

Duties and Responsibilities

Closed Session – Dissenting Memo (From Chair Perezvelez)

A CRB member who votes in the minority to accept or not accept an OIPA Findings and Recommendations in closed session voting, may write a “Dissenting Memo” expressing their views on why they dissented from the majority of CRB members.

The memo may be written by each CRB member that did not vote with the majority. If there are multiple dissenting CRB members, they may choose to collaborate and write one memo. **Clear intent to write a dissent memo must be articulated within the closed session. The dissenting memo must be submitted within 48 hours, to ensure that they are contemporaneous with the discussions.**

The BPCRB Chair will notify the Chief of Police, Independent Auditor, General manager and legal department by electronic mail on the intent by a BPCRB member(s) to write a dissenting memo.

The dissenting statement should clearly explain the basis for disagreement, whether it's related to **evidence, interpretation, or policy considerations. citations to specific evidence or legal standards** should be included to substantiate the dissenting view.

The dissent should be **concise** but comprehensive and should address the **core issue** at hand (e.g., findings of misconduct or disciplinary action), a detailed explanation of the **disagreement** (e.g., alternative interpretations of evidence, procedural concerns, or policy implications), **recommendations** if the dissenting member(s) have an alternative proposal.

The dissenting opinion should be included as an **addendum** or **section** in the final report, clearly separated from the majority opinion but integrated into the document. This ensures that anyone reviewing the report has access to both majority and minority perspectives.

The dissenting memo shall be forwarded to the BART Legal department for review to ensure it is devoid of any divulging privileged, protected, or confidential information and evidence and that it is **compliant with legal standards.**

Dissenting opinions must be written ethically, focusing on facts and legal reasoning, without veering into personal attacks or unsupported allegations.

The memo shall be designated as “confidential” and **shall not be** released to the public.

The memo shall be distributed by the author(s) to the General Manager, Chief of Police, Independent Police Auditor, and **BPCR**B members.

The memo shall be distributed by the author(s) to the General Manager (**or designee**), Chief of Police, Independent Police Auditor, and **BPCR**B members.

The Chief of Police or General Manager may use the memo in his or her decision(s) on any action to be taken regarding the sworn BART Police Department member that is the subject of the OIPA Findings and Recommendations.

Should the Chief of Police or General Manager need any clarification about the memo(s), the dissenting member(s) shall make themselves available to answer questions.