (BPD) budget to OIPA, an increase from the current 1.07% that the general manager allocates to OIPA. This proposal would provide OIPA with the necessary resources to fulfill its mandate under the Civilian Oversight Model, and results in an additional \$720,000 annually to OIPA's budget. This increase is necessary to cover the cost of adding a deputy position at OIPA and ensuring that OIPA is adequately resourced to fulfill its mandate. OIPA is responsible for investigating, reporting publicly, and creating awareness so that riders can find OIPA if they have a question or concern about BART police officer activities.

Supporting OIPA's independence will increase police accountability and improve relationships between the police and all the communities that BART serves. In response to the killing of Oscar Grant by a BPD officer on New Year's Day in 2009, the BART Board took appropriate action in 2011 and created OIPA to be independent. The BART Civilian Oversight Model prohibits anyone from undermining the independence of OIPA. Passing this motion is an opportunity for the Board to invest in OIPA which provides objective and just oversight that values all BART riders.

An independent OIPA with an increased budget and appropriate staffing will continue to improve policing at BART, enhance external and internal accountability systems, and help to improve relationships between BART and the communities BART serves. For over ten years, OIPA has taken the issues of police accountability and community trust seriously. The general manager has not supported



LONDON BREED
MAYOR

CITY AND COUNTY OF SAN FRANCISCO
Department of Police Accountability
ONE SOUTH VAN NESS AVE., 8th FLOOR
SAN FRANCISCO, CA 94103



PAUL DAVID HENDERSON
EXECUTIVE DIRECTOR

independent civilian oversight to the same degree that he has supported massive increases to police funding and activities. The *Motion for Oversight Independence* is key to maintaining robust and effective oversight of BPD. Passing this motion is needed to support OIPA's work and to ensure that BPD and its officers comply with internal policies and the law, and that the civil rights of all riders are protected. Thank you for voting yes on the *Motion for Oversight Independence*.

Sincerely,

A handwritten signature in blue ink that reads "Paul Henderson".

Paul David Henderson
Executive Director



17 September 2024

Dear BART Board of Directors,

On December 23rd of 2020, my son, Angelo Quinto, was asphyxiated to death by Antioch Police Officers while suffering a mental health crisis. He was not under any common substances of abuse, he was not armed, and he was not violent. He was held in a prone position while two Antioch Police Officers applied their weight to his handcuffed body for over ten minutes. When officers finally released him, he was blue in the face with blood coming out of his mouth, his eyes rolled up in his head, and he would never breath on his own again. While he remained in a coma with negligible brain activity for 2 1/2 days following the excessive restraint, it was clear that for all intents and purposes, he had died in our home. Despite the evidence, Angelo's death was blamed on the now debunked, unscientific diagnosis, "excited delirium."

Since his death, we have worked to achieve positive change to help ensure that other families and community members don't have to experience the same injustices.

We have been fortunate to have been inspired by, and to have worked with, the family of Oscar Grant among many others, and we have also been fortunate to have had the opportunity to work with the BART Office of the Independent Police Auditor (OIPA) on reforms related to "excited delirium." We have been impressed by OIPA's initiative to enact necessary change of their own accord. We very much value and support the work that OIPA has done, and we believe it has been central to having BART become a leader in the area of restoring public trust amongst the communities it serves.

Our nation faces a crisis of legitimacy of our government institutions and --specifically -- of our police departments. This is largely the result of obvious abuses of power, often recorded by video, whilst the same such entities continue to operate without accountability. Additionally, if investigations are conducted, they often lack objectivity and transparency, and they certainly lack independence. Independent civilian oversight is very important in restoring public trust in policing institutions.

We strongly believe that in order to have an “Independent” Police Auditor, one must have full independence, including budgetary. Independence is a central key to public trust, and as its name suggests, we believe OIPA should be fully independent so that it can continue with its important work on community trust and with impacted families.

Thank you for having the foresight to create the OIPA in 2011, and thank you for leading in this important area by giving OIPA full independence.

Sincerely,



Cassandra Quinto-Collins
Co-Executive Director
Co-Founder

BART's Office of the Independent Police Auditor (OIPA)
MOTION FOR OVERSIGHT INDEPENDENCE

The importance of an approval by the BART Board of Directors of the Motion for Oversight Independence cannot be overemphasized. The Independent Police Auditor must have complete control over its budget and staffing without allowing for any interference from the General Manager as well as sufficient resources to fulfill its mandate under the civilian oversight model.

The additional funding included in the Auditor's motion will further strengthen the OIPA's ability to investigate police misconduct allegations, review police department allegations, make policy recommendations and effectively communicate these responsibilities to the public.

A parallel to this strengthening of an oversight agency can be seen in the evolution of the Oakland Police Commission with the addition of an independent Office of Inspector General and its own legal counsel, both of which were vigorously opposed by the City Administration and City Attorney. Winning these struggles resulted in increased police accountability and improved relationships and trust between the Oakland Police Department and the community. The passing of the Motion for Oversight Independence, in our opinion, will do the same for BART. We strongly urge its passage.

Oakland Latino Task Force

From: [John Alden](#)
To: [Sarah Celso](#)
Subject: FW: Support Independent Civilian Oversight at BART
Date: Tuesday, September 17, 2024 9:56:13 PM

Dear BART Board of Directors:

I am a practitioner of oversight here in the Bay Area and a BART rider for over 30 years. I have worked for and led police oversight agencies in San Francisco, the City of Oakland, and the County of Sonoma over the last 15 years. I write to support the *Motion for Oversight Independence*, and ask that you vote for it.

Police oversight agencies like the BART Independent Police Auditor only succeed in building community trust in law enforcement when they are both **seen** as independent from the police they audit, and actually **are** independent from the police they audit. Independence is seen and actual in several ways, but none more important than budgeting. Oversight agencies need ongoing, consistent funding adequate to meet the mission described in their authorizing statute. That budgeting must remain consistent over time in order to ensure consistent service and retain quality staff in this very challenging field. Moreover, they must have independent authority as to how to spend that funding. Otherwise, the temptation to prioritize policing priorities over oversight is just too great in most institutions.

I understand that the *Motion for Oversight Independence* creates this funding independence, which I believe is essential to ensure both the perceived and actual independence of the IPA. I hope you'll support this motion.

John Alden

September 17, 2024

Board of Directors
San Francisco Bay Area Rapid Transit District
P.O. Box 12688
Oakland, CA 94604-2688

Dear Board of Directors:

I am writing in support of the Bay Area Rapid Transit (BART) Independent Police Auditor's (IPA) Motion for Oversight Independence. I approach this letter most directly as a resident of the Bay Area who uses the BART system, but also as a law professor who teaches courses on policing and the U.S. Constitution and as an experienced practitioner who has worked on policing-related issues as a prosecutor, defense attorney, and consultant. This collective experience underlies my firm support of the IPA's Motion.

One of the key metrics of effective civilian oversight, and really any government enterprise, is access to consistent funding without interference and the independence to make hiring and staffing decisions to fulfill its mandate.¹ The IPA's ability to fulfill its mandate - to conduct objective, independent investigations into alleged police misconduct, audit BART Police investigations, provide policy recommendations, and engage in meaningful stakeholder outreach - is directly linked to its funding via the budget each year. This motion, which creates a budget tie to 1.5% of the BART Police Department's annual budget, will allow the IPA to conduct its essential oversight mission without potential interference, removes a layer of unnecessary bureaucracy, and allows for fiscal consistency to engage in strategic hiring.

Funding issues have impacted the efficacy of a number of civilian oversight entities across the country. At a time when the very concept of civilian oversight is under attack², the Board of Directors has a clear opportunity to provide stability and demonstrate the importance of a key oversight entity in the Bay Area. It should approve the IPA's Motion for Oversight Independence.

Sincerely,

/s/

Andrew Lah

¹ See e.g. <https://www.nacole.org/principles> ("Political stakeholders must ensure that their support for civilian oversight includes a sustained commitment to provide adequate and necessary resources.")

² <https://www.cbsnews.com/miami/news/tyreek-hill-incident-florida-law-civilian-police-oversight>

September 23, 2024

San Francisco Bay Area Rapid Transit District
Board of Directors
P.O. Box 12688
Oakland, CA 94604-2688

Dear Members of the BART Board of Directors,

As BART's first-ever Independent Police Auditor, I am respectfully submitting this letter to convey my robust support for strengthening the civilian oversight of law enforcement within BART. Effective civilian oversight is a critical tool in ensuring accountability on the part of police departments, and it also serves to improve the overall quality of policing by law enforcement agencies as they strive to achieve the goal of reducing the incidence and fear of crime. Successful oversight provides a police department with an invaluable pair of fresh eyes, which bring with them the highly specified knowledge and expertise to identify areas of risk and chart a course toward appropriate solutions that will help the department function properly -- in the service of all members of the community. In this way, civilian oversight at BART helps make its police department better for the vibrantly and proudly diverse constituency that makes up the Bay Area.

However, in order to be in position to accomplish these immeasurably important outcomes, civilian oversight must be sufficiently resourced, and it must be afforded its due independence. The absence of proper funding curtails the very benefits that civilian oversight is meant to provide and, therefore, works in direct conflict with the implementation of oversight in the first place; and without the presence of systemic protections that safeguard its independence, civilian oversight is left open to challenges to its ability to carry out its work objectively. Either of these circumstances may ultimately doom an oversight agency to failure, and the presence of both circumstances may only accelerate that fate.

As such, both sufficient funding and suitable independence for BART's Office of the Independent Police Auditor (OIPA) must be provided by the Board of Directors in order to most effectively serve the interests of all of the varied constituencies that make up the BART community -- including both the ridership and the police department. Of course, the converse is also true: the absence of appropriate funding and/or the requisite independence for the OIPA signifies a decision by the Board of Directors to not put the interests of BART's hundreds-of-thousands of diverse riders and other constituents first

when it comes to the highly impactful matter of policing. Further, it does a disservice to the overall health of the police department itself.

I therefore urge you to take whatever steps are necessary to strengthen the civilian oversight of law enforcement at BART, including by ensuring it has the resources and independence it needs to deliver the immeasurable benefits it was designed to provide.

Very respectfully,

Mark P. Smith
Former BART Independent Police Auditor

DAVID W. RIZK

September 20, 2024

Board of Directors
San Francisco Bay Area Rapid Transit District
P.O. Box 12688
Oakland, CA 94604-2688

Dear BART Board Members,

I am the BART CRB member for District 8 (San Francisco), and I have served on the CRB for nearly ten years. I am also a practicing attorney with substantial experience in oversight, including in San Francisco.

I write to support the OIPA's Motion for Oversight Independence. I agree with NACOLE's letter, that the first and arguably most important principle effective civilian oversight of law enforcement is independence. Without that, effective oversight is potentially compromised. Budgetary control of an oversight entity should never rest with the administration that is regulated or overseen.

Put another way, if an oversight entity like OIPA is funded by the same authority—here, the General Manager's Office—that controls the police department, there is always a risk that the oversight entity's purpose and activities may be limited or subject to interference via budgetary an staffing decisions. Whether or not interference in fact occurs, the possibility or appearance of potential interference is enough to undermine public trust in civilian oversight.

Public trust and public safety is greatly improved by creating structural independence and by granting OIPA's Motion. For nearly a decade stretching back to the tenure of the prior Independent Auditor, I have observed that OIPA has always provided extremely high-quality investigation and oversight of the police department for BART. OIPA should be treated like every other board-level office at BART, and granted its own budget, deputy and assistant staff, etc.

Rejecting OIPA's Motion would send a terrible message to the community, namely, that BART no longer remembers or honors the legacy of Oscar Grant and the changes that were made by the state authorities in his memory. Rejecting OIPA's Motion would send the unmistakable message to the community that BART does not prioritize accountability, transparency, and independent oversight for law enforcement. Rejecting OIPA's Motion would completely undermine BART's commitment to anti-racism.

For all these reasons, I strongly urge you to grant OIPA's Motion.

Respectfully,



David W. Rizk

September 24, 2024

Board of Directors

San Francisco Bay Area Rapid Transit District

P.O. Box 112688

Oakland, CA 94604

This letter is submitted in support of the "Motion for Oversight Independence", which is being brought forward by the Office of the Independent Police Auditor (OIPA).

I have worked in the field of Citizen Oversight for 40 years. I served as a Founding Board Member and Past President of the International Association for Civilian Oversight of Law Enforcement (IACOLE), established in 1984. I also served a Founding Board Member of the National Association for Civilian Oversight (NACOLE), established in 1994.

Here in California, I was hired to create and establish Citizen Police Oversight agencies in Richmond, San Francisco and Sacramento. All of these agencies are still functioning today. What is quite clear is that one of the reasons that they have survived is because they were independent and received adequate funding. Agency funding must be separate from the Police Department.

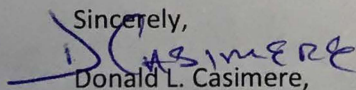
Prior to the establishment of the BART Citizen Oversight Model several years ago, I served as a consultant to BART on Police Accountability issues. I attended meetings of the BART Board of Directors, and many meetings with various stakeholder & community groups. Here we are now, exploring ways to improve the effectiveness of the OIPA.

Best practices suggest that one way to increase effectiveness of oversight agencies is to make certain that they are adequately funded. It is important that this funding be independent. This funding should never be impacted adversely by the Police Chief or the General Manager, and/or their surrogates.

Funding for the Oversight agency should also increase, as the Police Department budget increases.

I fully support all of the recommendations put contained in the Motion for Oversight Independence.

Sincerely,


Donald L. Casimere,

Police Accountability Advocate and Consultant

September 26, 2024

Dear BART Board of Directors:

The Bay Area Rapid Transit (BART) Independent Police Auditor is submitting the Motion for Oversight Independence to the BART Board of Directors (Board) for a vote on September 26, 2024. This motion is vital for improving the safety of all BART riders. In response to the killing of Oscar Grant by a BPD officer on New Year's Day in 2009, the BART Board took appropriate action in 2011 and created OIPA to be independent. The BART Civilian Oversight Model prohibits anyone from undermining the independence of OIPA.

The Motion for Oversight Independence provides a pathway for true independence for BART's Office of the Independent Police Auditor (OIPA), consistent with the BART Civilian Oversight Model. Currently, BART's general manager can leverage authority on the day-to-day operations within OIPA's procedures, efficacy, and authority. This model allows the general manager to make decisions about OIPA's budget allocation, spending, and staffing.

The requested motion will allow OIPA the autonomy over their budget and staffing, without undue influence. With the board's approval, OIPA will gain sole oversight of its budget. Removing the general manager and his direct reports from budgetary decisions will provide more impartiality in the process and credibility in the OIPA.

Community trust and public safety for riders is strengthened when independent investigations regarding police misconduct allegations are completed, reviews into police department investigations are initiated, and policy recommendations are submitted. The increase of approximately \$8.5 million in addition to the regular allocated BART Police Department (BPD) budget in 2023, OIPA's means police oversight work will continue to increase. That imbalance does not represent a commitment to robust oversight and accountability. The Motion for Oversight Independence includes a provision that automatically allocates an amount equal to 1.5% of the BART Police Department (BPD) budget to OIPA, an increase from the current 1.07% that the general manager allocates to OIPA. This proposal would afford OIPA with the required resources to accomplish its mandate under the Civilian Oversight Model. Supporting OIPA's independence will lend more credibility to police accountability and improve relationships with the police and communities.

Supporting this motion is an opportunity for the Board to invest in OIPA which provides objective and just oversight that values all BART riders. An independent OIPA with an increased budget and appropriate staffing will continue to improve policing at BART, enhance external and internal accountability systems, and help to improve relationships between BART and the communities BART serves.

Thank you for voting yes on the Motion for Oversight Independence and your continued support for independent, impartial police oversight.

All the Best,

Michelle N. Phillips

Michelle N. Phillips
Director of Civil Rights
City of Minneapolis



Independent Civilian Oversight of BART Police

Support Independent Police Oversight at BART

The BART Independent Police Auditor is presenting a *Motion for Oversight Independence* (Motion) to the BART Board of Directors (Board) for a vote on September 26, 2024. This motion is necessary for improving the performance of the BART Police Department (BPD) in order to provide for the safety of all BART riders.

The Motion provides true independence for the BART Office of the Independent Police Auditor (OIPA), consistent with the BART Civilian Oversight Model (Model). If the Board approves this motion, OIPA will have full control over its budget spending decisions, removing the BART General Manager (GM) and the GM's direct reports from OIPA budgetary decisions and limiting opportunities for interference with the independence of OIPA.

Community trust and public safety for all riders are bolstered when OIPA independently investigates police misconduct allegations, reviews police department investigations, reviews uses of force, makes policy recommendations to improve the performance of the police department, monitors the quality of Internal Affairs investigations, and communicates regularly and reliably with the public.

As a result of the increased police staffing and resources, and increased deployment of BPD officers OIPA's police oversight work has increased absent the necessary infusion of additional funding and human resources. That imbalance does not represent a commitment to robust oversight and accountability.

The Motion includes a provision that allocates an amount equal to 1.5% of the BART Police Department (BPD) budget to OIPA, an increase from the current 1.07% established by the GM. This proposal would provide OIPA with the necessary resources to fulfill its mandate under the Citizen Oversight Model and is necessary to cover the cost of adding an additional staff position for OIPA.

In response to the killing of Oscar Grant by a BPD officer on New Year's Day in 2009, the BART Board took appropriate action in 2011 and created OIPA to be independent and the Model prohibits anyone from undermining the independence of OIPA.

Passing this motion is an opportunity for the Board to invest in the sustainability and performance of OIPA which provides objective and just oversight that values all BART riders.

The passage of this motion is necessary to support OIPA's work and to ensure that BPD and its officers comply with BPD policies and the law, and that the civil rights of all riders are guarded.

Thank you in advance for supporting the Motion and showing up for the vote on September 26 at 9:00 AM at 2150 Webster Street or via Zoom at: <https://us06web.zoom.us/j/87308941165>

We hope you will consider showing your support by speaking during [public comment](#) either in person or via Zoom.



Independent Civilian Oversight of BART Police

You can also write a letter and submit it to OIPA@bart.gov before the vote and OIPA will present all letters to the Board directly. Finally, if you are unable to send a letter, please sign [HERE](#) to add your name to the list of supporters.

List of Supporters:

Support of the Motion of Oversight Independence at BART

Name of Authorized Representative or Individual Signee	Organization/Agency Name (optional)	Date Signed
Mike Vitoroulis		Sep 27, 2024
Cat Brooks	Anti Police Terror Project	Sep 25, 2024
Barbara Attard	Accountability Associates	Sep 24, 2024
Alethea Brewer		Sep 24, 2024
Hansel Aguilar	(City of Berkeley, CA) Office of the Director of Police Accountability	Sep 23, 2024
Josephine Smedley		Sep 23, 2024
Christina Krea Gomez		Sept 04, 2024



Independent Civilian Oversight of BART Police

List of Public Comments and Support from the September 26, 2024, BART Board of Directors Meeting regarding OIPA's Efforts to Enhance Police Oversight Independence and Public Safety for All Riders: Proposal for Establishing Independent Budget Control for the Office of the Independent Police Auditor (OIPA) and Increasing the OIPA's Budget and Staffing.

Eddie Aubrey
Brian Hofer
Anne Janks
Cassandra Quinto-Collins
Robert Collins
Millie Cleveland
Reverend Wanda Johnson
Barbara Attard
Hansel Avila
Rashidah Grinage
Cephus Johnson