

BART CIVILIAN REVIEW BOARD BYLAWS

Definitions

Capitalized terms in these Bylaws are defined as follows:

1. *Oversight Model* – The *BART CIVILIAN OVERSIGHT MODEL* adopted by the BART Board of Directors as of January 13, 2011.
2. BPCRB - The Civilian 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 BPCRB, 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.

Introduction

The BPCRB 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.

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.

Article II. Functions

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

1. To receive civilian 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

BPCRB 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 BPCRB, 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 BPCRB 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.

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 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 processes.

c. At that meeting of election, if no candidate for an office receives a majority of the Voting Members' votes, 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 votes. The results of each round of voting 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, 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 BPCRB 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 BPCRB.
- e.* Represents the BPCRB before the BART Board of Directors.
- f.* Approves and signs BPCRB reports to the BART Board of Directors.
- g.* Schedule periodic meetings with BPMA & BPOA
- h.* Performs other duties necessary or customary to the office.

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 BPCRB, with the newly elected Vice Chair to serve the remainder of the previous Vice Chair's term.

Article V. Meetings

1. 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.

Proposed Bylaw: Training Requirements New Article VII

Within the first six (6) months of appointment, each Board member shall receive training on the following:

- Principles of Oversight
- Quasi-judicial duties and obligations of the Board, Brown Act
- The Public Safety Officers Procedural Bill of Rights Act
- Police Department operations, policies, practices, and procedures
- Ride-Alongs, tour of BART stations and Police headquarters

Additionally, on a yearly basis, the following training topics must be placed on the agenda by the BPCRB:

- Office of the Independent Police Auditor investigations and complaint process
- BART Police Department (BPD) Internal Affairs investigation and complaint process
- BPD Crisis Intervention training (CIT)
- BPD Use of Force training and investigation process
- Ride-alongs

The BPCRB may place on the agenda for discussion and action any additional training it deems germane to its functions. The BPCRB may engage an outside contractor, if needed, for subject matter training by experts in the field. All scheduled training must be performed during the same fiscal year to coincide with the budgetary process.

The BPCRB will work closely with the DSO, BART Police Department and the Office of Independent Auditor (OIPA) on any other training topics.

Article VII. Reports and Recommendations

1. 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 BPCRB 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.

Proposed Bylaw: Under Article VII Closed Session – Duties and Responsibilities (Dissenting Memo)

To provide clarity, procedural fairness, and a structured method for expressing minority positions during closed session votes, the BPCRB proposes the following addition to Article VII:

Closed Session – Dissenting Memo Procedures

A. Eligibility and Purpose

A CRB member who votes in the minority regarding acceptance or non-acceptance of OIPA Findings and Recommendations may submit a **Dissenting Memo** explaining the basis of their dissent.

B. Notice During Closed Session

- At the time of the vote, dissenting members must state whether they intend to submit a memo.
- The CRB Chair shall notify the Chief of Police of the forthcoming memo immediately after the closed session.

C. Preparation of the Memo

- Each dissenting member may prepare an individual memo, or multiple dissenting members may collaborate on a joint memo.
- All memos shall be designated **confidential** and shall not be released to the public.

D. Distribution Timeline

- Within **7 calendar days** of the vote, the memo shall be distributed to:
 - Chief of Police
 - Independent Police Auditor
 - All CRB members
- If the CRB majority appeals the OIPA Findings and Recommendations, the CRB Chair shall additionally distribute the dissenting memo to the **General Manager**.

E. Use of the Memo

- The Chief of Police or the General Manager may consider the memo when determining possible actions regarding the involved BART Police Department employee.

F. Clarifications

- If clarification is needed, dissenting member(s) shall make themselves available to respond to questions from the Chief of Police or General Manager.

Article VIII. Administrative Staff

The BPCRB 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).

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 BPCRB 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 Civilian 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 BPCRB, 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 BPCRB 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.

Proposed Bylaw: BPCRB Funding Request, Allocation, and Disbursement: New Article XI

To enhance transparency and fiscal accountability, the BPCRB shall implement a structured, public-facing annual process aligned with the District's fiscal year.

A. Annual Funding Request

- The BPCRB shall agendize a public discussion and action item regarding funding needs for the upcoming fiscal year.
- Upon approval, the Chair will send the BART Board a formal letter detailing:
 - Proposed funding levels
 - Justification for changes from the prior year
 - A breakdown of prior fiscal year expenditures and disbursements

B. Allocation and Disbursement Plan

After funding approval:

- The BPCRB will agendize a detailed plan for allocation and disbursement.
- The plan will include funding for:
 - NACOLE annual conference
 - Training programs
 - Community outreach
- If expenditures fall below the approved budget, the BPCRB may agendize reallocation before fiscal year end.

C. Collaboration and Fiscal Oversight

- The BPCRB will work closely with the DSO on expenditure planning and disbursement processes.
- The BPCRB will exercise fiduciary responsibility in all funding matters.

Article XI. Attendance at NACOLE Conference

The BART Board of Directors has budgeted/allocated on a yearly basis funds for members of the BART Police Civilian Review Board to attend the National Association for Civilian Oversight of Law Enforcement (NACOLE) annual conference. Full and/or partial reimbursement for BPCRB 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. 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.
3. 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 in meals).

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 BPCRB.
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