

BART POLICE CIVILIAN REVIEW BOARD

MEMORANDUM

TO: Kevin Franklin
Chief of Police
BART Police Department

DATE: July 30, 2026

FROM: Member Jennifer Rakowski

SUBJECT: Dissenting Member Statement for OIPA Case #25-62

I am writing to you to clarify my dissenting vote at the July 13, 2026 BPCRB monthly meeting. I was and am significantly aligned with the OIPA investigation and its recommendations. I found the OIPA investigation of this incident to be of a high standard, with reasonable supporting documentation and a thoughtful summary.

This case involved more than one subject officer at different levels in the command structure. The BPCRB did not bifurcate the allegations which would have allowed the opportunity to vote on individual claims, I would have voted yes with the other members of the board on most of the recommendations. This dissent should be viewed narrowly, centered around the initial issuance of the LOD.

Prior to the meeting, I reviewed the possible dispositions for the allegations of misconduct in **Article VII Reports and Recommendations** in the BART Civilian Review Board Bylaws,

- a. *Unfounded- The investigation clearly established that the allegation is not true or that the complaint was frivolous per Penal Code section 832.5 ©.*
- 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 allocation or to fully exonerate the employee. This includes*



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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.

I reviewed the background materials and the report summary. Noted in the investigation were multiple adjustments or corrective actions taken by BART police to ensure fair and equitable outcomes, while also seeking to clarify expectations/procedures and hold employees to high standards. OIPA investigators identified issues with the clarity of expectations prior to the incident and challenges with the ability to gain practical coaching and understanding due to lack of individualization. A witness declined to provide a requested document. It was acknowledged that some questions were out of the scope of the investigation and were subject of other review processes. The OIPA summary also noted inaccuracies in written documentation which existed or persisted. Collectively these issues, in my reasoned judgement, created doubt about the properness of the action.

While the finding on the question before me of the issuance of the LOD did not meet the Unfounded or Sustained standards. In reviewing the definition of Exonerated and Not Sustained, it was my conclusion with respect to claim 1 a Not Sustained recommendation more accurately reflected the totality of the picture than a finding of Exonerated. This dissent was specific to this one finding and the details of this case and should not be viewed as speaking to any broader conclusion or pattern.

Thank you,
Jennifer Rakowski
District 7 - BPCRB Representative

cc: BPCRB Chairperson Dana Lang
General Manager Robert Powers
Independent Police Auditor Inez Gonzalez



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