

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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## MEMORANDUM

**TO:** Board of Directors **DATE:** November 27, 2024  
**FROM:** General Manager  
**SUBJECT:** Periodic Review of the BART Citizen Oversight Model - 2024

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On December 5, 2024, the Board of Directors will be presented with proposed modifications to the BART Citizen Oversight Model for information and possible action. The draft modifications have been developed with input from all stakeholders including, the BART Citizen Review Board (BPCRB), the Office of the Independent Police Auditor (OIPA), BART Police Associations (BPOA/BPMA), the General Manager (GM), and the District Secretary's Office (DSO).

The San Francisco Bay Area Rapid Transit District (BART) has established a Citizen Oversight Model, which is designed to increase the public's confidence in BART's policing services.

The model has been evaluated by all stakeholders to determine whether the need exists to make changes and/or modifications to further improve the public's confidence in BART's policing services. The following model chapters have draft modifications for review and possible action:

Proposed Modification 1: This modification is a proposed language change from the BPCRB to globally change the phrase "Citizen Review Board" to "Civilian Review Board" throughout the document. No stakeholder opposition was received for this proposed edit.

Proposed Modification 2: Chapter 1-02: Appointment of the Independent Police Auditor. This section has a proposed modification from the OIPA, recommending that a Deputy Independent Police Auditor (DIPA) position be added. The BPOA/BPMA are opposed to the change. No other stakeholder feedback was received for this proposed edit.

Proposed Modification 3: Chapter 1-03: Scope and Chapter 1-04: Duties and Responsibilities, Subsection A This modification has a proposed language change from OIPA recommending that the Model should specify that OIPA is only authorized to investigate sworn employees. Current language is vague on civilian employees. The alternative language suggested by OIPA is that the model should specify that OIPA is authorized to investigate all BPD employees. This modification requires language changes in both Chapter 1-03: Scope and Chapter 1-04: Duties and Responsibilities. The GM and BPOA/BPMA accepts the modification limiting investigations to sworn employees, but rejects the alternative language modification giving authority for investigating civilian employees of BPD. No other stakeholder feedback was received for this proposed edit.

Proposed Modification 4: Chapter 1-04: Duties and Responsibilities, Subsection B, v. This section has a proposed language modification from the OIPA limiting the GM authority to decide the appropriate outcome of an OIPA investigation being appealed by the Chief of Police. The GM and BPOA/BPMA are opposed to the modification. No other stakeholder feedback was received for this proposed edit.

Proposed Modification 5: Chapter 1-04: Duties and Responsibilities, Subsection C, ii. This section has a proposed language modification from the OIPA removing the term “significant” for the review of settlements and adverse judgments involving BPD. The BPOA/BPMA are opposed to this change. No other stakeholder feedback was received for this proposed edit.

Proposed Modification 6: Chapter 1-04: Duties and Responsibilities, Subsection G, i. This section has a proposed language modification from the OIPA granting access and authority to review background investigation reports for the purpose of conducting systemic audits of BPD functions that impact the quality of the department and the service provided by BPD to the public. The GM and BPOA/BPMA are opposed to this change. No other stakeholder feedback was received for this proposed edit. BART Legal provided the opinion that “access to background investigation reports is likely not permitted for the purpose of a ‘systemic audit’”. The BART Chief of Police is willing to collaborate with OIPA to review the background investigation process to identify areas for improvement to address any potential concerns in a manner that complies with the law.

Proposed Modification 7: Chapter 1-06: Relationship between OIPA, BPD, DSO, and Other District Departments, Subsections B, C, and D. These sections have proposed language modifications from the OIPA to set the budget equal to 1.5% of the BPD budget, limit the GM authority for the OIPA budget, and include a review and audit process. No other stakeholder feedback was received for this proposed edit. The proposed language is in conflict with the BART Act.

Proposed Modification 8: Chapter 2-04: BPCRB Member Meeting Attendance, Subsection A. This section has a proposed language modification from the BPCRB to clarify meeting attendance requirements for BPCRB members. BPCRB members who are absent from three (3) consecutive meetings or four (4) meetings in total during the fiscal year would be removed from the BPCRB except in the case of an approved leave of absences. The GM and BPOA/BPMA accepts and supports the modification. No other stakeholder feedback was received for this proposed edit.

Proposed Modification 9: Chapter 2-07: Duties and Responsibilities, Subsection C. This section has a proposed process modification from the BPCRB on voting to support or reject OIPA findings in closed session. OIPA noted that the BPCRB already has this ability without modifying the language in the model. No other stakeholder feedback was received for this proposed edit.

Proposed Modification 10: Chapter 2-07: Duties and Responsibilities, Subsection D. This section has a proposed language modification from the BPCRB to designate BART Legal support for the BPCRB. No other stakeholder feedback was received for this proposed edit.

Proposed Modification 11: Chapter 2-07: Duties and Responsibilities, Subsection E. This section has a proposed process change modification from the BPCRB to review BART Police policy, training, and/or equipment. This modification incorporates language from

the Chief of Police. GM supports this modification. No other stakeholder feedback was received for this proposed edit.

Proposed Modification 12: Chapter 2-07: Duties and Responsibilities, Subsection L. This section has a proposed process and language change from the BPCRB on the hiring process for the Chief of Police. The proposed modification has been opposed by the GM and BPOA/BPMA. No other stakeholder feedback was received for this proposed edit.

Proposed Modification 13: Chapter 2-07: Duties and Responsibilities, Subsection M. This section has a proposed process and language change from the BPCRB to obtain dedicated staff support for the BPCRB. GM and DSO support this modification. No other stakeholder feedback was received for this proposed edit. This resource has been activated.

Proposed Modification 14: Chapter 2-08: Relationship between the BPCRB and OIPA, Subsection A, iii. This section has a proposed process modification from the OIPA to remove the monthly reporting requirement of the number of days that have elapsed between the date of the complaint and the report to the BPCRB. The GM and BPOA/BPMA are opposed to this modification. No other stakeholder feedback was received for this proposed edit.

Proposed Modification 15: Chapter 3-02: Budgetary Considerations. This section has a proposed language/process modification from the BPCRB on an annual budget review for the BPCRB budget. No other stakeholder feedback was received for this proposed edit.

If you have any questions about the attached redline version of the draft BART Citizen Oversight Model review, please contact Michael Jones, Deputy General Manager at (510) 464-6126.

DocuSigned by:  
*Michael Jones*  
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Robert M. Powers

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff