

# **San Francisco Bay Area Rapid Transit District**

*2150 Webster Street, P. O. Box 12688, Oakland, CA 94604-2688*



## **COMMITTEE MEETING AGENDA**

**Monday, June 13, 2022**

**4:00 PM**

**via Teleconference Only. Join and listen to the BPCRB Meeting  
by calling 1 833 827 2778 and entering access  
code 192 719 108#**

**BART Police Citizen Review Board**

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT  
2150 Webster Street, P. O. Box 12688, Oakland, CA 94604-2688

NOTICE OF MEETING AND AGENDA  
BART POLICE CITIZEN REVIEW BOARD  
June 13, 2022  
4:00 p.m.

A regular meeting of the BART Police Citizen Review Board (BPCRB) will be held on Monday, June 13, 2022, at 4:00 p.m., via teleconference only.

Please note, pursuant to all necessary findings having been made by the Board of Directors of the San Francisco Bay Area Rapid Transit District (for itself as well as all subordinate legislative bodies) to continue remote public meetings in the manner contemplated under urgency legislation Assembly Bill No. 361, public participation for this meeting will be via teleconference only.

Presentation materials will be available at least 72 hours prior to the BPCRB meeting at <https://bart.legistar.com/Calendar.aspx> (click on "Agenda").

You may join and listen to the BPCRB Meeting by calling 1 833 827 2778 and entering access code 192 719 108#

You may join the Microsoft Teams meeting with this link:

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_YjczYzU3ZTUtMGFjMy00MTc3LTg2ZTAyYTdiZGQ5OGQ5ZmIz%40thread.v2/0?context=%7b%22Tid%22%3a%2256c41995-d45f-4669-a533-30fdded094d9%22%2c%22Oid%22%3a%222abd3ac4-add6-4c1c-804d-063f9fc6b7b6%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_YjczYzU3ZTUtMGFjMy00MTc3LTg2ZTAyYTdiZGQ5OGQ5ZmIz%40thread.v2/0?context=%7b%22Tid%22%3a%2256c41995-d45f-4669-a533-30fdded094d9%22%2c%22Oid%22%3a%222abd3ac4-add6-4c1c-804d-063f9fc6b7b6%22%7d)

We strongly encourage public comments to be submitted via email. You may submit comments via email to [CitizenReviewBoard@bart.gov](mailto:CitizenReviewBoard@bart.gov) using "public comment" as the subject line. Your comment will be provided to the Board and will become a permanent part of the file. Please submit your comments as far in advance as possible. Emailed comments must be received before 9:00 a.m. in order to be included in the record.

Individuals may also be given an opportunity by the moderator to speak on any item on the agenda by calling 1 833 827 2778 and entering access code 192 719 108# in advance of the item. Public comment will be limited to three (3) minutes per person. Your phone will be muted until you are called upon.

AGENDA

1. Call to Order.
  - a. Roll Call.
  - b. Pledge of Allegiance.

2. Approval of Minutes of the Meeting of May 9, 2022. For Action.

**Attachments:**      [Approval of Minutes of the Meeting of May 9, 2022](#)

3. Reporting Out Announcement from the Closed Session of May 9, 2022, if any.

4. Dissenting Opinion Memo for Office of the Independent Police Auditor (OIPA) Case #22-17 (Members Dana Lang and William White's Request). For information.

**Attachments:**      [OIPA Case No. 22-17 - Dissenting Opinion Memo](#)

5. Reporting Out Announcement from BART Police Citizen Review Board (BPCRB) Subcommittees. For Discussion.

6. Chief of Police's Report(s). For Discussion.
  - a. BART Police Department's Monthly Reports for April 2022.
  - b. BART Police Department's Report on California Assembly Bill 481 - District Specialized or Military Equipment Policy/Ordinance.

**Attachments:**      [BPD Monthly Reports for April 2022 - Item 6a](#)  
[Assembly Bill 481 - Memo - Item 6b](#)  
[Assembly Bill 481 - Definition - Item 6b](#)  
[Codified Version of Military Equipment Ordinance - Item 6b](#)  
[Policy 711 -Specialized or Military Type Equipment - Item 6b](#)

7. Independent Police Auditor's Report (s). For Discussion and Action.
  - a. Office of the Independent Police Auditor (OIPA) Monthly Report for May 2022.
  - b. Use of the Term of "Excited Delirium" and its effects on Racial Equity.

**Attachments:**      [OIPA Monthly Report - May 2022 - Item 7a](#)  
[Attachment 7B - Recommendations for Discussion \(Presentation Slide\) - Item 7l](#)

8. Update on the Upcoming Election of Officers. For information.

9. Public Comment. (Limited to 3 minutes per speaker.)  
(An opportunity for members of the public to address the BPCRB on matters under their jurisdiction and not on the agenda.)

10. Closed Session.

a. To Consider Public Employee Discipline/Dismissal/Release in OIPA Case(s) #21-02 and 21-15. Govt. Code §54957.

All BPCRB closed session votes will be announced at the beginning of the next regular meeting.

11. Adjournment.

BART provides service/accommodations upon request to persons with disabilities and individuals who are limited English proficient who wish to address Board matters. A request must be made within one and five days in advance of Board meetings, depending on the service requested. Please contact the Office of the District Secretary at (510) 464-6083 for information.

Pursuant to Govt. Code §54953.5, the audio recording of the open session portions of this public meeting shall be subject to inspection pursuant to the California Public Records Act (CPRA). Requests for information under the CPRA should be filed with the BART Office of the District Secretary.

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**  
2150 Webster Street, P.O. Box 12688, Oakland, CA 94604-2688  
**BART Police Citizen Review Board Meeting Minutes**  
**Monday, May 9, 2022**

A regular meeting of the BART Police Citizen Review Board (BPCRB) was held Monday, May 9, 2022, convening at 4:02 p.m. via teleconference, pursuant to Assembly Bill No. 361. The meeting was called to order by Chairperson Erin Armstrong; Mag Tatum, Recording Secretary.

Vice Chairperson Erin Armstrong gave instructions on the virtual meeting, accessing the presentation materials online, Public Comment, and Members' remarks.

**1. Call to Order.**

The regular meeting was convened at 4:02 p.m. by Chairperson Erin Armstrong.

Members Present:

Members Pedro Babiak, Todd Davis, Dana Lang, Pete Longmire, Les Mensinger, Laura Pagey, George Perezvelez, David Rizk, William White, and Erin Armstrong.

Absent:

Member Christina Gomez.

The Pledge of Allegiance was recited.

Member David Rizk entered the meeting.

**2. Approval of Minutes of the Meeting of April 11, 2022.**

Member Mensinger moved that the Minutes of the Meeting April 11, 2022, be approved. Member Lang seconded the motion, which carried by roll call vote. Ayes – 9: Members Davis, Lang, Longmire, Mensinger, Pagey, Perezvelez, Rizk, White, and Armstrong. Noes – 0. Abstain – 1: Member Babiak. Absent – 1: Member Gomez.

**3. Reporting Out Announcement from the Closed Session of April 11, 2022.**

Chairperson Armstrong announced that the Board voted to accept the findings in the Office of the Independent Police Auditor (OIPA) Case #21-10. Accepts – 6: Members Armstrong, Lang, Mensinger, Pagey, Perezvelez, White. Rejects – 1: Member Davis. Abstain – 0. Absent – 4: Members Babiak, Gomez, Longmire, and Rizk.

**4. Dissenting Opinion Memo for Office of the Independent Police Auditor (OIPA) Case #21-10. (Member Todd Davis' Request)**

Member Davis presented information regarding his Dissenting Opinion Memo for Office of the Independent Police Auditor (OIPA) Case #21-10. The item was discussed.

Keith Garcia addressed the Board.

**5. Reporting Out Announcement from BART Police Citizen Review Board (BPCRB) Subcommittees.**

Chairperson Armstrong and Member Rizk presented reporting out information for various BART Police Citizen Review Board (BPCRB) Subcommittees. The item was discussed.

**6. Chief of Police's Reports.**

**a. BART Police Department's Monthly Reports for March 2022.**

Chief of Police Ed Alvarez presented the BART Police Department's Monthly Reports for March 2022. The reports were discussed.

**b. BART Police Department's Report on California Assembly Bill 481 - Military Equipment Funding, Acquisition and Use Policy Presentation.**

Chief of Police Ed Alvarez presented information about BART Police Department's Report on California Assembly Bill 481 - Military Equipment Funding, Acquisition and Use Policy. The item was discussed and continued to a future BPCRB meeting.

Director Robert Raburn, Director John McPartland, and Aleta Dupree addressed the Board.

**7. Independent Police Auditor's (OIPA) Report.**

**a. Office of the Independent Police Auditor Monthly Report for April 2022.**

Independent Police Auditor Russell Bloom presented OIPA Monthly Report for March 2022. The report was discussed.

**b. Use of the Term of "Excited Delirium" and its effects on Racial Equity.**

Independent Police Investigator Patrick Caceres presented the Use of the Term of "Excited Delirium" and its effects on Racial Equity. The item was discussed.

Aleta Dupree addressed the Board.

**8. Public Comment.**

Chairperson Armstrong called for general Public Comment.

Director Raburn and Aleta Dupree addressed the Board.

**9. Closed Session.**

- a. To Consider Public Employee Discipline/Dismissal/Release in OIPA Case Number #22-17. Govt. Code §54957.

Chairperson Armstrong announced that the Board would enter closed session under Item 9-A (Public Employee Discipline/Dismissal/Release in OIPA Case Numbers #22-17 ) of the Regular Meeting agenda and that the closed session votes, if any, would be announced in open session at the beginning of the next regular BPCRB meeting.

## **10. Adjournment.**

The Meeting was adjourned at 5:49 p.m.

DRAFT

June 1, 2022

To: BART Office of the Independent Auditor

Fr: William White and Dana Lang, BPCRB Members

cc: BART Police Citizen Review Board

Subject: Dissenting Opinion on OIPA Case # 22-17

Thank you for the opportunity to address this case. OIPA Case #22-17 Exonerated the Allegation of *Conduct Unbecoming an Officer*. OIPA indicated that it is more likely than not that the officer did not engage in *Conduct Unbecoming an Officer* when he addressed a Black juvenile by saying, "What up, boy?" OIPA's rationale was that the use of the word "boy" during the contact with the subject officer did not violate any applicable laws or policy.

The challenge for law enforcement is that cultural awareness is more significant than in any other profession because of the power held by police. It creates a special need for understanding a pluralistic, multicultural society. It is reasonable for officers to know that both the word "boy" has historically been offensive to African American males. This officer felt that this was a completely professional term.

Additionally, using slang terms, such as "*what up?*" could be seen as a taunt, and therefore offensive. It is reasonable to instruct officers to address the public, including juveniles, in a strictly professional manner. Best practices for communicating with juveniles when not using their given names would be to address persons generally (How are you?), not address juveniles as "boy" or "girl" and explain to officers the history of white peoples' use of these words to insult, intimidate or demean Black people.

The problem arises because under examination, the officer stated that he would not change his behavior based on the knowledge gained from the experience. The fact that he is a Training Officer exacerbates the potential of an attitude of cultural insensitivity among the Trainees that he instructs. An officer is taught to be respectful during the Fair and Impartial Policing course. This officer was informed of the sensitive nature of his use of the word "boy" but admittedly refuses to change his behavior, and thereby ignores Department Policy, demonstrating a *Conduct Unbecoming an Officer*.

The very success of the many facets of community-based policing is dependent on this understanding of culture. Cultural awareness training and its attempts to educate police officers to be more sensitive to different ethnic groups, races, and lifestyles, should be the foundation of modern-day police training. The point is argued that the Officers' Training does teach Sensitivity to cultural norms and nuances, however this officer continued to ignore the lesson. While no laws were broken, his sworn pledge to the community and state are being violated by his refusal to accept social norms different from what he is accustomed.



# BART POLICE DEPARTMENT



April 2022

MONTHLY REPORT



# Bay Area Rapid Transit Police Department

101 8th St, Oakland, CA, 94607 (510) 464-7000 [www.bart.gov/police](http://www.bart.gov/police)

May 2022 Performance Measurement Review - **Systemwide**

PART 1 UCR Crime	2017	2018	2019	2020	2021	YTD 2021	YTD 2022	PCT %
Homicide	0	3	2	0	0	0	2	-%
Rape	8	3	7	5	8	1	2	+100%
Robbery	290	345	378	252	143	48	61	+27%
Aggravated Assault	125	130	112	95	71	19	21	+11%
Violent Crime Subtotal	423	481	499	352	222	68	86	+26%
Burglary (Structural)	15	18	16	12	11	0	9	-%
Larceny & Auto Burglary	2,593	2,565	3,177	1,038	882	230	280	+22%
Auto Theft	420	348	247	100	134	17	52	+206%
Arson	4	4	4	4	5	0	4	-%
Property Crime Subtotal	3,032	2,935	3,444	1,154	1,032	247	345	+40%
TOTAL	3,455	3,416	3,943	1,506	1,254	315	431	+37%

## Part 1 Crimes: Top Five Stations

May 2022

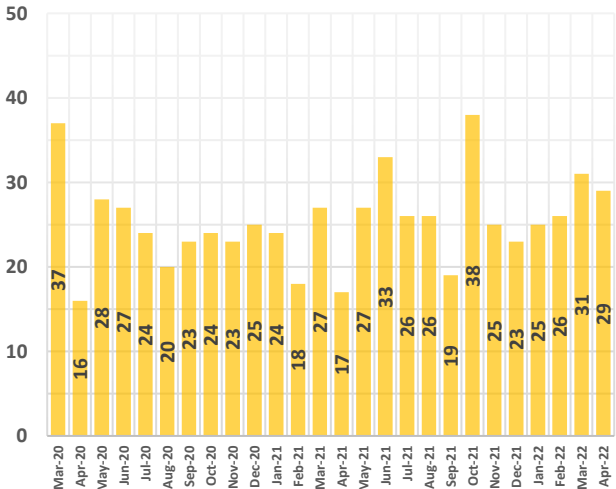
A30/COS M10/OWS R50/CNS K30/MAS A60/HAS

Full Year 2021

A30/COS A60/HAS M10/OWS A10/LMS A20/FVS

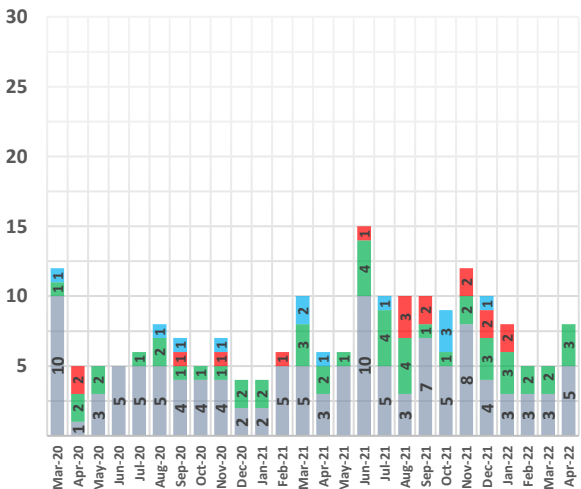
## BATTERY & ASSAULT ON BART

Battery, Simple Assaults



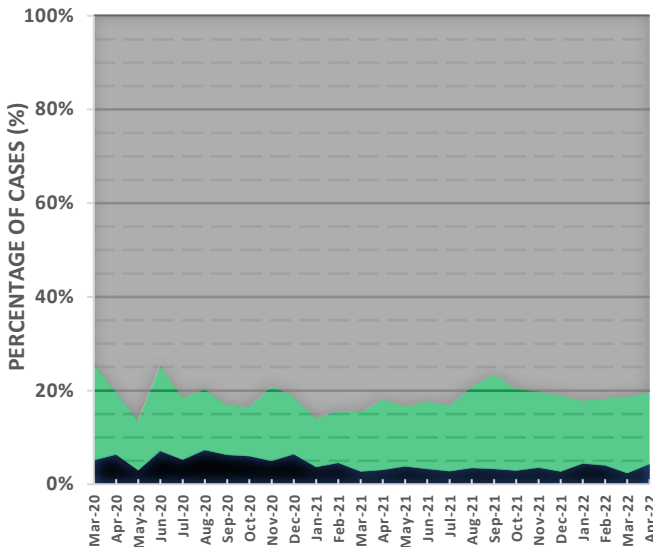
## BICYCLE THEFT

Alameda Contra Costa San Francisco San Mateo Santa Clara



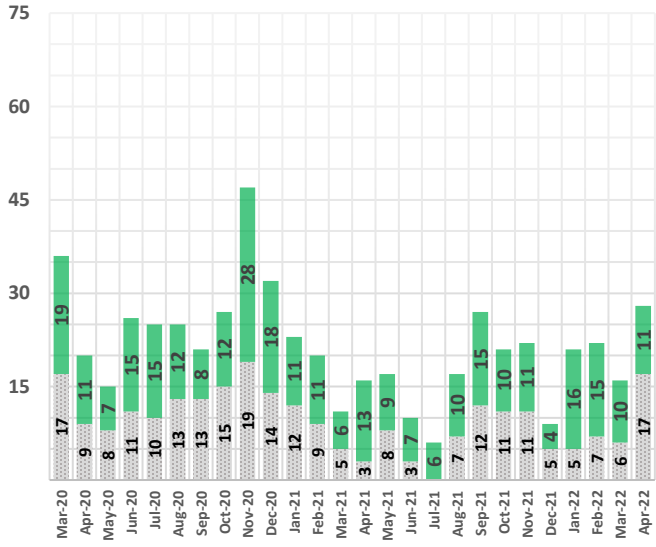
## PART 1 CRIME OVERALL

Violent Crimes Property Crimes All other cases



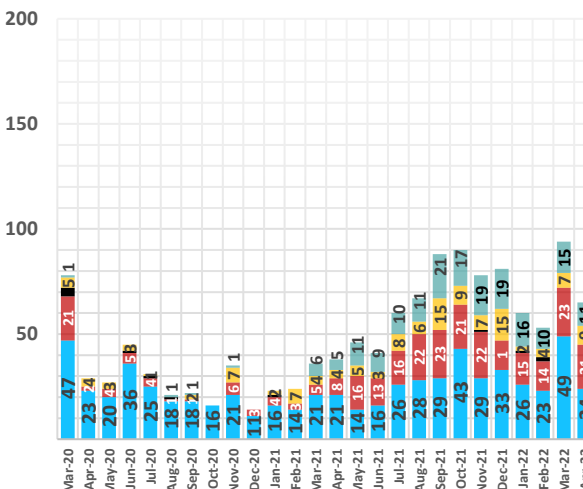
## ELECTRONIC THEFT

Robbery Theft



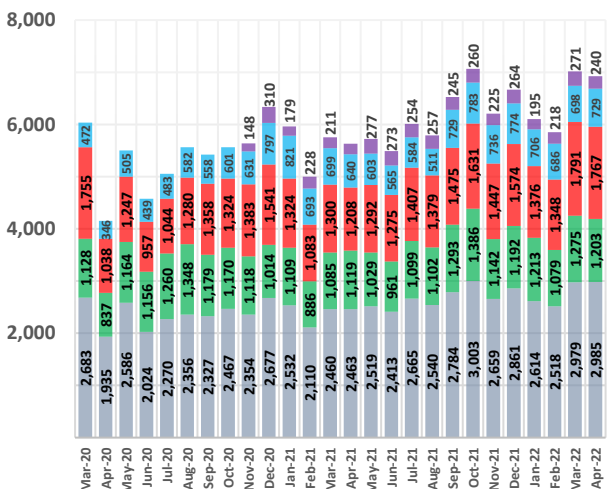
## VEHICLE CRIME

Break-in Catalytic Wheel/Tires License Plate Vehicle Theft



## CALLS TO DISPATCH

Alameda Contra Costa San Francisco San Mateo Santa Clara



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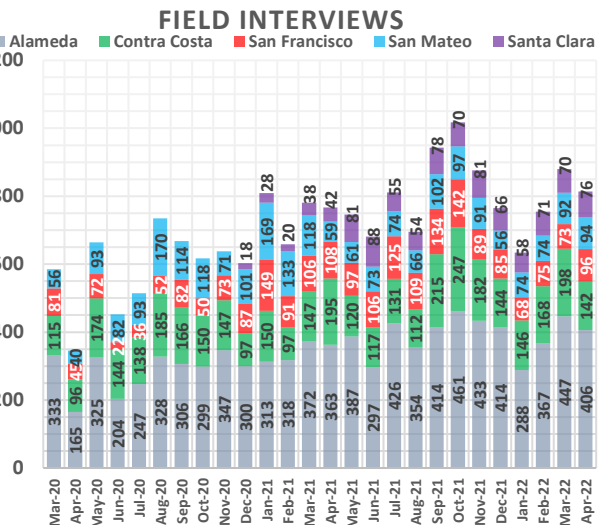
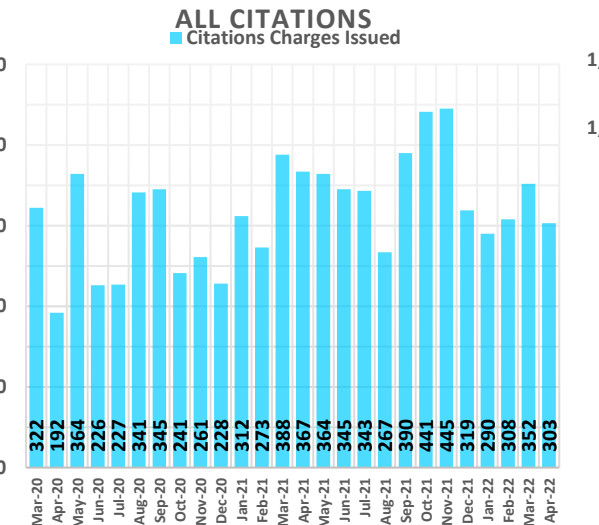
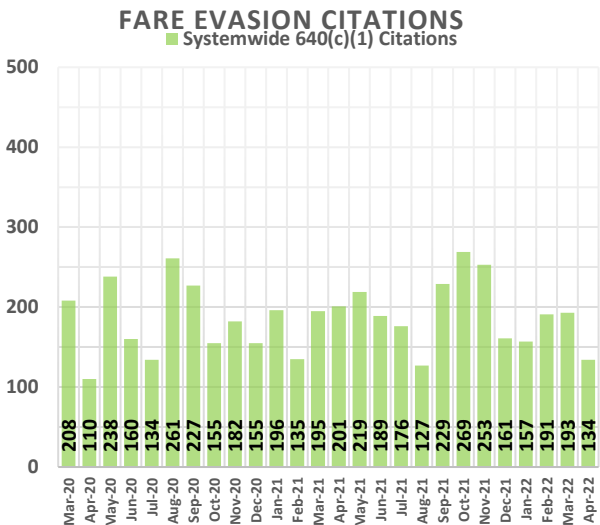
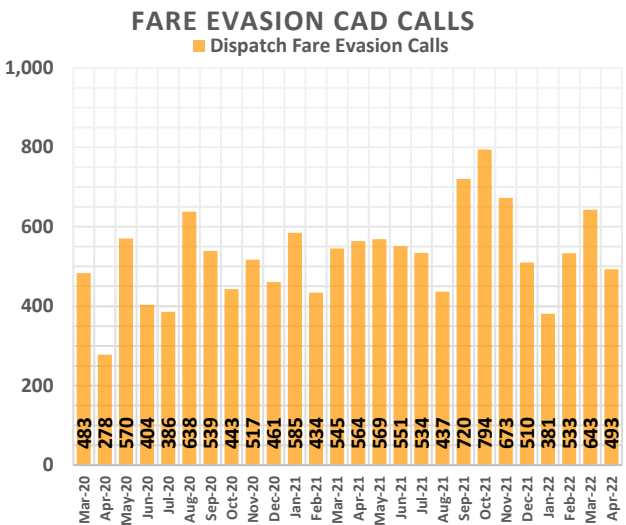
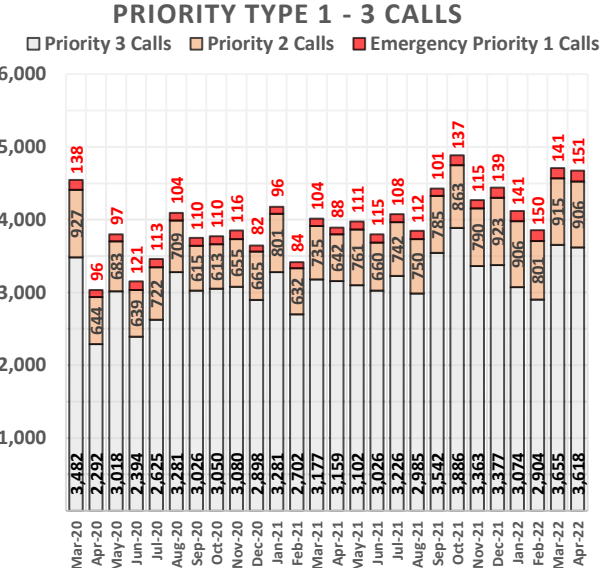
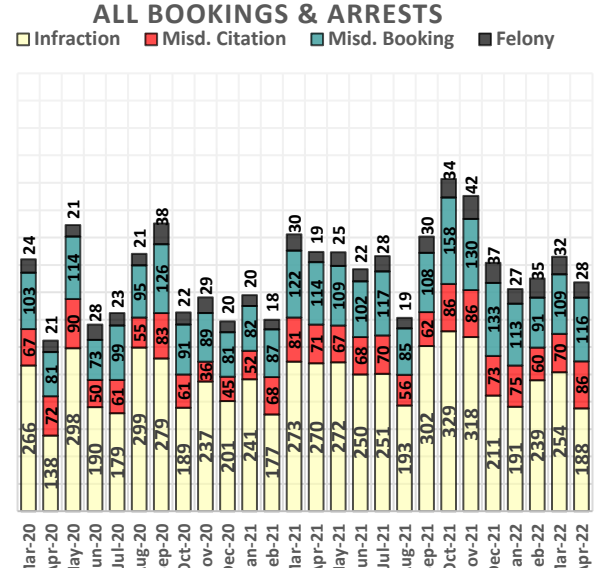
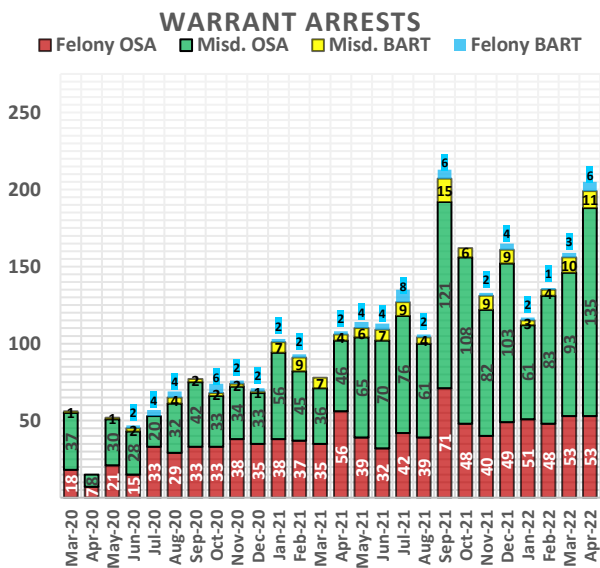
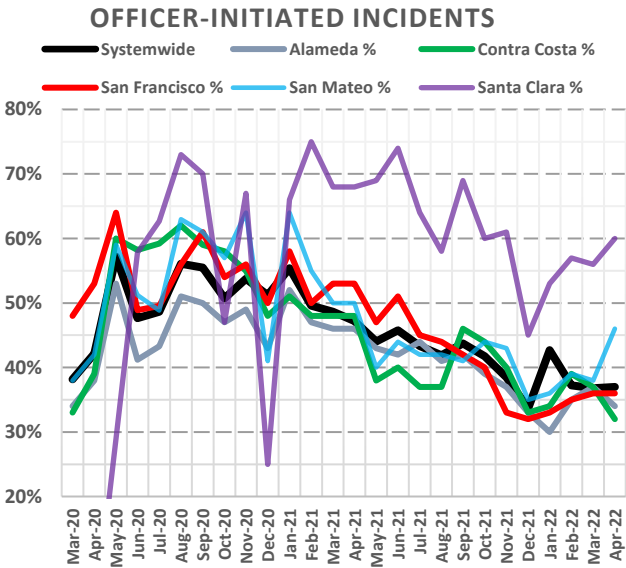
Late reporting, the reclassification or unfounding of crimes, can affect crime statistics. Overtime costs are projected numbers. Information provided on the reports are subject to change.



# Bay Area Rapid Transit Police Department

101 8th St, Oakland, CA, 94607 (510) 464-7000 [www.bart.gov/police](http://www.bart.gov/police)

May 2022 Performance Measurement Review - **Systemwide**



**Preface:** The data is retrieved from the BART Police Database and remains unaudited until corrections. Numbers may differ from the reported data in the Uniform Crime Reporting (UCR) program. Late reporting, the reclassification or unbounding of crimes, may affect statistics. Infraction citations consist of all individual charges. Felony arrests, misdemeanor arrests and citations are based on each instance per individual

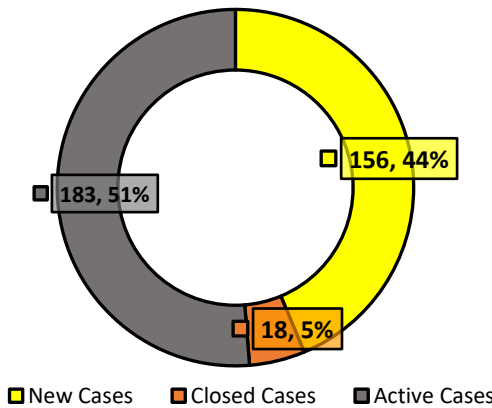


# Bay Area Rapid Transit Police Department

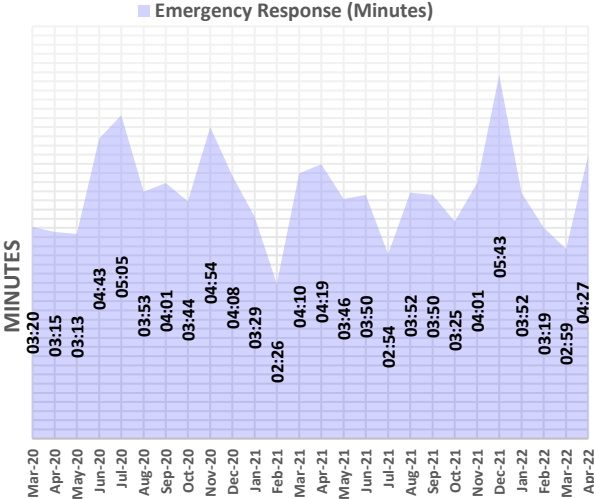
101 8th St, Oakland, CA, 94607 (510) 464-7000 [www.bart.gov/police](http://www.bart.gov/police)

May 2022 Performance Measurement Review - **Systemwide**

## INVESTIGATIVE ASSIGNMENTS

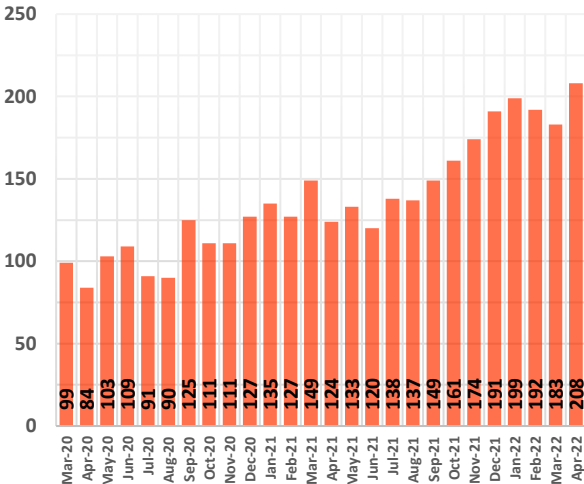


## RESPONSE TIME (PRIORITY 1)



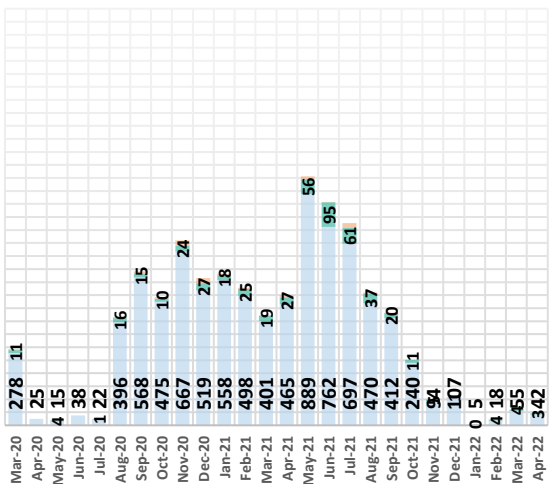
## POLICE TRAIN HOLDS

Holds over 5 Minutes



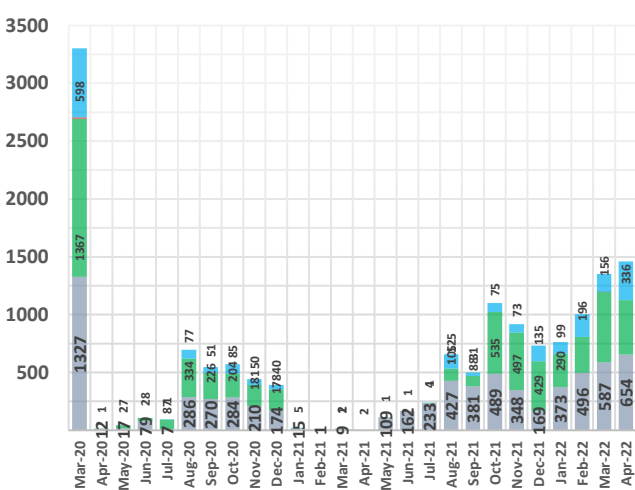
## PROOF OF PAYMENT CITATIONS

Adult Juvenile Juvenile Fare Evasion



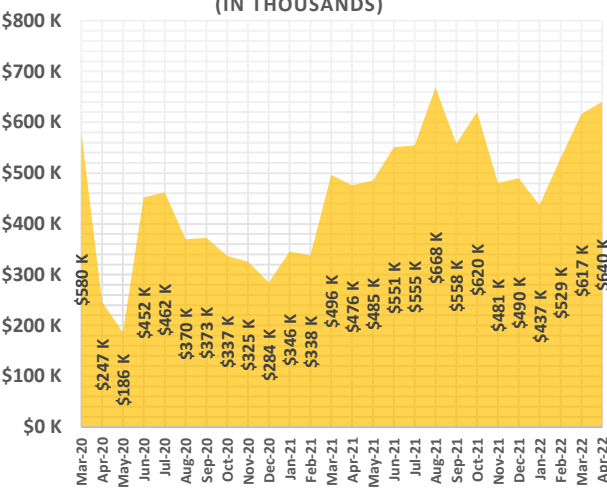
## PARKING CITATIONS

Alameda Contra Costa San Francisco San Mateo Santa Clara



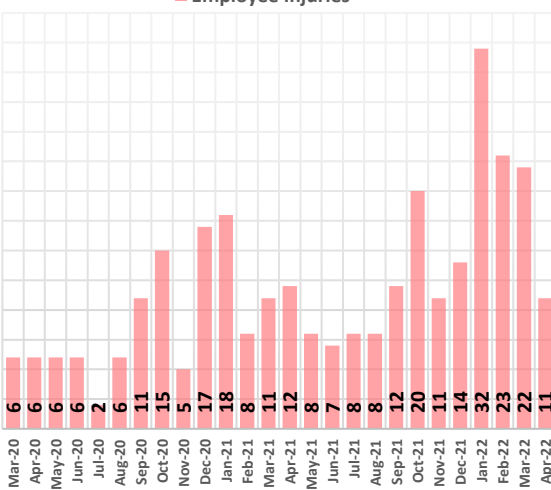
## OVERTIME UTILIZATION

(IN THOUSANDS)



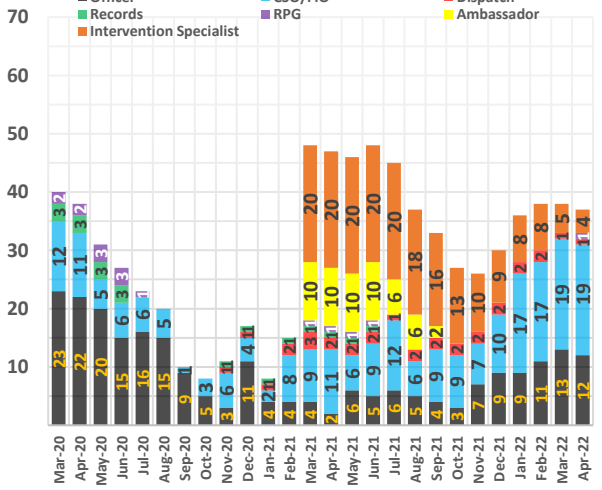
## EMPLOYEE INJURIES

Employee Injuries



## VACANCIES

Officer CSO/FIO Dispatch  
Records Intervention Specialist RPG Ambassador

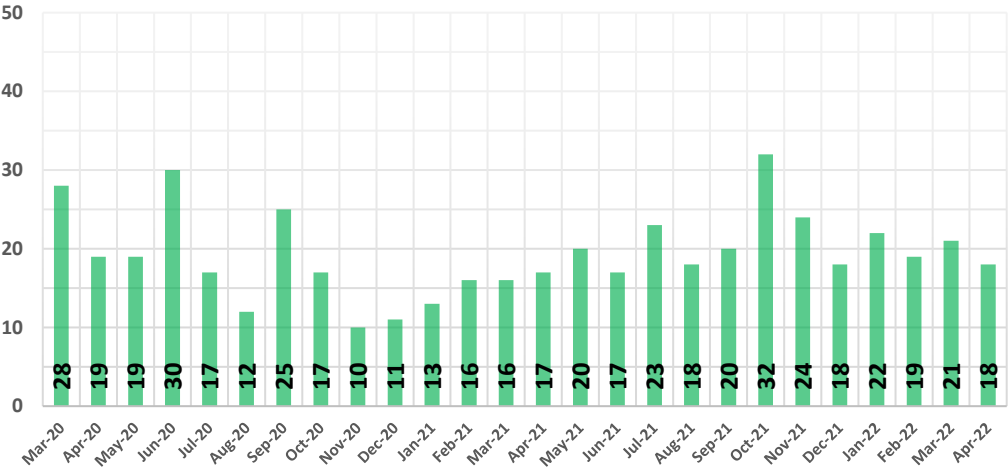


**Preface:** The data is retrieved from the BART Police Database and remains unaudited until corrections. Numbers may differ from the reported data in the Uniform Crime Reporting (UCR) program. Late reporting, the reclassification or unbounding of crimes, can affect crime statistics. Overtime costs are projected numbers. Information provided on the reports are subject to change.

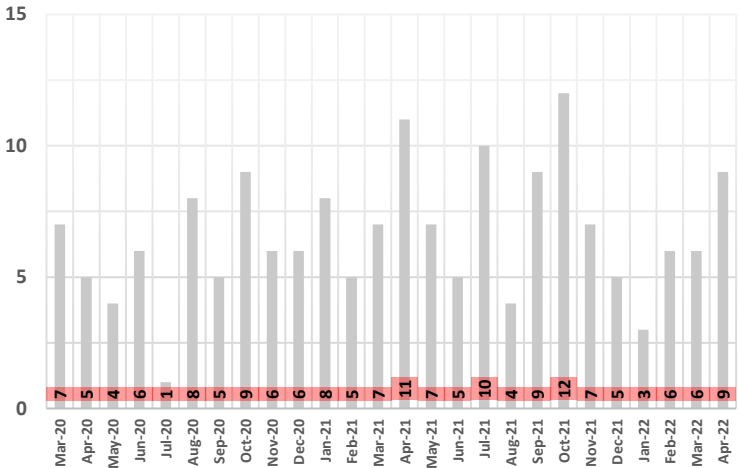


**Bay Area Rapid Transit Police Department**  
101 8th St, Oakland, CA, 94607 (510) 464-7000 [www.bart.gov/police](http://www.bart.gov/police)  
**May 2022** Performance Measurement Review - **Systemwide**

AB716 - PROHIBITION ORDERS

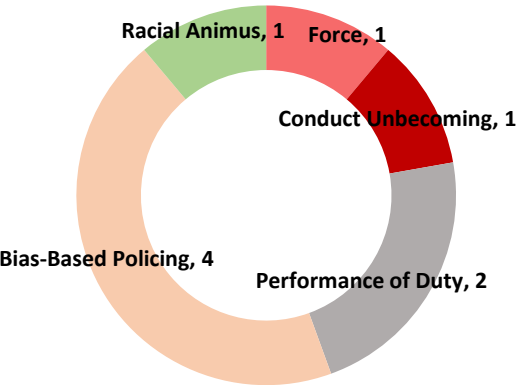


INTERNAL AFFAIRS COMPLAINTS



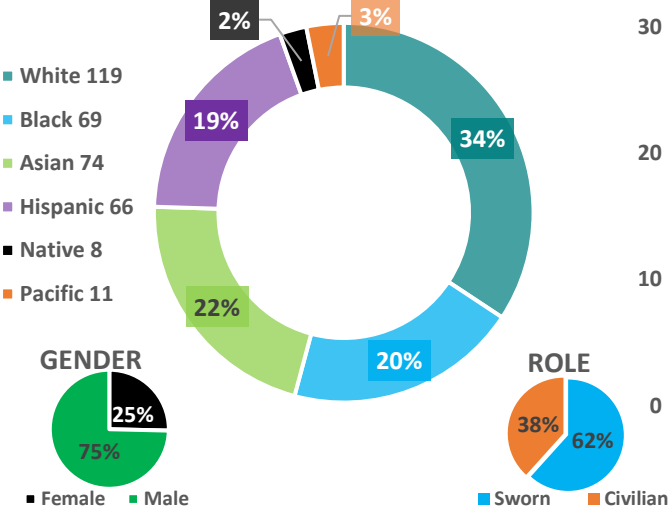
May 2022

IA COMPLAINTS RECEIVED<sup>1</sup>

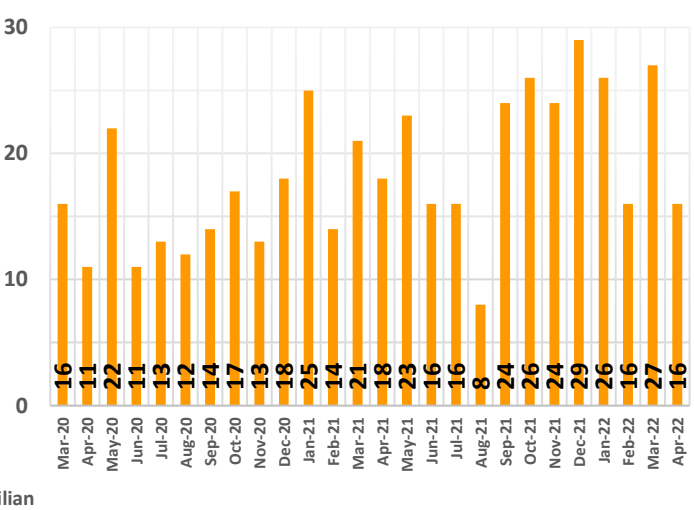


1: Each incident could contain more than one allegation. This chart reflects the most significant allegation per

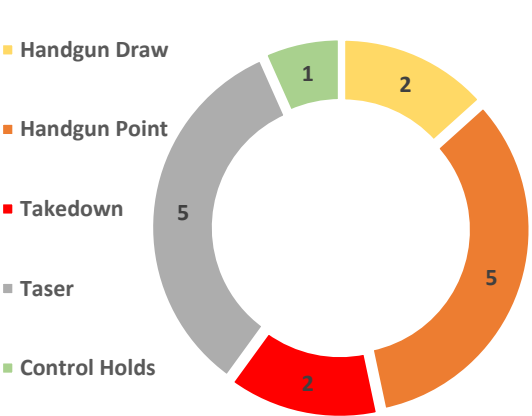
DEPARTMENT ETHNIC DIVERSITY



USE OF FORCE INCIDENTS

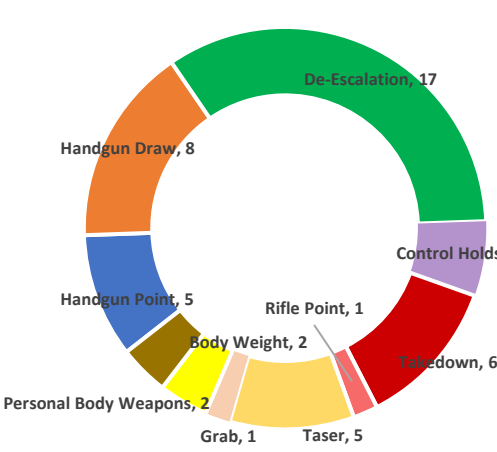


INCIDENT FORCE OPTIONS USED<sup>2</sup>



3: Some incidents involved the use of multiple force options. If two officers involved in the same incident used the same force option, this data would reflect both officers. As an example, if two officers used control holds in the same incident, this data would reflect two separate control holds.

TYPES OF FORCE USED<sup>3</sup>



2: Each incident could contain more than one force option. This chart reflects most significant force options used per incident.





## Bay Area Rapid Transit Police Department

101 8th St, Oakland, CA, 94607 (510) 464-7000

[www.bart.gov/police](http://www.bart.gov/police)

May 2022

Performance Measurement Review - **Systemwide**

BART PD Uses of Force													
Use of Force Incidents	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2022 CY	26	16	27	16									85
2021 CY	25	14	21	18	23	16	16	8	24	26	24	29	244
2020 CY	22	21	16	11	22	11	13	12	14	17	13	18	190
2019 CY	27	20	17	30	21	19	27	27	26	21	14	28	277
2022 YTD	26	42	69	85									
2021 YTD	25	39	60	78	101	117	133	141	165	191	215	244	
2020 YTD	22	43	59	70	92	103	116	128	142	159	172	190	
2019 YTD	27	47	64	94	115	134	161	188	214	235	249	277	

Dispatch Center Calls	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2022 Calls for Service	6,087	5,802	7,138	6,936									25,963
2022 Priority 1 Calls	141	150	141	151									583
2022 Medical Emergencies	302	255	286	277									1,120
2022 Avg P1 Response Time	03:52	03:19	02:59	04:27									03:39
2021 Calls for Service	5,966	5,076	5,827	5,706	5,756	5,491	6,017	5,807	6,530	7,031	6,184	6,670	72,061
2021 Priority 1 Calls	96	84	104	88	111	115	108	112	101	137	115	139	1,310
2021 Medical Emergencies	266	191	193	193	197	181	209	195	228	232	199	294	2,578
2021 Avg P1 Response Time	03:29	02:26	04:10	04:19	03:46	03:50	02:54	03:52	03:50	03:25	04:01	05:43	03:49
2020 Calls for Service	7,470	6,753	6,086	4,242	5,583	4,770	5,319	6,008	5,715	5,835	5,678	5,499	68,958
2020 Priority 1 Calls	191	167	138	96	97	121	113	104	110	110	116	82	1,445
2020 Medical Emergencies	306	295	273	173	168	166	176	156	154	125	160	178	2,330
2020 Avg P1 Response Time	04:02	04:12	03:20	03:15	03:13	04:43	05:05	03:53	04:01	03:44	04:54	04:08	04:02
2019 Calls for Service	7,523	7,785	7,829	7,698	7,449	6,676	6,746	7,182	6,770	7,138	6,301	7,643	86,740
2019 Priority 1 Calls	203	181	202	204	202	213	205	199	222	205	192	192	2,420
2019 Medical Emergencies	361	310	370	321	396	360	318	323	339	329	329	381	4,137
2019 Avg P1 Response Time	05:16	05:10	04:49	04:40	03:52	06:17	04:38	06:45	05:34	05:30	04:57	03:47	05:06



## Bay Area Rapid Transit Police Department

101 8th St, Oakland, CA, 94607 (510) 464-7000

[www.bart.gov/police](http://www.bart.gov/police)

May 2022

Performance Measurement Review - **Systemwide**

BART PD Enforcement Contacts													
Felony Arrests	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2022 Felony Arrest	27	35	32	28									122
2021 Felony Arrest	20	18	30	19	25	22	28	19	30	34	42	37	324
2020 Felony Arrest	51	23	24	21	21	28	23	21	38	22	29	20	321
2019 Felony Arrest	35	41	27	29	35	25	33	43	38	25	32	22	385
2022 Felony Arrest YTD	27	62	94	122									
2021 Felony Arrest YTD	20	38	68	87	112	134	162	181	211	245	287	324	
2020 Felony Arrest YTD	51	74	98	119	140	168	191	212	250	272	301	321	
2019 Felony Arrest YTD	35	76	103	132	167	192	225	268	306	331	363	385	
Misdemeanor Arrests	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2022 Misd. Arrest	113	91	109	116									429
2021 Misd. Arrest	82	87	122	114	109	102	117	85	108	158	130	133	1,347
2020 Misd. Arrest	124	101	103	81	114	73	99	95	126	91	89	81	1,177
2019 Misd. Arrest	138	169	147	142	127	101	108	119	92	115	89	118	1,465
2022 Misd. Arrest YTD	113	204	313	429									
2021 Misd. Arrest YTD	82	169	291	405	514	616	733	818	926	1,084	1,214	1,347	
2020 Misd. Arrest YTD	124	225	328	409	523	596	695	790	916	1,007	1,096	1,177	
2019 Misd. Arrest YTD	138	307	454	596	723	824	932	1,051	1,143	1,258	1,347	1,465	
Cite & Releases	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2022 Cite & Release	75	60	70	86									291
2021 Cite & Release	52	68	81	71	67	68	70	56	62	86	86	73	840
2020 Cite & Release	68	50	67	72	90	50	61	55	83	61	36	45	738
2019 Cite & Release	107	138	112	83	64	72	62	74	47	81	52	83	975
2022 Cite & Release YTD	75	135	205	291									
2021 Cite & Release YTD	52	120	201	272	339	407	477	533	595	681	767	840	
2020 Cite & Release YTD	68	118	185	257	347	397	458	513	596	657	693	738	
2019 Cite & Release YTD	107	245	357	440	504	576	638	712	759	840	892	975	
Field Interviews	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2022 Field Interview	634	755	880	814									3,083
2021 Field Interview	809	659	781	767	746	681	811	695	943	1,017	876	765	9,550
2020 Field Interview	719	787	585	346	665	464	538	766	696	629	663	603	7,461
2019 Field Interview	841	1,011	868	945	765	571	608	714	696	810	561	699	9,089
2022 Field Interview YTD	634	1,389	2,269	3,083									
2021 Field Interview YTD	809	1,468	2,249	3,016	3,762	4,443	5,254	5,949	6,892	7,909	8,785	9,550	
2020 Field Interview YTD	719	1,506	2,091	2,437	3,102	3,566	4,104	4,870	5,566	6,195	6,858	7,461	
2019 Field Interview YTD	841	1,852	2,720	3,665	4,430	5,001	5,609	6,323	7,019	7,829	8,390	9,089	
Combined Contacts	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2022 Monthly Enf. Contacts	849	941	1,091	1,044									3,925
2021 Monthly Enf. Contacts	963	832	1,014	971	947	873	1,026	855	1,143	1,295	1,134	1,008	12,061
2020 Monthly Enf. Contacts	962	961	779	520	890	615	721	937	943	803	817	749	9,697
2019 Monthly Enf. Contacts	1,121	1,359	1,154	1,199	991	769	811	950	873	1,031	734	922	11,914
2022 Enf. Contacts YTD	849	1,790	2,881	3,925									
2021 Enf. Contacts YTD	963	1,795	2,809	3,780	4,727	5,600	6,626	7,481	8,624	9,919	11,053	12,061	
2020 Enf. Contacts YTD	962	1,923	2,702	3,222	4,112	4,727	5,448	6,385	7,328	8,131	8,948	9,697	
2019 Enf. Contacts YTD	1,121	2,480	3,634	4,833	5,824	6,593	7,404	8,354	9,227	10,258	10,992	11,914	



## Bay Area Rapid Transit Police Department

101 8th St, Oakland, CA, 94607 (510) 464-7000

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May 2022

Performance Measurement Review - **Systemwide**

BART PD Warrant Arrests													
Warrant Arrests	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2022 BART Felony	2	1	3	6									12
2022 BART Misdemeanor	3	4	10	11									28
2022 Outside Felony	51	48	53	53									205
2022 Outside Misdemeanor	61	83	93	135									372
2022 Monthly Total	117	136	159	205									617
2022 YTD Total	117	253	412	617									
2021 BART Felony	2	2	0	2	4	4	8	2	6	0	2	4	36
2021 BART Misdemeanor	7	9	7	4	6	7	9	4	15	6	9	9	92
2021 Outside Felony	38	37	35	56	39	32	42	39	71	48	40	49	526
2021 Outside Misdemeanor	56	45	36	46	65	70	76	61	121	108	82	103	869
2021 Monthly Total	103	93	78	108	114	113	135	106	213	162	133	165	1,523
2021 YTD Total	103	196	274	382	496	609	744	850	1,063	1,225	1,358	1,523	
2020 BART Felony	0	2	0	0	0	2	4	4	0	6	2	2	22
2020 BART Misdemeanor	4	3	1	0	1	2	0	4	2	2	2	1	22
2020 Outside Felony	21	27	18	7	21	15	33	29	33	33	38	35	310
2020 Outside Misdemeanor	75	53	37	8	30	28	20	32	42	33	34	33	425
2020 Monthly Total	100	85	56	15	52	47	57	69	77	74	76	71	779
2020 YTD Total	100	185	241	256	308	355	412	481	558	632	708	779	
2019 BART Felony	4	2	2	4	0	2	0	0	0	6	0	0	20
2019 BART Misdemeanor	2	12	3	5	0	3	7	10	2	1	3	7	55
2019 Outside Felony	21	37	27	19	16	14	29	15	18	25	25	20	266
2019 Outside Misdemeanor	72	75	87	76	61	43	60	56	69	71	86	65	821
2019 Monthly Total	99	126	119	104	77	62	96	81	89	103	114	92	1,162
2019 YTD Total	99	225	344	448	525	587	683	764	853	956	1,070	1,162	





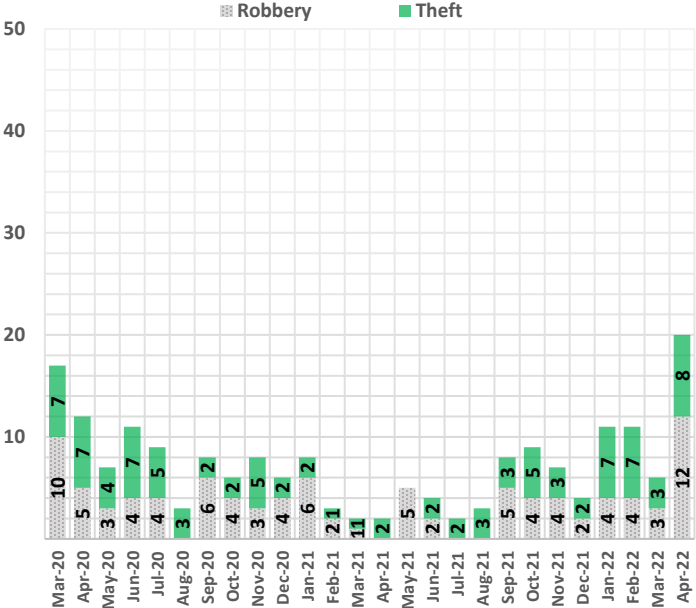
Bay Area Rapid Transit Police Department

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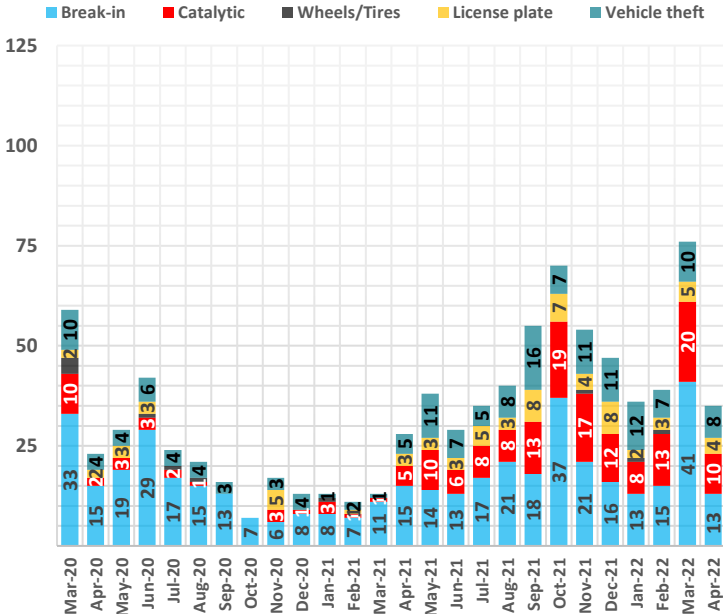
May 2022 Performance Measurement Review - Alameda County

PART 1 UCR Crime	2018	2019	2020	2021	YTD 2021	YTD 2022	PCT %
Homicide	2	1	0	0	0	1	-%
Rape	3	2	3	2	0	0	-%
Robbery	211	229	122	64	17	39	+129%
Aggravated Assault	87	52	54	34	9	11	+22%
Violent Crime Subtotal	303	284	179	100	26	51	+96%
Burglary (Structural)	11	13	9	6	0	2	-%
Larceny & Auto Burglary	1,262	1,634	577	472	98	205	+109%
Auto Theft	201	149	56	85	9	37	+311%
Arson	3	5	2	2	0	1	-%
Property Crime Subtotal	1,477	1,801	644	565	107	245	+129%
TOTAL	1,780	2,085	823	665	133	296	+123%

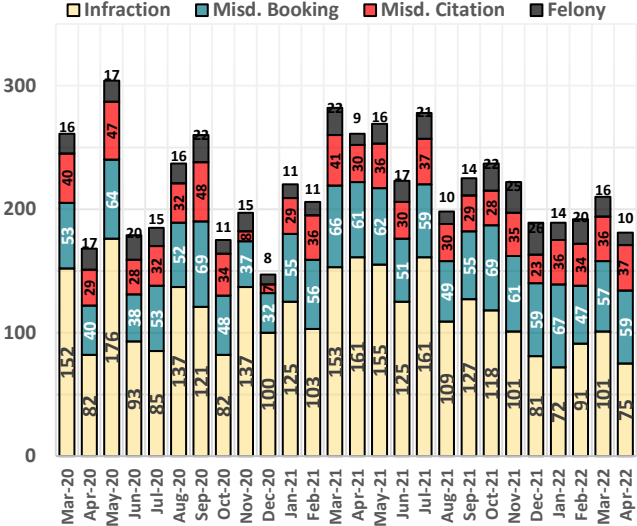
ALAMEDA ELECTRONIC THEFT



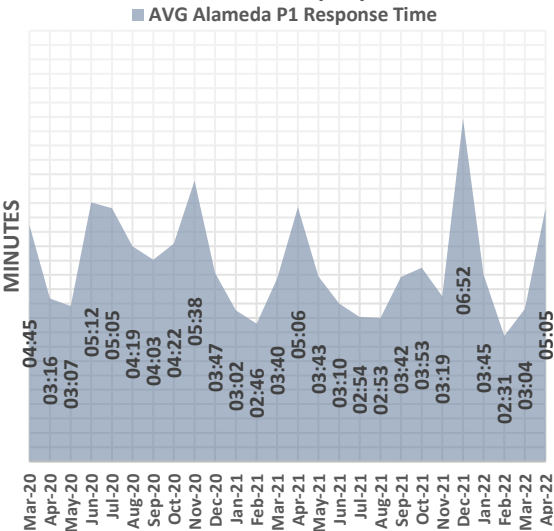
ALAMEDA VEHICLE CRIME



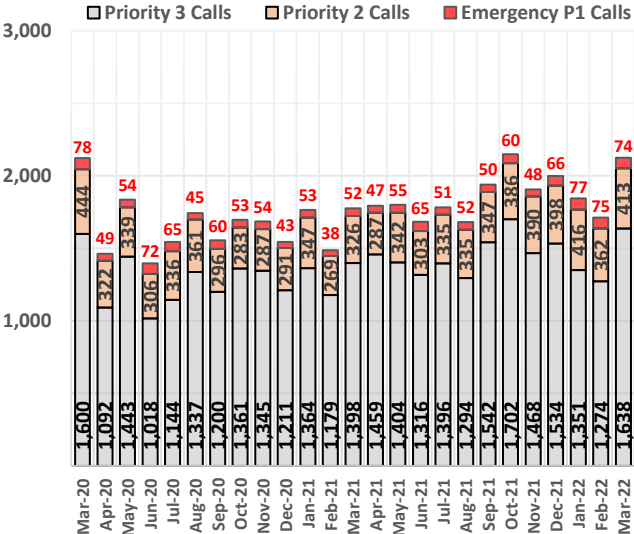
ALAMEDA ARRESTS & CITATIONS



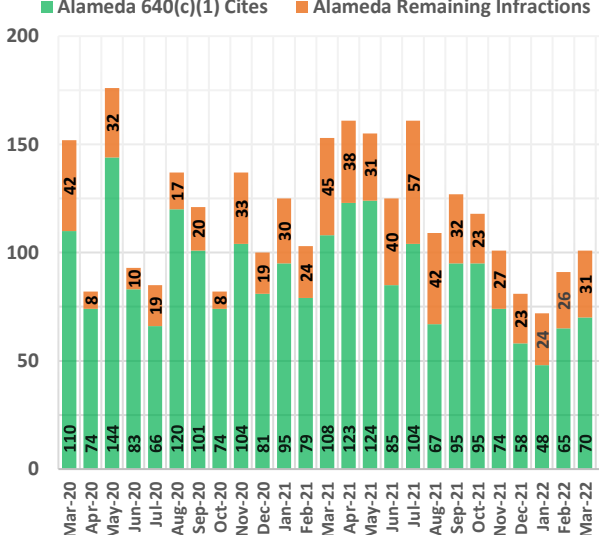
RESPONSE TIME (P1) AVG



ALAMEDA PRIORITY 1 - 3 CALLS



ALAMEDA FARE EVASION



Preface: The data is retrieved from the BART Police Database and remains unaudited until corrections. Numbers may differ from the reported data in the Uniform Crime Reporting (UCR) program.

Late reporting, the reclassification or unfounding of crimes, may affect statistics. Infraction citations consist of all individual charges. Felony arrests, misdemeanor arrests and citations are based on each instance per individual



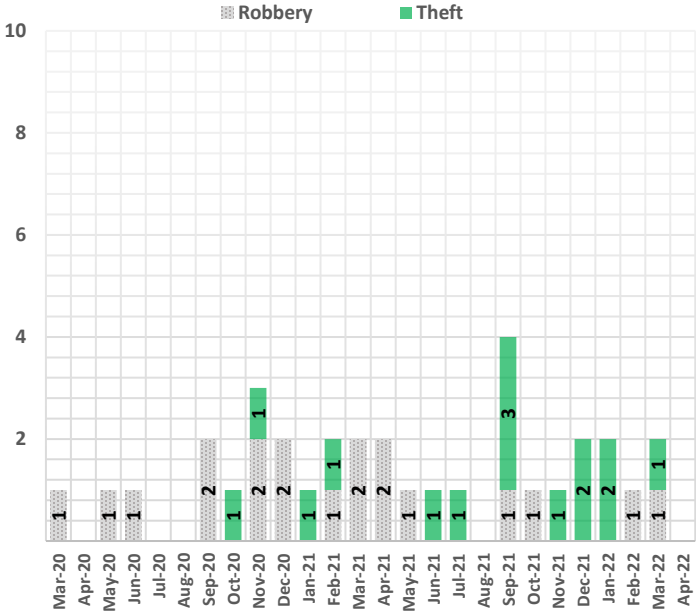
Bay Area Rapid Transit Police Department

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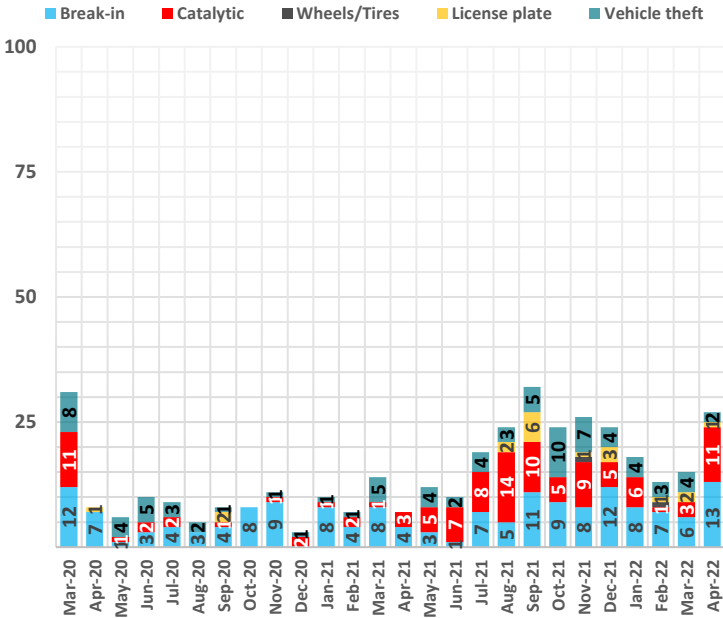
May 2022 Performance Measurement Review - Contra Costa County

PART 1 UCR Crime	2018	2019	2020	2021	YTD 2021	YTD 2022	PCT %
Homicide	1	0	0	0	0	0	-%
Rape	0	4	0	4	1	2	+100%
Robbery	29	34	23	19	10	5	-50%
Aggravated Assault	20	23	17	19	6	4	-33%
Violent Crime Subtotal	50	61	40	42	17	11	-35%
Burglary (Structural)	1	2	1	1	0	3	-%
Larceny & Auto Burglary	669	592	202	226	55	76	+38%
Auto Theft	124	81	40	46	7	13	+86%
Arson	1	0	0	0	0	3	-%
Property Crime Subtotal	795	675	243	273	62	95	+53%
TOTAL	845	736	283	315	79	106	+34%

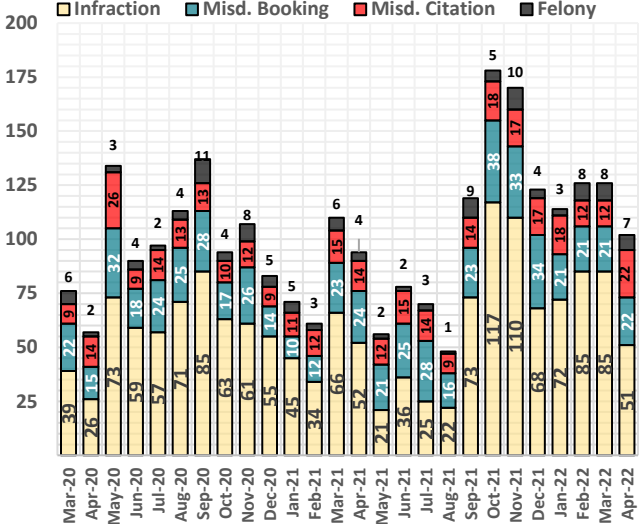
CONTRA COSTA ELECTRONIC THEFT



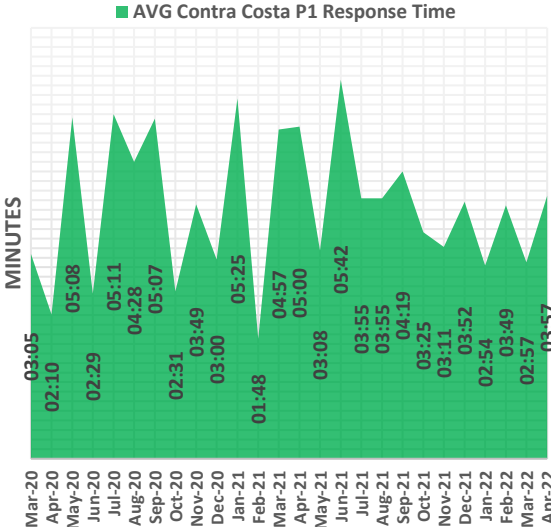
CONTRA COSTA VEHICLE CRIME



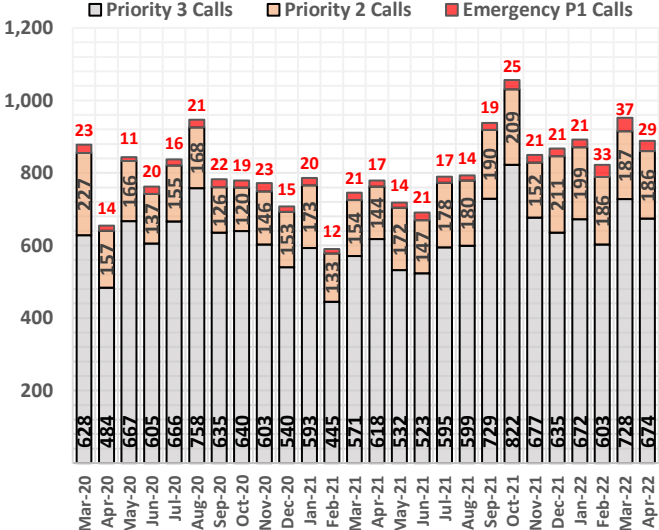
COCO ARRESTS & CITATIONS



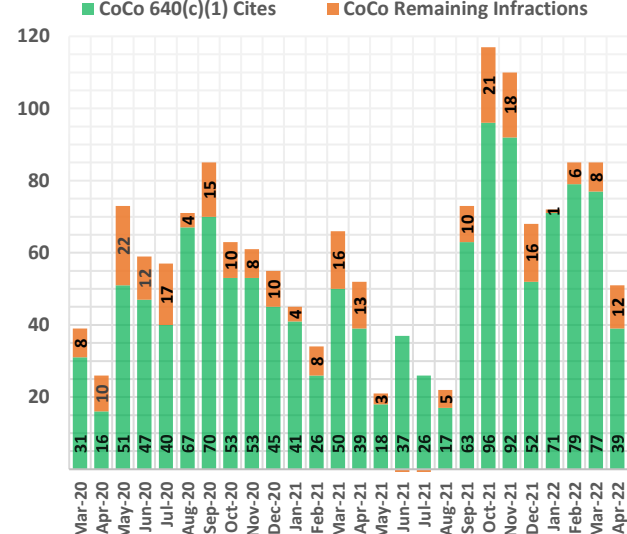
RESPONSE TIME (P1) AVG



COCO PRIORITY 1 - 3 CALLS



COCO FARE EVASION



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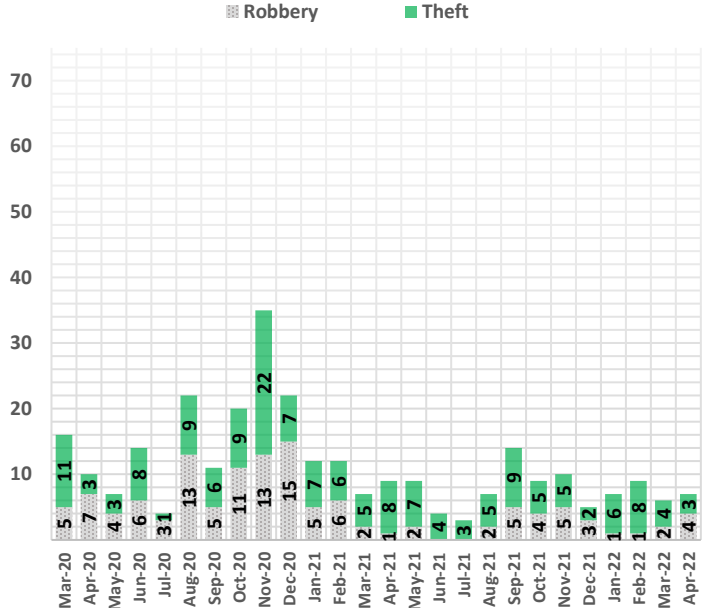
Bay Area Rapid Transit Police Department

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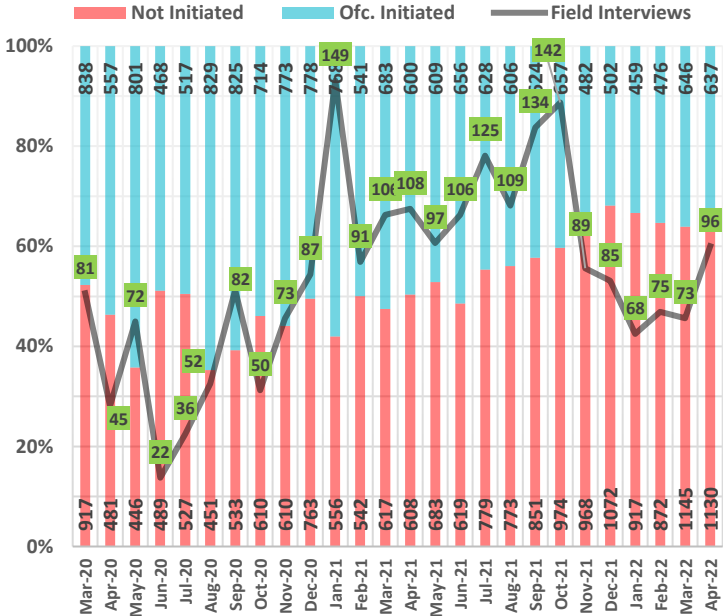
May 2022 Performance Measurement Review - San Francisco County

PART 1 UCR Crime	2018	2019	2020	2021	YTD 2021	YTD 2022	PCT %
Homicide	0	0	0	0	0	1	-%
Rape	0	0	4	1	0	0	-%
Robbery	97	104	101	47	17	10	-41%
Aggravated Assault	18	28	19	16	5	3	-40%
Violent Crime Subtotal	115	132	124	64	22	14	-36%
Burglary (Structural)	6	4	1	3	0	2	-%
Larceny & Auto Burglary	473	619	200	103	38	28	-26%
Auto Theft	1	1	0	0	0	0	-%
Arson	0	0	1	2	0	0	-%
Property Crime Subtotal	480	624	202	108	38	30	-21%
TOTAL	595	756	326	172	60	44	-27%

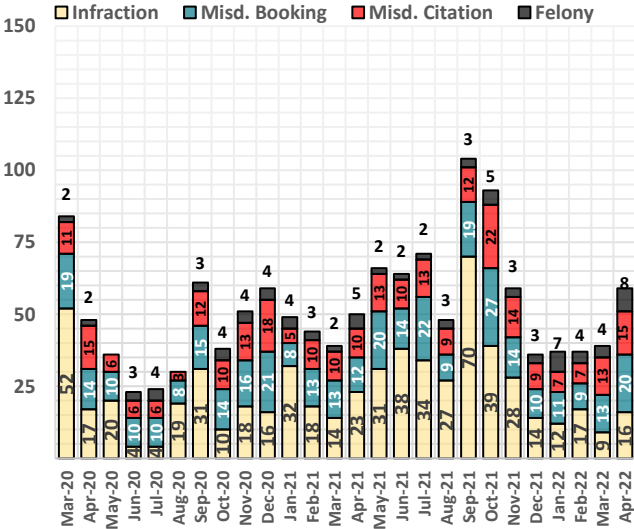
SAN FRANCISCO ELECTRONIC THEFT



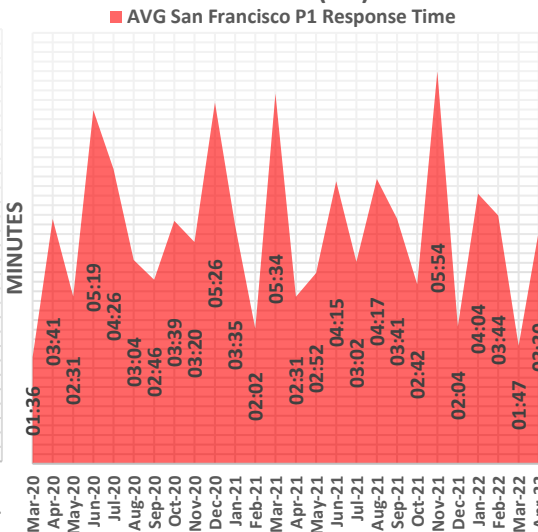
SF OFFICER-INITIATED INCIDENTS



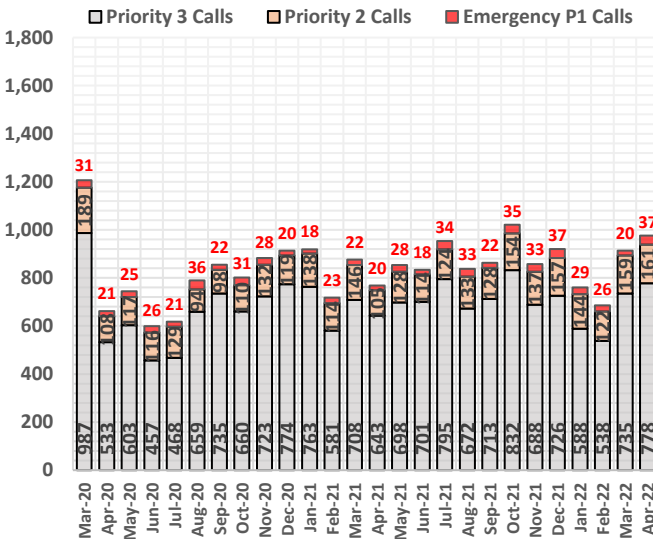
SF ARRESTS & CITATIONS



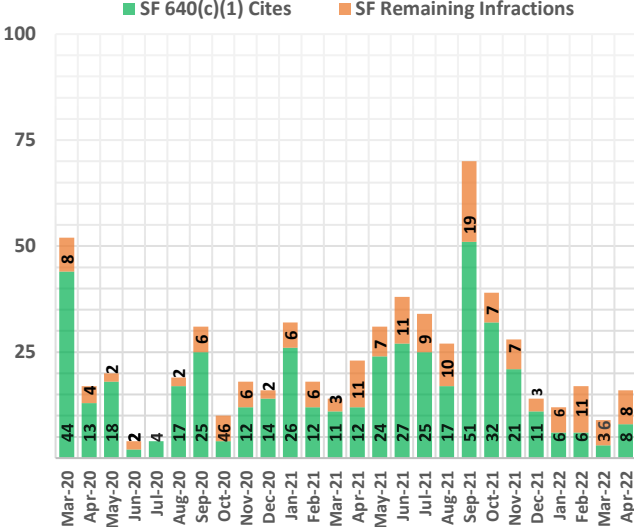
RESPONSE TIME (P1) AVG



SF PRIORITY 1 - 3 CALLS



SAN FRANCISCO FARE EVASION



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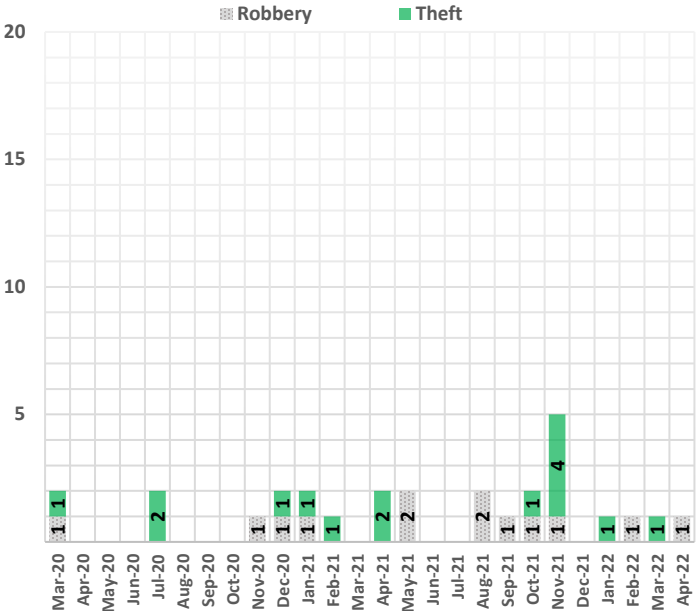
# Bay Area Rapid Transit Police Department

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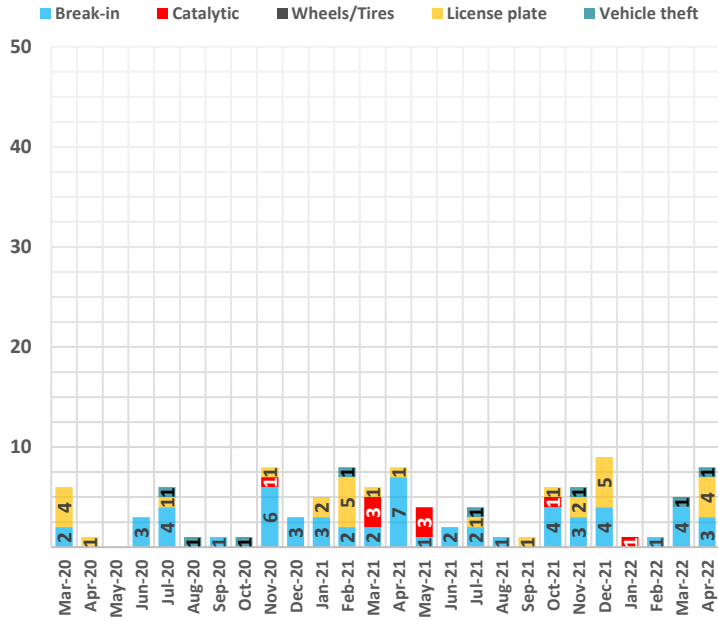
May 2022 Performance Measurement Review - **San Mateo County**

PART 1 UCR Crime	2018	2019	2020	2021	YTD 2020	YTD 2021	PCT %
Homicide	0	0	0	0	0	0	-%
Rape	0	1	1	1	0	0	-%
Robbery	8	13	6	10	2	7	+250%
Aggravated Assault	5	8	4	2	2	2	0%
Violent Crime Subtotal	13	22	11	13	4	9	+125%
Burglary (Structural)	0	0	1	1	0	1	-%
Larceny & Auto Burglary	161	332	75	81	39	12	-69%
Auto Theft	19	13	4	3	1	2	+100%
Arson	0	0	1	1	0	0	-%
Property Crime Subtotal	180	345	81	86	40	15	-63%
TOTAL	193	367	92	99	44	24	-45%

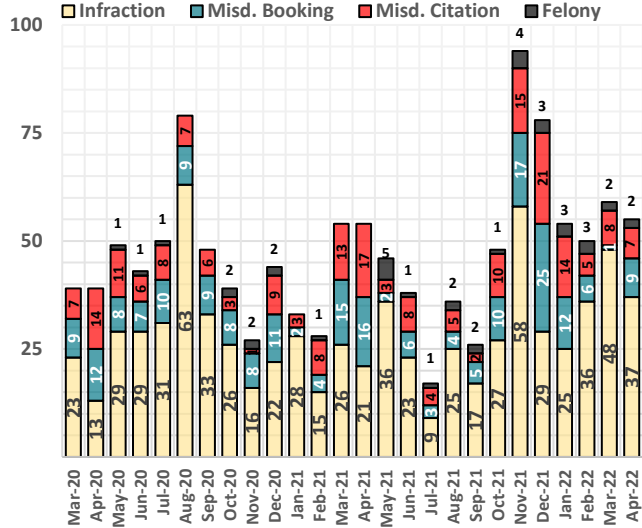
## SAN MATEO ELECTRONIC THEFT



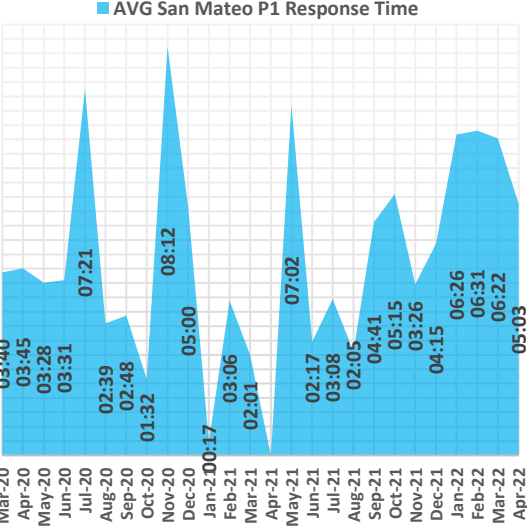
## SAN MATEO VEHICLE CRIME



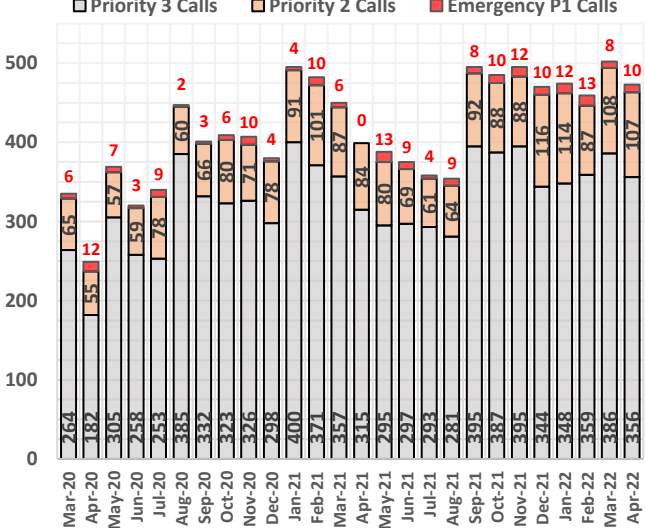
## SMC ARRESTS & CITATIONS



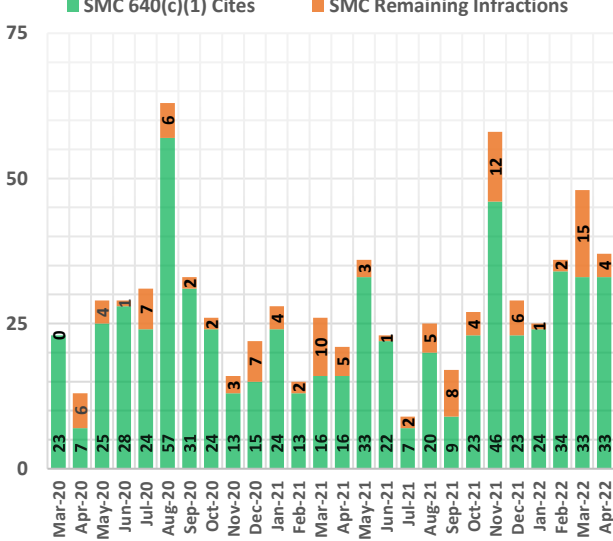
## RESPONSE TIME (P1) AVG



## SMC PRIORITY 1 - 3 CALLS



## SMC FARE EVASION



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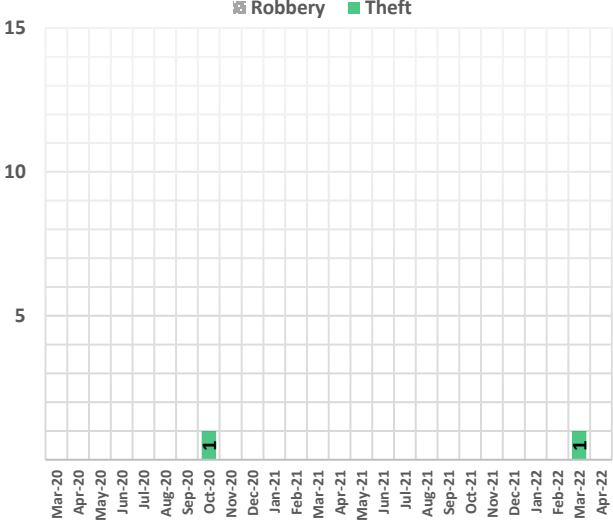
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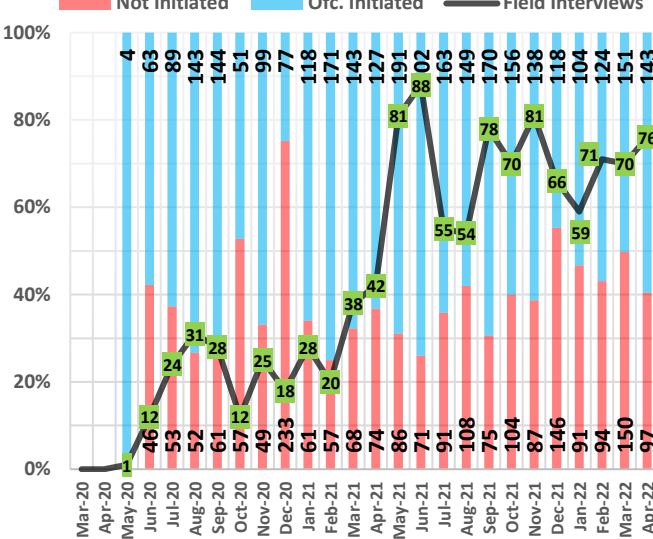
May 2022 Performance Measurement Review - Santa Clara County

PART 1 UCR Crime	2018	2019	2020	2020	YTD 2020	YTD 2021	PCT %
Homicide	-	-	-	-	0	0	-%
Rape	-	-	-	-	0	0	-%
Robbery	-	-	-	2	1	0	-100%
Aggravated Assault	-	-	1	0	0	1	-%
Violent Crime Subtotal	0	0	1	2	1	1	0%
Burglary (Structural)	-	-	-	-	0	0	-%
Larceny & Auto Burglary	-	-	1	-	0	0	-%
Auto Theft	-	-	-	-	0	0	-%
Arson	-	-	-	-	0	0	-%
Property Crime Subtotal	0	0	1	0	0	0	-%
TOTAL	0	0	2	2	1	1	0%

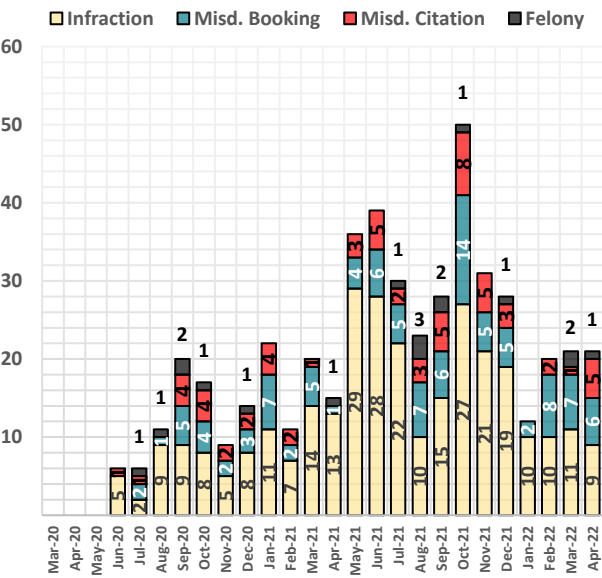
## SANTA CLARA ELECTRONIC THEFT



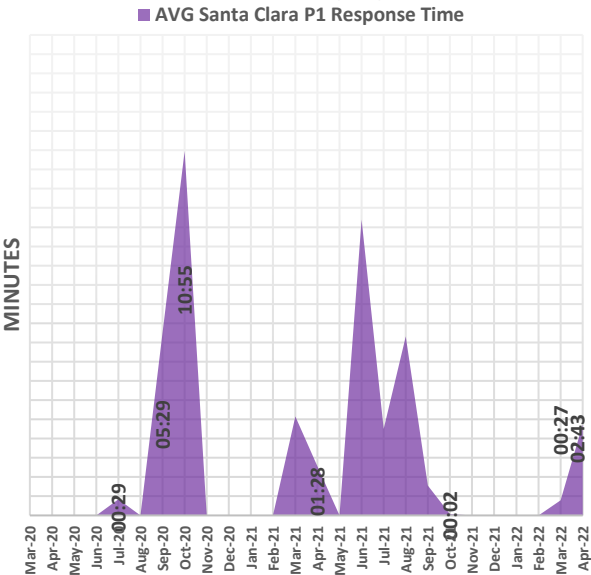
## SCC OFFICER-INITIATED INCIDENTS



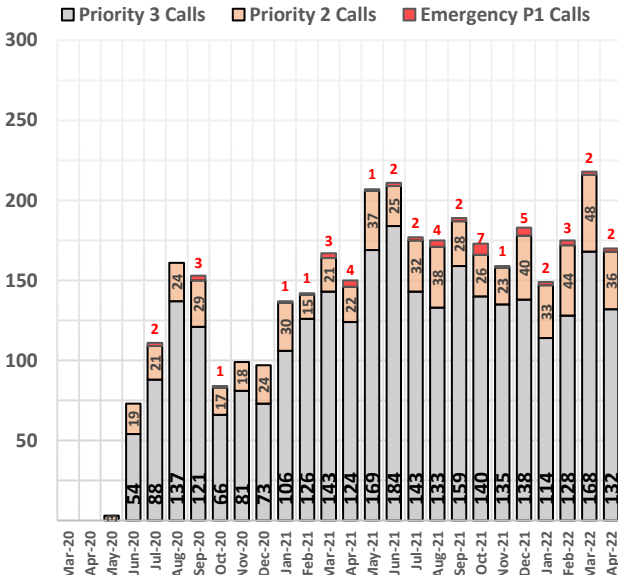
## SCC ARRESTS & CITATIONS



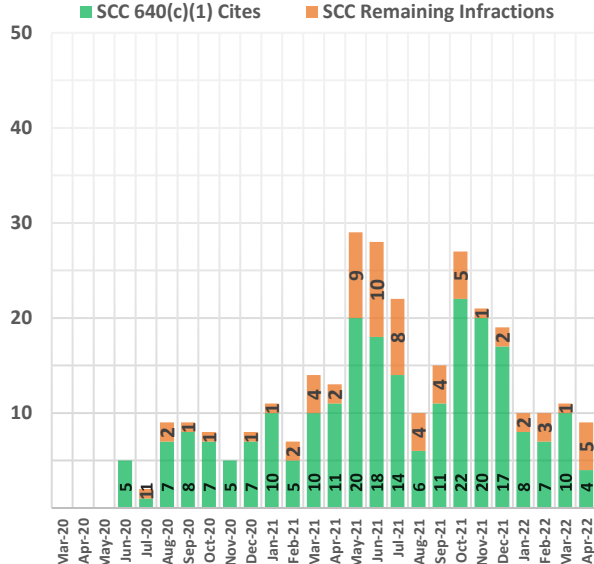
## RESPONSE TIME (P1) AVG



## SCC PRIORITY 1 - 3 CALLS



## SCC FARE EVASION



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**Internal Affairs Division Acronyms**

Admin: Administrative

OIPA Investigation: Office of the Independent Police Auditor is conducting the investigation

S.R.: Supervisor Referral

Tolled: Internal Affairs Investigation is on hold (paused)

**Allegation Types**

Arrest or Detention

BBP: Bias Based Policing

CUBO: Conduct Unbecoming an Officer

Courtesy

Force

POD: Performance of Duty

Policy Complaint

Policy/Procedure

Racial Animus

Reporting Misconduct

Search or Seizure

Service Review

Supervision

Truthfulness

Workplace Discrimination/Harassment



# BART Police Department - Office of Internal Affairs

## Investigation Log

IA#:	DATE OCC'D	DATE REC'D	ALLEGATION	MISC	INVESTIGATOR	STATUS	5 Month Date	Due Date
IA2018-001	1/3/2018	1/3/2018	Force (OIS)		Lt. Salas	Tolled	6/4/2018	
IA2018-060	7/22/2018	7/23/2018	Service Review		Lt. Salas	Tolled	12/23/2018	
IA2020-017	2/15/2020	2/15/2020	Force		Sgt. Spears	Tolled	7/16/2020	2/15/2021
IA2021-033					Lt. Salas	In Progress	9/20/2021	12/31/1900
IA2021-036	6/4/2021	6/4/2021	POD		Sgt. Turner	In Progress	11/3/2021	6/4/2022
IA2021-040	6/11/2021	6/11/2021	Force, CUBO		Sgt. Turner	In Progress	11/10/2021	6/11/2022
IA2021-044	5/28/2021	5/28/2021	Bias Based Policing		Sgt. Spears	In Progress	10/27/2021	5/28/2022
IA2021-045	6/12/2021	6/12/2021	CUBO		Sgt. Turner	In Progress	11/11/2021	6/12/2022
IA2021-046	6/19/2021	6/22/2021	Force, BBP	Retained by OIPA #21-15	OIPA	OIPA Investigation	11/21/2021	6/22/2022
IA2021-047	6/16/2021	6/22/2021	CUBO, Policy/Procedure		Sgt. Spears	In Progress	11/21/2021	6/22/2022
IA2021-048	2/1/2021	7/1/2021	Arrest/Detention Force/POD(Sup)		Sgt. Turner	In Progress	11/30/2021	7/1/2022
IA2021-049	5/19/2021	7/5/2021	Force		Sgt. Spears	In Progress	12/4/2021	7/5/2022

IA2021-050	7/4/2021	7/5/2021	Policy/Procedure, BBP, Arrest/Detention		Sgt. Spears	In Progress	12/4/2021	7/5/2022
IA2021-053	7/16/2021	7/16/2021	Force		Sgt. Turner	In Progress	12/15/2021	7/16/2022
IA2021-054	7/19/2021	7/19/2021	POD		Sgt. Turner	In Progress	12/18/2021	7/19/2022
IA2021-055	7/21/2021	7/21/2021	CUBO		Sgt. Turner	In Progress	12/20/2021	7/21/2022
IA2021-056	7/18/2021	7/27/2021	Force/ Arrest & Detention		Sgt. Spears	In Progress	12/26/2021	7/27/2022
IA2021-057	7/28/2021	7/28/2021	Bias Based Policing		Sgt. Spears	In Progress	12/27/2021	7/28/2022
IA2021-058	7/16/2021	8/2/2021	Force, BBP, POD, CUBO		Sgt. Turner	Tolled	1/1/2022	8/2/2022
IA2021-059	8/16/2021	8/16/2021	Force		Sgt. Turner	In Progress	1/15/2022	8/16/2022
IA2021-060	8/14/2021	8/14/2021	Force, CUBO		Sgt. Turner	In Progress	1/13/2022	8/14/2022
IA2021-061	8/19/2021	8/19/2021	CUBO		Sgt. Spears	In Progress	1/18/2022	8/19/2022
IA2021-062	4/6/2021	9/2/2021	Force, POD		Sgt. Turner	In Progress	2/1/2022	9/2/2022
IA2021-063	9/16/2021	9/16/2021	Force		Sgt. Turner	In Progress	2/15/2022	9/16/2022
IA2021-064	9/16/2021	9/20/2021	Force		Sgt. Turner	In Progress	2/19/2022	9/20/2022
IA2021-065	9/15/2021	9/20/2021	Force		Sgt. Spears	In Progress	2/19/2022	9/20/2022



IA2021-066	9/22/2021	9/22/2021	Bias-Based Policing	clear by video request sent to oipa on 11/1/21	Sgt. Spears	Pending Approval	2/21/2022	9/22/2022
IA2021-067	9/22/2021	9/22/2021	Bias-Based Policing		Sgt. Turner	In Progress	2/21/2022	9/22/2022
IA2021-068	9/12/2021	9/14/2021	CUBO		Sgt. Spears	In Progress	3/1/2022	9/14/2022
IA2021-069	9/23/2021	9/27/2021	Bias-Based Policing		Sgt. Spears	In Progress	3/1/2022	9/27/2022
IA2021-070	9/24/2021	9/24/2021	Force		Sgt. Turner	In Progress	2/23/2021	9/24/2022
IA2021-073	3/29/2021	10/4/2021	Force		Sgt. Spears	In Progress	3/5/2022	10/4/2022
IA2021-074	9/25/2021	10/1/2021	Force, Arrest/Detention, Policy/Procedure	Retained by OIPA #21-19	OIPA	OIPA Investigation	3/2/2022	10/1/2022
IA2021-076	10/13/2021	10/13/2021	Force		Sgt. Turner	In Progress	3/14/2022	10/13/2022
IA2021-077	10/8/2021	10/12/2021	Bias Based Policing		Sgt. Turner	In Progress	3/13/2021	10/12/2022
IA2021-078	10/15/2021	10/15/2021	BBP, CUBO		Sgt. Turner	In Progress	3/16/2021	10/15/2022
IA2021-079	10/11/2021	10/13/2021	Arrest/Detention		Sgt. Spears	In Progress	3/22/2022	10/13/2022
IA2021-080	10/14/2021	10/20/2021	CUBO		Sgt. Spears	In Progress	3/22/2022	10/20/2022
IA2021-081	12/31/2019	10/13/2021	Force		Sgt. Turner	Tolled	3/14/2022	10/13/2022

IA2021-083	10/15/2021	10/15/2021	Force		Sgt. Spears	In Progress	3/16/2021	10/15/2022
IA2021-084	10/21/2021	10/21/2021	POD		Sgt. Turner	In Progress	3/22/2022	10/21/2022
IA2021-085	10/26/2021	10/26/2021	Force, BBP Arrest/Detention		Sgt. Spears	In Progress	3/27/2022	10/26/2022
IA2021-086	10/27/2021	11/1/2021	Force	Retained by OIPA #21-24	OIPA	OIPA Investigation	4/2/2022	11/1/2022
IA2021-087		11/1/2021	POD, Truthfulness, Policy/Procedure, CUBO		Sgt. Turner	In Progress	4/2/2022	11/1/2022
IA2021-088	10/31/2021	10/31/2021	Force		Sgt. Spears	In Progress	4/1/2022	10/31/2022
IA2021-089	11/1/2021	11/1/2021	Force		Sgt. Spears	In Progress	4/2/2022	11/1/2022
IA2021-090	11/4/2021	11/8/2021	Force		Sgt. Spears	In Progress	4/9/2022	11/8/2022
IA2021-091	11/10/2021	11/12/2021	POD	OIPA Intake #21-24, Possible Admin Closure	Sgt. Turner	In Progress	4/13/2022	11/12/2022
IA2021-092	11/12/2021	11/16/2021	Force, Arrest/Detention		Sgt. Spears	In Progress	4/17/2022	11/16/2022
IA2021-093	11/2/2021	11/10/2021	Arrest/Detention		Sgt. Spears	In Progress	4/30/2022	11/10/2022
IA2021-095	6/29/2016	10/25/2021	POD	Possible Admin Closure	Sgt. Spears	In Progress	3/26/2022	10/25/2022
IA2021-096	12/5/2021	12/8/2021	Force		Sgt. Turner	In Progress	5/9/2022	12/8/2022

IA2021-097	12/3/2021	12/17/2021	POD, CUBO Policy/Procedure (Report Writing), Axon Camera		Sgt. Spears	In Progress	5/23/2022	12/17/2022
IA2021-099	11/24/2021	11/26/2021	CUBO		Sgt. Spears	In Progress	5/28/2022	11/26/2022
IA2021-102	10/2/2021	10/15/2021	POD, Policy/Procedure (Report Writing)	OIPA Intake #21-21	Sgt. Spears	In Progress	3/16/2022	10/15/2022
IA2022-001	1/13/2022	1/18/2022	Force		Sgt. Turner	In Progress	6/19/2022	1/18/2023
IA2022-002	1/1/2022	1/4/2022	POD	OIPA Intake #22-01	OIPA	In Progress	6/5/2022	1/4/2023
IA2022-003	1/24/2022	1/26/2022	CUBO		Sgt. Spears	In Progress	6/28/2022	1/26/2023
IA2022-004	2/3/2022	2/4/2022	Force, CUBO, POD		Sgt. Turner	In Progress	7/6/2022	2/4/2023
IA2022-005	2/8/2022	2/8/2022	Search/Seizure, CUBO, Axon	Retained by OIPA #22-09	Sgt. Spears	In Progress	7/10/2022	2/8/2023
IA2022-006	2/8/2022	2/8/2022	POD, CUBO, Axon		Sgt. Spears	In Progress	7/10/2022	2/8/2023
IA2022-008	12/4/2020	2/10/2022	Arrest/Detention, Policy/Procedure	Retained by OIPA #22-04	OIPA	OIPA Investigation	7/12/2022	2/10/2023
IA2022-009	2/8/2022	2/9/2022	Arrest/Detention, Force, CUBO	OIPA deferred to IA #22-03	Sgt. Turner	In Progress	7/11/2022	2/9/2023

IA2022-010	2/20/2022	3/2/2022	Arrest/Detention, Search or Seizure, CUBO		Sgt. Turner	In Progress	8/1/2022	3/2/2023
IA2022-011	3/2/2022	3/3/2022	POD, CUBO		Sgt. Turner	In Progress	8/2/2022	3/3/2023
IA2022-012	3/12/2022	3/12/2022	BBP, CUBO		Sgt. Spears	In Progress	8/13/2022	3/12/2023
IA2022-013	3/8/2022	3/8/2022	Force, BBP		Sgt. Turner	In Progress	8/13/2022	3/8/2023
IA2022-014	Unknown	3/14/2022	Unknown	OIPA deferred to IA #22-10	Sgt. Spears	In Progress	8/13/2022	3/14/2023
IA2022-015	3/20/2022	3/21/2022	Force, CUBO		Sgt. Spears	In Progress	8/20/2022	3/21/2023
IA2022-016	4/7/2022	4/7/2022	POD, CUBO	OIPA deferred to IA #22-12	Sgt. Spears	In Progress	9/6/2022	4/7/2023
IA2022-017	4/9/2022	4/12/2022	POD		Sgt. Turner	In Progress	9/11/2022	4/12/2023
IA2022-018	12/30/2019	4/10/2022	Arrest/Detention, Policy/Procedure, Force, CUBO	OIPA deferred to IA #22-15	Sgt. Turner	In Progress	9/9/2022	12/30/2020
IA2022-019	4/11/2022	4/11/2022	BBP	OIPA deferred to IA #22-14	Sgt. Spears	In Progress	9/10/2022	4/11/2023
IA2022-020	4/12/2022	4/12/2022	BBP, Policy/Procedure	OIPA deferred to IA #22-16	Sgt. Turner	In Progress	9/13/2022	4/12/2023
IA2022-021	5/23/2021	4/14/2022	CUBO, BBP, Racial Animus	Retained by OIPA #22-17	OIPA	In Progress	9/13/2022	4/14/2023

IA2022-022	4/17/2022	4/17/2022	CUBO, BBP, Axon		Sgt. Spears	In Progress	9/17/2022	4/17/2023
IA2022-023	3/14/2022	3/14/2022	Force, CUBO		Sgt. Spears	In Progress	8/13/2022	3/14/2023
IA2022-024	4/22/2022	4/22/2022	CUBO		Sgt. Turner	In Progress	9/21/2022	4/22/2023
IA2022-025	4/25/2022	4/25/2022	BBP & POD		Sgt. Spears	In Progress	9/24/2022	4/25/2023

# BART Watch - 2022

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Crime in Progress	23	15	31	24									93
Disruptive Behavior	277	253	332	306									1,168
Drug Use	150	121	202	225									698
Human Trafficking	2	2	0	2									6
Illegally Parked Vehicle	2	2	2	5									11
Aggressive Panhandling	6	5	10	10									31
Report a Crime Tip	7	9	8	5									29
Robbery/Theft	5	6	7	5									23
Sexual Assault/Lewd Behavior	6	2	8	10									26
Suspicious Activity	45	29	51	45									170
Unattended Bag or Package	6	10	17	15									48
Unsecure Door	8	5	4	2									19
Vandalism	20	32	41	34									127
Welfare Check	64	62	90	87									303
Unwanted Sex Harassment	5	3	3	3									14
Total	<b>626</b>	<b>556</b>	<b>806</b>	<b>778</b>									<b>2,766</b>
Text-a-Tip	1,557	1,511	1,970	2,288									7,326

Total Downloads: **99,476**



**BAY AREA RAPID TRANSIT POLICE DEPARTMENT**

**Edgardo Alvarez, Chief of Police**

**101 8<sup>th</sup> Street**

**Oakland, CA 94607**

**[www.bart.gov/police](http://www.bart.gov/police)**

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**MEMORANDUM**

**TO:** BART Police Citizens Review Board

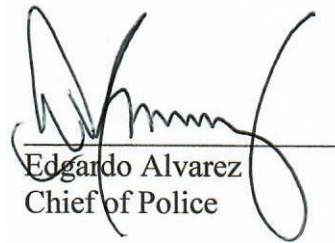
**DATE:** June 10, 2022

**FROM:** Edgardo Alvarez, Chief of Police

**SUBJECT:** BART Police Department Policy 711 – Assembly Bill 481

At the June 13, 2022, BART Police Citizens Review Board meeting, the BART Police Department Policy 711 will be presented as an information item. The attached policy and materials are provided to the BART Police Citizens Review Board to accompany the discussion.

If you have any questions in advance of the meeting, please contact me.



Edgardo Alvarez  
Chief of Police

cc: Executive Staff  
Deputy General Manager

## **Assembly Bill No. 481**

### **CHAPTER 406**

An act to add Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, relating to military equipment.

[Approved by Governor September 30, 2021. Filed with  
Secretary of State September 30, 2021.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 481, Chiu. Law enforcement and state agencies: military equipment: funding, acquisition, and use.

Existing law designates the Department of General Services as the agency for the State of California responsible for distribution of federal surplus personal property, excepting food commodities, and requires the department to, among other things, do all things necessary to the execution of its powers and duties as the state agency for the distribution of federal personal surplus property, excepting food commodities, in accordance with specified federal law. Existing law, the Federal Surplus Property Acquisition Law of 1945, authorizes a local agency, as defined, to acquire surplus federal property without regard to any law which requires posting of notices or advertising for bids, inviting or receiving bids, or delivery of purchases before payment, or which prevents the local agency from bidding on federal surplus property. Existing federal law authorizes the Department of Defense to transfer surplus personal property, including arms and ammunition, to federal or state agencies for use in law enforcement activities, subject to specified conditions, at no cost to the acquiring agency.

This bill would require a law enforcement agency, defined to include specified entities, to obtain approval of the applicable governing body, by adoption of a military equipment use policy, as specified, by ordinance at a regular meeting held pursuant to specified open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment, as defined. The bill would also require similar approval for the continued use of military equipment acquired prior to January 1, 2022. The bill would allow the governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it determines that the military equipment meets specified standards. The bill would require the governing body to annually review the ordinance and to either disapprove a renewal of the authorization for a type, as defined, of military equipment or amend the military equipment use policy if it determines, based on an annual military equipment report prepared by the law enforcement agency, as provided, that the military equipment does not comply with the above-described standards for approval. The bill would specify these provisions do not preclude a county or local municipality from implementing



additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.

This bill would also require a state agency, as defined, to create a military equipment use policy before engaging in certain activities, publish the policy on the agency's internet website, and provide a copy of the policy to the Governor or the Governor's designee, as specified. The bill would also require a state agency that seeks to continue use of military equipment acquired prior to January 1, 2022, to create a military equipment use policy.

This bill would also include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

By adding to the duties of local officials with respect to the funding, acquisition, and use of military equipment, this bill would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) The acquisition of military equipment and its deployment in our communities adversely impacts the public's safety and welfare, including increased risk of civilian deaths, significant risks to civil rights, civil liberties, and physical and psychological well-being, and incurment of significant financial costs. Military equipment is more frequently deployed in low-income Black and Brown communities, meaning the risks and impacts of police militarization are experienced most acutely in marginalized communities.

(b) The public has a right to know about any funding, acquisition, or use of military equipment by state or local government officials, as well as a right to participate in any government agency's decision to fund, acquire, or use such equipment.

(c) Decisions regarding whether and how military equipment is funded, acquired, or used should give strong consideration to the public's welfare, safety, civil rights, and civil liberties, and should be based on meaningful public input.

(d) Legally enforceable safeguards, including transparency, oversight, and accountability measures, must be in place to protect the public’s welfare, safety, civil rights, and civil liberties before military equipment is funded, acquired, or used.

(e) The lack of a public forum to discuss the acquisition of military equipment jeopardizes the relationship police have with the community, which can be undermined when law enforcement is seen as an occupying force rather than a public safety service.

SEC. 2. Chapter 12.8 (commencing with Section 7070) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 12.8. FUNDING, ACQUISITION, AND USE OF MILITARY  
EQUIPMENT

7070. For purposes of this chapter, the following definitions shall apply:

(a) “Governing body” means the elected body that oversees a law enforcement agency or, if there is no elected body that directly oversees the law enforcement agency, the appointed body that oversees a law enforcement agency. In the case of a law enforcement agency of a county, including a sheriff’s department or a district attorney’s office, “governing body” means the board of supervisors of the county.

(b) “Law enforcement agency” means any of the following:

(1) A police department, including the police department of a transit agency, school district, or any campus of the University of California, the California State University, or California Community Colleges.

(2) A sheriff’s department.

(3) A district attorney’s office.

(4) A county probation department.

(c) “Military equipment” means the following:

(1) Unmanned, remotely piloted, powered aerial or ground vehicles.

(2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.

(3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.

(4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.

(5) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.

(6) Weaponized aircraft, vessels, or vehicles of any kind.

(7) Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters,

or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.

(8) Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.

(9) Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.

(10) Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.

(11) Any firearm or firearm accessory that is designed to launch explosive projectiles.

(12) “Flashbang” grenades and explosive breaching tools, “tear gas,” and “pepper balls,” excluding standard, service-issued handheld pepper spray.

(13) Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).

(14) The following projectile launch platforms and their associated munitions: 40mm projectile launchers, “bean bag,” rubber bullet, and specialty impact munition (SIM) weapons.

(15) Any other equipment as determined by a governing body or a state agency to require additional oversight.

(16) Notwithstanding paragraphs (1) through (15), “military equipment” does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

(d) “Military equipment use policy” means a publicly released, written document governing the use of military equipment by a law enforcement agency or a state agency that addresses, at a minimum, all of the following:

(1) A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.

(2) The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.

(3) The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.

(4) The legal and procedural rules that govern each authorized use.

(5) The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of military equipment to ensure the full protection of the public’s welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.

(6) The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight

authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.

(7) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

(e) “State agency” means the law enforcement division of every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(f) “Type” means each item that shares the same manufacturer model number.

7071. (a) (1) A law enforcement agency shall obtain approval of the governing body, by an ordinance adopting a military equipment use policy at a regular meeting of the governing body held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable, prior to engaging in any of the following:

(A) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

(B) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(C) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(D) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.

(E) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.

(F) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, military equipment.

(G) Acquiring military equipment through any means not provided by this paragraph.

(2) No later than May 1, 2022, a law enforcement agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall commence a governing body approval process in accordance with this section. If the governing body does not approve the continuing use of military equipment, including by adoption pursuant to this subdivision of a military equipment use policy submitted pursuant to subdivision (b), within 180 days of submission of the proposed military equipment use policy to the governing body, the law enforcement agency shall cease its use of

the military equipment until it receives the approval of the governing body in accordance with this section.

(b) In seeking the approval of the governing body pursuant to subdivision (a), a law enforcement agency shall submit a proposed military equipment use policy to the governing body and make those documents available on the law enforcement agency's internet website at least 30 days prior to any public hearing concerning the military equipment at issue.

(c) The governing body shall consider a proposed military equipment use policy as an agenda item for an open session of a regular meeting and provide for public comment in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

(d) (1) The governing body shall only approve a military equipment use policy pursuant to this chapter if it determines all of the following:

(A) The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

(B) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

(C) If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

(D) Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

(2) In order to facilitate public participation, any proposed or final military equipment use policy shall be made publicly available on the internet website of the relevant law enforcement agency for as long as the military equipment is available for use.

(e) (1) The governing body shall review any ordinance that it has adopted pursuant to this section approving the funding, acquisition, or use of military equipment at least annually and, subject to paragraph (2), vote on whether to renew the ordinance at a regular meeting held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

(2) The governing body shall determine, based on the annual military equipment report submitted pursuant to Section 7072, whether each type of military equipment identified in that report has complied with the standards for approval set forth in subdivision (d). If the governing body determines that a type of military equipment identified in that annual military equipment report has not complied with the standards for approval set forth in subdivision (d), the governing body shall either disapprove a renewal of the authorization for that type of military equipment or require modifications

to the military equipment use policy in a manner that will resolve the lack of compliance.

(f) Notwithstanding subdivisions (a) to (e), inclusive, if a city contracts with another entity for law enforcement services, the city shall have the authority to adopt a military equipment use policy based on local community needs.

7072. (a) A law enforcement agency that receives approval for a military equipment use policy pursuant to Section 7071 shall submit to the governing body an annual military equipment report for each type of military equipment approved by the governing body within one year of approval, and annually thereafter for as long as the military equipment is available for use. The law enforcement agency shall also make each annual military equipment report required by this section publicly available on its internet website for as long as the military equipment is available for use. The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:

(1) A summary of how the military equipment was used and the purpose of its use.

(2) A summary of any complaints or concerns received concerning the military equipment.

(3) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.

(4) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.

(5) The quantity possessed for each type of military equipment.

(6) If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

(b) Within 30 days of submitting and publicly releasing an annual military equipment report pursuant to this section, the law enforcement agency shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the law enforcement agency's funding, acquisition, or use of military equipment.

7073. (a) A state agency shall create a military equipment use policy prior to engaging in any of the following:

(1) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

(2) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(3) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(4) Collaborating with a law enforcement agency or another state agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.

(5) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.

(6) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, or to apply to receive, acquire, use, or collaborate in the use of, military equipment.

(7) Acquiring military equipment through any means not provided by this subdivision.

(b) No later than May 1, 2022, a state agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall create a military equipment use policy.

(c) A state agency that is required to create a military equipment use policy pursuant to this section shall do both of the following within 180 days of completing the policy:

(1) Publish the military equipment use policy on the agency's internet website.

(2) Provide a copy of the military equipment use policy to the Governor or the Governor's designee.

7074. The Legislature finds and declares that ensuring adequate oversight of the acquisition and use of military equipment is a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities and shall supersede any inconsistent provisions in the charter of any city, county, or city and county.

7075. Nothing in this chapter shall preclude a county or local municipality from implementing additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which adds Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

Requiring local agencies to hold public meetings prior to the acquisition of military equipment further exposes that activity to public scrutiny and enhances public access to information concerning the conduct of the people's business.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would

result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

O



AN ORDINANCE OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT  
ADDRESSING THE USE OF MILITARY EQUIPMENT BY THE BART POLICE DEPARTMENT

WHEREAS, the San Francisco Bay Area Rapid Transit District (BART) Board of Directors has invested heavily in maintaining a safe and secure transportation system hardened against terrorist sabotage, criminal behavior, and threats to public peace and safety; and

WHEREAS, the Board of Directors has and continues to believe that the safety and security of the BART system requires the maintenance and support of every law enforcement resource available to maintain public safety and BART's system security; and

WHEREAS, the Board recognizes that there is a point at which law enforcement resources may be viewed as unnecessary and unsettling to the riding public, and

WHEREAS, the Board wishes to harmonize these competing interests in a manner that permits public discourse and discussion about the decision-making process of adding military equipment for safety and security into the BART transit system; and

WHEREAS, the Board of Directors recognizes that military equipment use by law enforcement should be judiciously balanced with the need to reasonably protect recognized civil liberties; and

WHEREAS, the Board of Directors finds that proper transparency, oversight and accountability are fundamental to minimizing the mitigatable risks to the afore-mentioned civil liberties posed by use of military equipment by law enforcement personnel, and

WHEREAS, the Board of Directors finds it essential to have an informed public discourse about whether to adopt additional military equipment to that already utilized within the District, and  
WHEREAS, the existing use of military equipment already employed within the BART transportation system is extensive, it shall be grandfathered in as a "baseline" and be exempt from further review to limit the otherwise unreasonably burdensome cost of the proposed policy; and

WHEREAS, the Board of Directors finds it desirable that safeguards be in place to protect reasonable expectations of privacy and freedom of speech and assembly, duly balanced against a need to preserve public peace and safety, and to address exigent circumstances before any new military equipment for law enforcement purposes is deployed.

WHEREAS, the Board of Directors finds that if either new military equipment is approved for use or existing equipment is used in a materially different manner or for a materially different purpose, there must be clear internal policies and procedures to ensure that reasonable safeguards are being followed and that the military equipment's benefits outweigh its costs.

NOW, THEREFORE, BE IT ENACTED by the Board of Directors of the San Francisco Bay Area Rapid Transit District:

17-601 Name of Ordinance

A. This Ordinance shall be known as the Military Equipment Use Ordinance.

## 17-602 Definitions

A. "Military Equipment" includes all of the following (Per CA Gov. Code §7070):

1. Unmanned, remotely piloted, powered aerial or ground vehicles.
2. Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.
3. High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.
4. Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
5. Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
6. Weaponized aircraft, vessels, or vehicles of any kind.
7. Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.
8. Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.
9. Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.
10. Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.
11. Any firearm or firearm accessory that is designed to launch explosive projectiles.
12. "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.
13. Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).
14. The following projectile launch platforms and their associated munitions: 40mm projectile launchers, "bean bag," rubber bullet, and specialty impact munition (SIM) weapons.

15. Any other equipment as determined by a governing body or a state agency to require additional oversight.
  16. Notwithstanding paragraphs (1) through (15), "Military Equipment" does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.
- B. "District" means any department, agency, bureau, and/or subordinate division of the San Francisco Bay Area Rapid Transit District.
- C. "Police Department" or "BART Police Department" means any division, section, bureau, employee, volunteer and/or contractor of the San Francisco Bay Area Rapid Transit District's Police Department.
- D. "Board of Directors" means the governing legislative body of the San Francisco Bay Area Rapid Transit District.
- E. "Military Equipment Use Policy" means a publicly released, written document that includes, at a minimum, all of the following:
1. A description of each type of Military Equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the Military Equipment.
  2. The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of Military Equipment.
  3. The fiscal impact of each type of Military Equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
  4. The legal and procedural rules that govern each authorized use.
  5. The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of Military Equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the Military Equipment use policy.
  6. The mechanisms to ensure compliance with the Military Equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.
  7. For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of Military Equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

- F. "Exigent Circumstances" means a law enforcement agency's good faith belief that an emergency involving the danger of, or imminent threat of death or serious physical injury to any person is occurring, has occurred, or is about to occur.
- G. "State agency" means the law enforcement division of every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.
- H. "Type" means each item that shares the same manufacturer model number.

#### 17-603 Military Equipment Use Policy Requirement

- A. The BART Police Department shall obtain approval of the Board of Directors, by a resolution adopting a Military Equipment Use Policy (MEUP) at a regular meeting of the Board of Directors held pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) prior to engaging in any of the following:
  - 1. Requesting Military Equipment made available pursuant to Section 2576a of Title 10 of the United States Code.
  - 2. Seeking funds for Military Equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
  - 3. Acquiring Military Equipment either permanently or temporarily, including by borrowing or leasing.
  - 4. Collaborating with another law enforcement agency in the deployment or other use of Military Equipment within the territorial jurisdiction of BART.
  - 5. Using any new or existing Military Equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.
  - 6. Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, Military Equipment.
  - 7. Acquiring Military Equipment through any means not provided by this section.
- B. No later than May 1, 2022, if seeking to continue the use of any Military Equipment that was acquired prior to January 1, 2022, the BART Police Department shall commence a Board of Directors approval process in accordance with this section. If the Board of Directors does not approve the continuing use of Military Equipment, including by adoption pursuant to a Military Equipment Use Policy submitted pursuant to this code, within 180 days of submission of the proposed Military Equipment Use Policy to Board of Directors, the BART Police Department shall cease its use of the Military Equipment until it receives the approval of Board of Directors in accordance with this code.

- C. In seeking the approval of Board of Directors, the BART Police Department shall submit a proposed Military Equipment Use Policy to the Board of Directors and make those documents available on the Police Department's internet website at least 30 days prior to any public hearing concerning the Military Equipment at issue.
- D. The Board of Directors shall only approve a Military Equipment Use Policy pursuant to this chapter if it determines all of the following:
  - 1. The Military Equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
  - 2. The proposed Military Equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
  - 3. If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
  - 4. Prior Military Equipment use complied with the Military Equipment Use Policy that was in effect at the time, or if prior uses did not comply with the accompanying Military Equipment Use Policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.
- E. In order to facilitate public participation, any proposed or final Military Equipment Use Policy shall be made publicly available on the internet website of the Police Department for as long as the Military Equipment is available for use.
- F. The Board of Directors shall review this ordinance at least annually and vote on whether to renew it at a regular meeting held pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

#### 17-604 Use in Exigent Circumstances

- A. Notwithstanding the provisions of this Chapter, the Police Department may acquire, borrow and/or use Military Equipment in Exigent Circumstances without following the requirements of this code.
- B. If the Police Department acquires, borrows, and/or uses Military Equipment in Exigent Circumstances, in accordance with this section, it must take all of the following actions:
  - 1. Provide written notice of that acquisition or use to the Board of Directors within 30 days following the commencement of such Exigent Circumstance, unless such information is confidential or privileged under local, state or federal law.
  - 2. If it is anticipated that the use will continue beyond the Exigent Circumstance, submit a proposed amended Military Equipment Use Policy to the Board of Directors within 90 days following the borrowing, acquisition and/or use, and receive approval, as applicable, from the Board of Directors.

3. Include the Military Equipment in the Police Department's next annual Military Equipment Report.

#### 17-605 Reports on the Use of Military Equipment.

- A. The Police Department shall submit to Board of Directors an annual Military Equipment Report for each type of Military Equipment approved by the Board of Directors within one year of approval, and annually thereafter for as long as the Military Equipment is available for use.
- B. The Police Department shall also make each annual Military Equipment Report required by this section publicly available on its internet website for as long as the Military Equipment is available for use.
- C. The annual Military Equipment Report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of Military Equipment:
  1. A summary of how the Military Equipment was used and the purpose of its use.
  2. A summary of any complaints or concerns received concerning the Military Equipment.
  3. The results of any internal audits, any information about violations of the Military Equipment Use Policy, and any actions taken in response.
  4. The total annual cost for each type of Military Equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the Military Equipment in the calendar year following submission of the annual Military Equipment Report.
  5. The quantity possessed for each type of Military Equipment.
  6. If the law enforcement agency intends to acquire additional Military Equipment in the next year, the quantity sought for each type of Military Equipment.
- D. Within 30 days of submitting and publicly releasing an annual Military Equipment Report pursuant to this section, the Police Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual Military Equipment report and the law enforcement agency's funding, acquisition, or use of Military Equipment.
- E. The Board of Directors shall determine, based on the annual Military Equipment Report submitted pursuant to this section, whether each type of Military Equipment identified in that report has complied with the standards for approval set forth in this code and the Military Equipment Use Policy. If the Board of Directors determines that a type of Military Equipment identified in that annual Military Equipment Report has not complied with the standards for approval, the Board of Directors shall either disapprove a renewal of the authorization for that type of Military Equipment or require modifications to the Military Equipment Use Policy in a manner that will resolve the lack of compliance.

## 17-607 Severability

- A. If any section, subsection, sentence, clause, phrase, or word of this Chapter, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this Chapter.
- B. The Board of Directors hereby declares that it would have passed this Chapter and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this Chapter or application thereof would be subsequently declared invalid or unconstitutional.

In regular session of the Board of Directors of the San Francisco Bay Area Rapid Transit District introduced on the \_\_\_\_ day of \_\_\_\_\_, 2022 and finally passed and adopted this \_\_\_\_ day of \_\_\_\_\_, 2018, on regular roll call of the members of said Board by the following vote:

Ayes:

Noes:

Abstentions:

WHEREUPON, the President declared the above and foregoing ordinance duly adopted and SO ORDERED.

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President, Board of Directors

ATTEST:

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April Quintanilla, Interim District Secretary

# Specialized or Military Type Equipment

## 711.1 PURPOSE AND SCOPE

State **MODIFIED**

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of [specialized or](#) military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

### 711.1.1 DEFINITIONS

State **MODIFIED**

Definitions related to this policy include (Government Code § 7070):

**Governing body** – The elected or appointed body that oversees the Department.

**Military equipment** – Includes but is not limited to the following:

- [Unmanned, remotely piloted, powered aerial or ground vehicles \(Category 1\)](#)
- [Mine-resistant ambush-protected \(MRAP\) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded \(Category 2\).](#)
- [High mobility multipurpose wheeled vehicles \(HMMWV\), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles \(ATVs\) and motorized dirt bikes are excluded \(Category 3\).](#)
- [Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion \(Category 4\).](#)
- [Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units \(Category 5\).](#)
- [Weaponized aircraft, vessels, or vehicles of any kind \(Category 6\).](#)
- [Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded \(Category 7\).](#)
- [Firearms and ammunition of .50 caliber or greater. However, standard issue shotguns are specifically excluded \(Category 8\).](#)
- [Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded \(Category 9\).](#)
- [Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue service weapons and ammunition of less than .50 caliber that are issued to officers \(Category 10\).](#)
- [Any firearm or firearm accessory that is designed to launch explosive projectiles \(Category 11\).](#)



# Bay Area Rapid Transit Police Department

## BART PD Policy Manual

### *Specialized or Military Type Equipment*

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- "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service issued pepper spray (Category 12).
  - TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs) (Category 13).
  - The following projectile launch platforms and their associated munitions: 40mm projectile launchers, "bean bag," rubber bullets, and specialty impact munition (SIM) weapons (Category 14).
  - Any other equipment as determined by a governing body or a state agency to require additional oversight (Category 15).
- 
- ~~Unmanned, remotely piloted, powered aerial or ground vehicles.~~
  - ~~Mine-resistant ambush-protected ( MRAP ) vehicles or armored personnel carriers.~~
  - ~~High mobility multipurpose wheeled vehicles ( HMMWV ), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.~~
  - ~~Tracked armored vehicles that provide ballistic protection to their occupants.~~
  - ~~Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.~~
  - ~~Weaponized aircraft, vessels, or vehicles of any kind.~~
  - ~~Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.~~
  - ~~Firearms and ammunition of  $\geq$  .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.~~
  - ~~Specialized firearms and ammunition of less than  $\geq$  .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.~~
  - ~~Any firearm or firearm accessory that is designed to launch explosive projectiles.~~
  - ~~Noise-flash diversionary devices and explosive breaching tools.~~
  - ~~Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.~~
  - ~~TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).~~
  - ~~Kinetic energy weapons and munitions.~~
  - ~~Any other equipment as determined by a governing body or a state agency to require additional oversight.~~

# Bay Area Rapid Transit Police Department

## BART PD Policy Manual

### *Specialized or Military Type Equipment*

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#### **711.2 POLICY**

State **MODIFIED**

It is the policy of the Bay Area Rapid Transit Police Department that members of this department comply with the provisions of Government Code § 7071 with respect to [specialized or](#) military equipment.

[As defined in the Government Code, the Specialized or Military Equipment Use Policy means a publicly released, written document that includes, at a minimum, all of the following:](#)

- [A description of each type of Specialized or Military Equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the Military Equipment.](#)
- [The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of Specialized or Military Equipment.](#)
- [The fiscal impact of each type of Specialized or Military Equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.](#)
- [The legal and procedural rules that govern each authorized use.](#)
- [The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of Specialized or Military Equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the Specialized or Military Equipment use policy.](#)
- [The mechanisms to ensure compliance with the Specialized or Military Equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.](#)
- [For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of Specialized or Military Equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.](#)

#### **711.3 SPECIALIZED OR MILITARY EQUIPMENT COORDINATOR**

Best Practice **MODIFIED**

The Chief of Police should designate a member of this department to act as the [specialized or](#) military equipment coordinator. The responsibilities of the [specialized or](#) military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying department equipment that qualifies as [specialized or](#) military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.

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- (c) Conducting an inventory of all [specialized or](#) military equipment at least annually.
- (d) Collaborating with any allied agency that may use [specialized or](#) military equipment within the jurisdiction of Bay Area Rapid Transit Police Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
  - 1. Publicizing the details of the meeting.
  - 2. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.
- (f) Preparing the annual [specialized or](#) military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).
- (g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of [specialized or](#) military equipment, and how the Department will respond in a timely manner.

#### **711.4 MILITARY EQUIPMENT INVENTORY**

State **MODIFIED**

~~The following constitutes a list of qualifying equipment for the~~ [A list of equipment currently held by the Department or in coordination with another local agency is attached to the policy as the 2022 Annual Military Equipment Inventory Report and incorporated into this policy for reference. The inventory list will be updated each year as part of the annual report required pursuant to AB 481.](#)

[See attachment: 2022 Annual Military Equipment Inventory Report.pdf](#)

#### **711.5 SPECIALIZED OR MILITARY EQUIPMENT USE POLICY**

Agency Content

[Pursuant to California Government Code §7070, the Police Department will submit a Specialized or Military Equipment Use Policy for approval to the Bay Area Rapid Transit Board of Directors annually. The BART Police Department recognizes that critical incidents are unpredictable and can be very traumatic in nature. A variety of military equipment options can greatly assist incident commanders, officers, and specific units in bringing those incidents to a swift resolution in a safe manner.](#)

#### **711.6 APPROVAL**

State **MODIFIED**

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the [specialized or](#) military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed [specialized or](#) military equipment policy is submitted to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the [specialized or](#) military

# Bay Area Rapid Transit Police Department

## BART PD Policy Manual

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equipment at issue (Government Code § 7071). The [specialized or](#) military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

- (a) Requesting [specialized or](#) military equipment made available pursuant to 10 USC § 2576a.
- (b) Seeking funds for [specialized or](#) military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of [specialized or](#) military equipment within the jurisdiction of this department.
- (e) Using any new or existing [specialized or](#) military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of [specialized or](#) military equipment.
- (g) Acquiring [specialized or](#) military equipment through any means not provided above.

#### **711.7 USE IN EXIGENT CIRCUMSTANCES**

##### **Agency Content**

[In exigent circumstances and with the approval of the Chief of Police or his/her designee, the Police Department may acquire, borrow and/or use Specialized or Military Equipment that is not included in the Specialized or Military Equipment Use Policy.](#)

[If the Police Department acquires, borrows, and/or uses Specialized or Military Equipment in exigent circumstances, in accordance with this section, it must take all of the following actions:](#)

- [Provide written notice of that acquisition or use to the Bay Area Rapid Transit Board of Directors within 30 days following the commencement of such Exigent Circumstance, unless such information is confidential or privileged under local, state or federal law.](#)
- [If it is anticipated that the use will continue beyond the Exigent Circumstance, submit a proposed amended Specialized or Military Equipment Use Policy to the Bay Area Rapid Transit Board of Directors within 90 days following the borrowing, acquisition and/or use, and receive approval, as applicable, from the Bay Area Rapid Transit Board of Directors.](#)
- [Include the Specialized or Military Equipment in the Police Department's next annual Specialized or Military Equipment Report.](#)

#### **711.8 COORDINATION WITH OTHER JURISDICTIONS**

##### **State MODIFIED**

# Bay Area Rapid Transit Police Department

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[Specialized or](#) Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the [specialized or](#) military equipment is approved for use in accordance with this policy.

#### **711.9 ANNUAL REPORT**

**State** **MODIFIED**

Upon approval of a [specialized or](#) military equipment policy, the Chief of Police or the authorized designee shall ~~ould~~ submit a [specialized or](#) military equipment report to the governing body for each type of [specialized or](#) military equipment approved within one year of approval, and annually thereafter for as long as the [specialized or](#) military equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee should also make each annual [specialized or](#) military equipment report publicly available on the department website for as long as the [specialized or](#) military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of [specialized or](#) military equipment in department inventory.

[As required under the Government Code, the following information shall, at a minimum, include the following information for the immediately preceding calendar year for each type of Specialized or Military Equipment:](#)

- [A summary of how the Specialized or Military Equipment was used and the purpose of its use.](#)
- [A summary of any complaints or concerns received concerning the Specialized or Military Equipment.](#)
- [The results of any internal audits, any information about violations of the Specialized or Military Equipment Use Policy, and any actions taken in response.](#)
- [The total annual cost for each type of Specialized or Military Equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the Specialized or Military Equipment in the calendar year following submission of the annual Specialized or Military Equipment Report.](#)
- [The quantity possessed for each type of Specialized or Military Equipment.](#)
- [If the law enforcement agency intends to acquire additional Specialized or Military Equipment in the next year, the quantity sought for each type of Specialized or Military Equipment.](#)

#### **711.10 COMMUNITY ENGAGEMENT**

**State** **MODIFIED**

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which

# Bay Area Rapid Transit Police Department

## BART PD Policy Manual

### *Specialized or Military Type Equipment*

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the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of [specialized or](#) military equipment.

[Pursuant to California Government Code §7070\(d\)\(7\), members of the public may register complaints, concerns, or submit questions about the use of each specific type of Specialized or Military Equipment in this policy by any of the following means:](#)

- [Via email to BART IA \(Complaints\):](#) [IA@bart.gov](mailto:IA@bart.gov)
- [Via phone call to:](#) [\(510\) 464-7029](tel:(510)464-7029)
- [Via mail sent to:](#)
  - [Bay Area Rapid Transit Police Department](#)
  - [Attn : Office of Internal Affairs](#)
  - [101 8<sup>th</sup> Street](#)
  - [Oakland CA 94607](#)
  
- [Via email to BART OIPA \(Complaints\):](#) [oipa@bart.gov](mailto:oipa@bart.gov)
- [Via phone call to:](#) [\(510\) 874-7477](tel:(510)874-7477)
- [Via mail sent to:](#)
  - [2150 Webster Street, 4<sup>th</sup> Floor](#)
  - [Attn: BART Office of the Independent Police Auditor](#)
  - [Oakland, CA 94612](#)
  
- [Via email to \(Equipment Coordinator\):](#) [blucas@bart.gov](mailto:blucas@bart.gov)
- [Via phone call to:](#) [\(510\) 912-5976](tel:(510)912-5976)
- [Via mail sent to:](#)
  - [Bay Area Rapid Transit Police Department](#)
  - [Attn: Specialized or Military Equipment Use Coordinator, Sgt. B. Lucas #S33](#)
  - [101 8<sup>th</sup> Street](#)
  - [Oakland CA 94607](#)

## Attachments

## 2022 Annual Military Equipment Inventory Report.pdf



*Specialized or Military Equipment*

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Attachment: 711.4  
2022 Annual Military Equipment Report  
(DRAFT REPORT)

# Bay Area Rapid Transit Police Department

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## *Specialized or Military Equipment*

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### **Qualifying Equipment Owned/Utilized by the Bay Area Rapid Transit Police Department**

#### **1. AR-15 Style Semiautomatic Rifle – CA Government Code 7070(c)(10) (Category 10)**

**a. Equipment Capabilities, Quantity and Lifespan:**

AR-15 style firearms owned by this department that can fire .223/5.56mm caliber projectiles accurately over 100 yards.

Quantity Owned: 92

Price Per Unit: Approximately \$1,500 dollars

Lifespan: Approximately 15 Years

**b. Manufacturer Product Description:**

The AR-15 style rifles the department owns are the Colt LE 6920 and Sig Sauer M400. It features a 16" barrel and a free-float M-Lok Handguard. The Sig Sauer M400 also features ambidextrous controls for right-handed and left-handed users. It is topped with a Sig Sauer Romeo Red Dot sight, which aids in achieving accurate shots.

**c. Purpose/Authorized Uses:**

Members may deploy the patrol rifle in any circumstance where the member can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:

- a. Situations where the member reasonably anticipates an armed encounter.
- b. When a member is faced with a situation that may require accurate and effective fire at long range.
- c. Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.
- d. When a member reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.
- e. When a member reasonably believes that a suspect may be wearing body armor.
- f. When authorized or requested by a supervisor.
- g. When needed to euthanize an animal.

**d. Fiscal Impacts:**

The initial cost of this equipment was approximately \$138,000 dollars. Replacement parts required for the regular maintenance should be approximately less than \$1,000 per year.

**e. Legal/Procedural Rules Governing Use:**

All applicable federal, state, and local laws governing police use of force, and various Bay Area Rapid Transit Police Department (BART PD) policies regarding use of force and firearms. Refer to BART PD Policies 312 and 432, for more information on the use and training of Patrol Rifles.

# Bay Area Rapid Transit Police Department

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## *Specialized or Military Equipment*

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**f. Training Required:**

Any officer who is authorized to use the AR-15 style rifle must complete a CA POST certified Patrol Rifle Operator Course as well as regular departmental trainings and qualifications as required by law and policy.

**g. Other Notes:**

For clarification purposes only, these rifles are standard issue service weapons for members of the BART PD. As such, **they are exempted** from this Military Equipment Use Policy per CA Gov't Code §7070 (c)(10). They have been included in this document out of an abundance of caution and in the interest of transparency.

## **2. Bolt Action Precision Rifles - CA GC §7070(c)(10) (Category 10)**

**a. Equipment Capabilities, Quantity and Lifespan:**

Bolt action style rifles chambered in .308/7.62mm x 51 caliber, can fire rounds accurately out to 1,000 yards.

Quantity Owned: 6

Price Per Unit: Approximately \$5,000 dollars with accessories

Lifespan: Approximately 15 Years

**b. Manufacturer Product Description:**

The bolt action style rifle that the department owns are the Remington Model 700 SPS Tactical. The Remington 700 Sniper Rifle is a bolt-action, precision-fire weapon system that fires 7.62 x 51mm (.308 caliber) ammunition. It is capable of firing at greater distances and with great accuracy than Department issued patrol rifles.

**c. Purpose/Authorized Uses:**

SWAT members are allowed to utilize firearms chambered in .308. SWAT members must successfully complete the bi-annual Department approved SWAT Sniper Qualification Course. SWAT members may deploy the rifle in any circumstance where the member can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the bolt action rifle may include, but are not limited to:

- a. Situations where the member reasonably anticipates an armed encounter.
- b. When a member is faced with a situation that may require accurate and effective fire at long range.
- c. Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.
- d. When a member reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.
- e. When a member reasonably believes that a suspect may be wearing body armor.
- f. When authorized or requested by a supervisor.

**d. Fiscal Impacts:**

The initial cost of this equipment was approximately \$30,000 dollars. Replacement parts required for the regular maintenance should be approximately less than \$1,000 per year.

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**e. Legal/Procedural Rules Governing Use:**

All applicable federal, state, and local laws governing police use of force, and various BART PD policies regarding use of force and firearms. Refer to BART PD Policies 300 and 312, for more information on the use and training of Bolt Action Precision Rifles.

**f. Training Required:**

Any SWAT officer who is authorized to use the bolt action style rifle must complete a CA POST certified Basic SWAT Operator Course as well as CA POST certified Basic SWAT Sniper/Designated Marksman Course. Additionally, SWAT snipers attend monthly training and must successfully complete a bi-annual qualification course as well as any trainings and qualifications as required by law and policy.

**g. Other Notes:**

None.

### **3. Suppressors (Surefire SOCOM556 & SOCOM762) - CA GC §7070(c)(15) (Category 15)**

**a. Equipment Capabilities, Quantity and Lifespan:**

Reduces the visual and audible sound signatures of rifles, protecting the hearing of the user.

Quantity Owned: 6 (4 SOCOM556 & 2 SOCOM762)

Price Per Unit: \$1,099 dollars (SOCOM556), \$1,199 dollars (SOCOM762)

Lifespan: 15 years

**b. Manufacturer Product Description:**

The SureFire Mini with maximum sound attenuation. Employs SureFire Total Signature Reduction® technology to virtually eliminate first round flash and reduce sound and dust signatures.

**c. Purpose/Authorized Uses:**

The SureFire SOCOM suppressors are authorized for use by SWAT operators in training, patrol and tactical scenarios.

**d. Fiscal Impacts:**

The initial cost of these items was \$6,794 dollars. These items will be replaced as needed when damaged or at the end of its life cycle.

**e. Legal/Procedural Rules Governing Use:**

All applicable federal, state, and local laws governing police use of force, and various BART Police Department policies regarding use of force and firearms. Refer to BART PD Policies 300, 312 and 432 for more information.

**f. Training Required:**

Any officer who is authorized to use the AR-15 style rifle must complete a CA POST certified Patrol Rifle Operator Course as well as regular departmental trainings and qualifications as required by law and policy.

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**g. Other Notes:**

None.

### **4. Suppressors (Sig Sauer SRD556) - CA GC §7070(c)(15) (Category 15)**

**a. Equipment Capabilities, Quantity and Lifespan:**

Reduces the visual and audible sound signatures of rifles, protecting the hearing of the user.

Quantity Owned: 41

Price Per Unit: Approximately \$600 dollars

Lifespan: Varies, depending on usage and handling

**b. Manufacturer Product Description:**

The SRD556 is an Inconel 718 direct thread suppressor. Inconel 718, a nickel alloy stainless steel, provides the highest level of durability, particularly with short-barreled hosts using supersonic ammunition. The 1/2x28tpi threads match the vast majority of modern rifles in .223/5.56mm on the market today. The rear mount has wrench flats to torque the suppressor to the barrel. These wrench flats can be used as a location to "pin and weld" the suppressor to make a shorter barrel over 16" in total length.

**c. Purpose/Authorized Uses:**

The Sig Sauer SRD556 suppressors are a direct thread attachment to the Sig Sauer M400 patrol rifles and are authorized for use in training, on patrol, and in tactical scenarios.

**d. Fiscal Impacts:**

These items were included in the price of the Sig Sauer M400 patrol rifles. These items will be replaced as needed when damaged or at the end of its life cycle.

**e. Legal/Procedural Rules Governing Use:**

All applicable federal, state, and local laws governing police use of force, and various BART Police Department policies regarding use of force and firearms. Refer to BART PD Policies 300, 312 and 432 for more information.

**f. Training Required:**

Any officer who is authorized to use the AR-15 style rifle must complete a CA POST certified Patrol Rifle Operator Course as well as regular departmental trainings and qualifications as required by law and policy.

**g. Other Notes:**

None.

### **5. .223/5.56mm Ammunition - CA GC §7070(c)(10) (Category 10)**

**a. Equipment Capabilities, Quantity and Lifespan:**

To be used with AR-15 style firearms owned by this department that can fire .223/5.56mm caliber projectiles accurately over 100 yards.

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Quantity Owned: 56 Cases (Currently), 200 (When fully stocked, but the amounts may vary due to training)

Price Per Unit: (Case of 1,000) Approximately \$600

Lifespan: N/A

**b. Manufacturer Product Description:**

**.223 Remington:** (5.56x45mm), also known as .223 Rem or .223, is a small-bore, high-powered, intermediate rifle cartridge. The bullet is approximately .224 inches (5.56 mm) in diameter, and 45 mm in length.

**5.56mm Nato:** The 5.56 NATO cartridge is visually nearly identical to the .223 Remington cartridge, with the exception of the casing headstamp, which usually bears the NATO insignia. It can be fired in some of the same weapons. The 5.56 can use the same projectiles as .223, as well as projectiles developed specifically for 5.56. It is a small-bore, high-powered, intermediate rifle cartridge.

**c. Purpose/Authorized Uses:**

Members may deploy the patrol rifle in any circumstance where the member can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:

- a. Situations where the member reasonably anticipates an armed encounter.
- b. When a member is faced with a situation that may require accurate and effective fire at long range.
- c. Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.
- d. When a member reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.
- e. When a member reasonably believes that a suspect may be wearing body armor.
- f. When authorized or requested by a supervisor.
- g. When needed to euthanize an animal.

**d. Fiscal Impacts:**

The initial cost of these items was approximately \$120,000 when fully equipped.

**e. Legal/Procedural Rules Governing Use:**

All applicable federal, state, and local laws governing police use of force, and various BART PD policies regarding use of force and firearms. Refer to BART PD Policies 312 for more information.

**f. Training Required:**

Officers must successfully complete a CA POST certified Police Academy, CA POST Patrol Rifle Operator Course, and departmental training and qualification courses.

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**g. Other Notes:**

For clarification purposes only, these items are standard issue for members of the Bay Area Rapid Transit Police Department. As such, **they are exempted** from this Military Equipment Use Policy per CA Gov't Code §7070 (c)(10). They have been included in this document out of an abundance of caution and in the interest of transparency.

**6. .308/7.62x51 (Ruag Swiss P Armour Piercing) - CA GC §7070(c)(10) (Category 10)**

**a. Equipment Capabilities, Quantity and Lifespan:**

Provides an accurately fired projectile out to 1,000 yards with the increased capability of defeating hard targets such as reinforced glass, and body- and light vehicle armor.

Quantity owned: 1,000 (Amounts may vary, due to training)

Price Per Unit: Approximately \$1.5 dollars per round

Lifespan: N/A

**b. Manufacturer Product Description:**

To be prepared for every scenario, snipers require a round with high penetration power on hard targets such as reinforced glass, body- and light vehicle armor. Because the core stays intact during penetration, it transfers extremely effective residual energy to hard targets. The bullet jacket provides best accuracy, protects the barrel and is stripped off upon impact.

**c. Purpose/Authorized Uses:**

Ruag Swiss P Armour Piercing ammunition is authorized for use in extreme tactical scenarios when the "open-air" round is not believed to be enough to defeat the intended target and training.

**d. Fiscal Impacts:**

The initial cost of these items was \$1,500 dollars. These items are not frequently used due to the high liability and low frequency.

**e. Legal/Procedural Rules Governing Use:**

All applicable federal, state, and local laws governing police use of force, and various BART Police Department policies regarding use of force and firearms. Refer to BART PD Policies 300 and 312 for more information.

**f. Training Required:**

Any SWAT officer who is authorized to use the bolt action style rifle may use the above ammunition. Said members must complete a CA POST certified Basic SWAT Operator Course as well as CA POST certified Basic SWAT Sniper/Designated Marksman Course. Additionally, SWAT snipers attend monthly training and must successfully complete a bi-annual qualification course as well as any trainings and qualifications as required by law and policy.

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**g. Other Notes:**

None.

**7. .308/7.62x51mm (Ruag Swiss P Styx Action – “Open Air”) - CA GC §7070(c)(10)  
(Category 10)**

**a. Equipment Capabilities, Quantity and Lifespan:**

Provides an accurately fired projectile out to 1,000 yards.

Quantity Owned: 500 (Amounts may vary, due to training)

Price Per Unit: Approximately \$2.91 dollars per round

Lifespan: N/A

**b. Manufacturer Product Description:**

The shot which is taken as a last resort requires the highest hit probability and an absolutely reliable effect on the target (as in hostage rescue situations etc.). The Styx Action (and Final) rounds were specifically designed to transfer maximum energy in the first few centimeters after striking a soft target and reducing the risk of over penetration, and possible collateral damage.

**c. Purpose/Authorized Uses:**

R Ruag Swiss P Styx Action ammunition is authorized for use in tactical scenarios when patrol rifle ammunition is not believed to be enough to solve the ballistic problem.

**d. Fiscal Impacts:**

The initial cost of these items was approximately \$1,455 dollars.

**e. Legal/Procedural Rules Governing Use:**

All applicable federal, state, and local laws governing police use of force, and various BART Police Department policies regarding use of force and firearms. Refer to BART PD Policies 300 and 312 for more information.

**f. Training Required:**

Any SWAT officer who is authorized to use the bolt action style rifle may use the above ammunition. Said members must complete a CA POST certified Basic SWAT Operator Course as well as CA POST certified Basic SWAT Sniper/Designated Marksman Course. Additionally, SWAT snipers attend monthly training and must successfully complete a bi-annual qualification course as well as any trainings and qualifications as required by law and policy.

**g. Other Notes:**

None.



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### **8. Flashbang/Noise Flash Distraction Devices (NFDD) - CA GC Code §7070(c)(12) (Category 12)**

**a. Equipment Capabilities, Quantity and Lifespan:**

The flashbang, sometimes referred to as “stun grenade,” is a diversionary device that delivers a bright flash and loud explosive-type noise when deployed to distract and disorient. This is a non-lethal handheld grenade that does not fragment or produce any shrapnel.

Quantity Owned: 25 (Consumable item, amounts may vary)

Price Per Unit: Approximately \$50 dollars

Lifespan: 5 Years

**b. Manufacturer Product Description:**

The distraction device utilizes a standard military-style M201A1 fuse and produces 175 dB of sound output at 5 feet and 6-8 million candelas for 10 milliseconds.

**c. Purpose/Authorized Uses:**

Flashbangs/NFDDs are designed to distract and disorient occupants of a given location to allow officers to enter a location in the safest manner possible for all involved parties given the circumstances surrounding an event. They are most often used in tactical scenarios or situations by tactical officers (i.e., SWAT Officers).

**d. Fiscal Impacts:**

The initial cost of this equipment was approximately \$1,250 dollars. Due to NFDD being consumable items, fiscal impacts will vary based on usage.

**e. Legal/Procedural Rules Governing Use:**

Flashbangs/NFDDs can only be deployed in accordance with all applicable federal, state, local laws, and department policy governing police use of force. Refer to BART PD Policy 312.3.7 for more information.

**f. Training Required:**

Officers must complete a CA POST certified Basic SWAT Operator Course prior to being issued flashbangs/NFDDs. Additionally, the Central County SWAT Team provides internal training for members in the use of flashbangs/NFDDs.

**g. Other Notes:**

None.

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**9. 40mm Less than Lethal Impact Munitions Systems (LLIMS) Launchers - CA GC Code §7070(c)(14) (Category 14)**

**a. Equipment Capabilities, Quantity and Lifespan:**

The Defense Technology 40mm LMT is a single-shot launcher capable of firing 40mm kinetic energy munitions, also commonly referred to as specialty impact munitions (SIM), which are less-lethal projectiles.

Quantity Owned: 17

Price Per Unit: Approximately \$1939.73 dollars

Lifespan: Approximately 15 Years

**b. Manufacturer Product Description:**

Defense Tech 40mm LMT Single Launcher: Manufactured exclusively for Defense Technology®, the 40LMTS is a tactical single shot launcher that features an expandable ROGERS Super Stoc and an adjustable Integrated Front Grip (IFG) with light rail. The ambidextrous Lateral Sling Mount (LSM) and QD mounting systems allow both a single and two-point sling attachment. The 40LMTS will fire standard 40mm less lethal ammunition, up to 4.8 inches in cartridge length. The Picatinny Rail Mounting System will accept a wide array of enhanced optics/sighting systems.

**c. Purpose/Authorized Uses:**

This department is committed to reducing the potential for violent confrontations when suspects are encountered. LLIMS projectiles, when used properly, are less likely to result in death or serious physical injury.

LLIMS projectiles are approved by the department and are fired from Defense Technology Single Shot 40 mm launchers. Certain munitions can be used in an attempt to de-escalate a potentially deadly situation, with a reduced potential for death or serious physical injury.

Approved munitions are justified and may be used to compel an individual to cease his or her actions when such munitions present a reasonable option for resolving a situation. LLIMS may also be used when dealing with vicious animals.

Officers are not required, or compelled, to use approved munitions in lieu of other reasonable tactics if the involved officer(s) determine that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons, and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior. Operators shall advise dispatch via radio when LLIMS is deployed. If not on scene, sergeants shall respond immediately to assume control of the deployment and use. When an officer is deploying LLIMS, he/she is the officer in charge until the arrival of a supervisor.

Before discharging projectiles, the officer should consider the following factors:

- a. Severity of the crime or incident.
- b. Subject's capability to pose an imminent threat to the safety of officers or others.
- c. If the subject is actively resisting arrest or attempting to evade arrest by flight.
- d. The credibility of the subject's threat, as evaluated by the officers present, and the subject's physical capacity/capability.
- e. The proximity of weapons available to the subject.

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- f. The officer's, versus the subject's, physical factors (e.g., age, size relative strength, skill level, injury/exhaustion, the number of officer(s) versus subject(s).
- g. The availability of other force options and their possible effectiveness.
- h. Distance and angle to target.
- i. Type of munitions employed.
- j. Type and thickness of subject's clothing.
- k. The subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

**d. Fiscal Impacts:**

The initial cost of this equipment was approximately \$32,975.41 dollars. Up to \$38,000 dollars have been approved from the operational budget to purchase 15 additional LLIMS Launchers. With the additional LLIMS launchers, the department plans to train all its Police Officers in the use and deployment of LLIMS.

**e. Legal/Procedural Rules Governing Use:**

LLIMS launchers may only be used in accordance with all federal, state, and local laws as well as department policies regarding police use of force. Refer to BART PD Policies 300, 308 and 459 for more information.

**f. Training Required:**

All officers who are allowed to use the LLIMS launcher and approved munitions, must successfully complete the 3-hour department training course and a 2-hour training/qualification course annually.

**g. Other Notes:**

None.

## **10. 40mm CS Ferret Barricade Round - CA GC Code §7070(c)(12) (Category 12)**

**a. Equipment Capabilities, Quantity and Lifespan:**

The equipment listed in this section is designed to temporarily distract or temporarily incapacitate an individual through the introduction of a chemical irritant impacting the eyes, nose, and skin. To be used with LLIMS Launcher to effect a less than lethal point-of aim, point of impact direct-fire capability as an intermediate force option.

Quantity Owned: 20

Price Per Unit: \$52.5 dollars

Lifespan: 5 Years

**b. Manufacturer Product Description:**

The Ferret 40mm Barricade Penetrating Round is filled with CS powder chemical agent. It is a frangible projectile that is spin stabilized utilizing barrel rifling. It is non-burning and designed to penetrate barriers. Primarily used to dislodge barricaded subjects, it can also be used for area denial. Primarily used by tactical teams, it is designed to penetrate

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barriers, such as windows, hollow core doors, wallboard and thin plywood. Upon impact the nose ruptures and instantaneously delivers the agent payload inside a structure or vehicle.

**c. Purpose/Authorized Uses:**

40mm CS Ferret Barricade rounds are used for barricaded subjects in efforts to use non-lethal force to affect an arrest in a tactical environment or in crowd control and civil disobedience situations. This department is committed to reducing the potential for violent confrontations when suspects are encountered. LLIMS projectiles, when used properly, are less likely to result in death or serious physical injury.

LLIMS projectiles are approved by the department and are fired from Defense Technology Single Shot 40 mm launchers. Certain munitions can be used in an attempt to de-escalate a potentially deadly situation, with a reduced potential for death or serious physical injury.

**d. Fiscal Impacts:**

The initial cost of these items was approximately \$1,050 dollars.

**e. Legal/Procedural Rules Governing Use:**

All applicable federal, state, and local laws governing police use of force, and various BART PD policies regarding use of force and firearms. Refer to BART PD Policies 300, 308 and 459 for more information.

**f. Training Required:**

Officers assigned to SWAT must complete a CA POST certified Basic SWAT Operator course and Chemical Munitions Instructor Course.

**g. Other Notes:**

None.

### **11. 40mm eXact iMPact Sponge Rounds (Blue Tip) - CA GC Code §7070(c)(14) (Category 14)**

**a. Equipment Capabilities, Quantity and Lifespan:**

40mm eXact iMPact rounds offer a less than lethal point-of aim, point of impact direct-fire capability as an intermediate force option. To be used with LLIMS Launcher to effect a less than lethal point-of aim, point of impact direct-fire capability as an intermediate force option.

Quantity Owned: 452 (In Armory and Patrol)

Price Per Unit: Approximately \$19.60 dollars

Lifespan: 5 Years

**b. Manufacturer Product Description:**

The eXact iMPact 40mm Sponge Round is a point-of-aim, point-of-impact direct-fire round. This lightweight, highspeed projectile consisting of a plastic body and sponge nose that is spin stabilized via the incorporated rifling collar and the 40mm launcher's rifled barrel. The round utilizes smokeless powder as the propellant, and, therefore, have velocities that are extremely consistent. Used for Crowd Control, patrol, and Tactical Applications.

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**c. Purpose/Authorized Uses:**

40mm eXact iMPact rounds offer a less than lethal point-of aim, point of impact direct-fire capability as an intermediate force option for patrol, crowd control, and tactical officers. This department is committed to reducing the potential for violent confrontations when suspects are encountered. LLIMS projectiles, when used properly, are less likely to result in death or serious physical injury.

LLIMS projectiles are approved by the department and are fired from Defense Technology Single Shot 40 mm launchers. Certain munitions can be used in an attempt to de-escalate a potentially deadly situation, with a reduced potential for death or serious physical injury.

**d. Fiscal Impacts:**

The initial cost of these items was approximately \$8,859.2 dollars. Due to 40mm eXact iMPact Sponge Rounds being consumable items, fiscal impacts will vary based on usage and training.

**e. Legal/Procedural Rules Governing Use:**

All applicable federal, state, and local laws governing police use of force, and various BART PD policies regarding use of force and firearms. Refer to BART PD Policies 300, 308 and 459 for more information.

**f. Training Required:**

All officers who are allowed to use the LLIMS launcher and approved munitions, must successfully complete the 3-hour department training course and a 2-hour training/qualification course annually.

**g. Other Notes:**

None.

## **12. 40mm Foam Baton - CA GC Code §7070(c)(14) (Category 14)**

**a. Equipment Capabilities, Quantity and Lifespan:**

To be used with LLIMS Launcher to effect a less than lethal point-of aim, point of impact direct-fire capability as an intermediate force option.

Quantity Owned: 12

Price Per Unit: \$25 dollars

Lifespan: 5 Years

**b. Manufacturer Product Description:**

The 40 mm Multiple Foam Baton Round is most widely used as a crowd management tool where stand-off distances are limited. It may also prove valuable in riot situations where police lines and protestors are in close proximity. The round contains three foam projectiles. It utilizes smokeless powder and has more consistent velocities and tighter patterns compared to its 37 mm counterpart. The foam projectile allows for closer deployment, while minimizing injury.

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**c. Purpose/Authorized Uses:**

40mm Foam Baton rounds offer a less than lethal point-of aim, point of impact direct-fire capability as an intermediate force option for patrol, crowd control, and tactical officers. This department is committed to reducing the potential for violent confrontations when suspects are encountered. LLIMS projectiles, when used properly, are less likely to result in death or serious physical injury.

LLIMS projectiles are approved by the department and are fired from Defense Technology Single Shot 40 mm launchers. Certain munitions can be used in an attempt to de-escalate a potentially deadly situation, with a reduced potential for death or serious physical injury.

**d. Fiscal Impacts:**

The Initial cost of these items was approximately \$300 dollars. These items are purchased for training purposes for recruits attending Police Academies. A minimum of 25 rounds are usually kept in the armory and used for police academy training purposes.

**e. Legal/Procedural Rules Governing Use:**

All applicable federal, state, and local laws governing police use of force, and various BART PD policies regarding use of force and firearms. Refer to BART PD Policies 300, 308 and 459 for more information.

**f. Training Required:**

The use of this munition is primarily used in the police training academy. All academy recruits are trained in various less lethal impact munitions.

**g. Other Notes:**

None.

### **13. 40mm Bean Bag- CA GC Code §7070(c)(14) (Category 14)**

**a. Equipment Capabilities, Quantity and Lifespan:**

To be used with LLIMS Launcher to effect a less than lethal point-of aim, point of impact direct-fire capability as an intermediate force option.

Quantity Owned: 9

Price Per Unit: Approximately \$25.55 dollars

Lifespan: 5 Years

**b. Manufacturer Product Description:**

The 40 mm Bean Bag Round is most widely used as a crowd management tool by Law Enforcement and Corrections when there is a need to target individual instigators. It has also been successfully used as a dynamic, high-energy single subject round for incapacitation or distraction. The round contains one silica sand-filled bag. It utilizes smokeless powder as the propellant and has more consistent velocities and tighter patterns compared to its 37 mm black powder counterpart.

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**c. Purpose/Authorized Uses:**

40mm Bean Bag rounds offer a less than lethal point-of aim, point of impact direct-fire capability as an intermediate force option for patrol, crowd control, and tactical officers. This department is committed to reducing the potential for violent confrontations when suspects are encountered. LLIMS projectiles, when used properly, are less likely to result in death or serious physical injury.

This department is committed to reducing the potential for violent confrontations when suspects are encountered. LLIMS projectiles, when used properly, are less likely to result in death or serious physical injury.

LLIMS projectiles are approved by the department and are fired from Defense Technology Single Shot 40 mm launchers. Certain munitions can be used in an attempt to de-escalate a potentially deadly situation, with a reduced potential for death or serious physical injury.

**d. Fiscal Impacts:**

The initial cost of these items was approximately \$230 dollars. These items are purchased for training purposes for recruits attending Police Academies. A minimum of 25 rounds are usually kept in the armory.

**e. Legal/Procedural Rules Governing Use:**

All applicable federal, state, and local laws governing police use of force, and various BART PD policies regarding use of force and firearms. Refer to BART PD Policies 300, 308 and 459 for more information.

**f. Training Required:**

The use of this munition is primarily used in the police training academy. All academy recruits are trained in various less lethal impact munitions.

**g. Other Notes:**

None.

### **14. 40mm Stinger 60-Caliber - CA GC Code §7070(c)(14) (Category 14)**

**a. Equipment Capabilities, Quantity and Lifespan:**

To be used with LLIMS Launcher to effect a less than lethal point-of aim, point of impact direct-fire capability as an intermediate force option.

Quantity Owned: 16

Price Per Unit: Approximately \$30 dollars

Lifespan: 5 Years

**b. Manufacturer Product Description:**

The Stinger® 40 mm 60-Caliber Round is most widely used as a crowd management tool by Law Enforcement and Corrections. The round contains approximately eighteen 60-Caliber rubber balls. It utilizes smokeless powder as the propellant and has more consistent velocities and tighter patterns compared to its 37 mm counterpart. It is suitable for administering a means of pain compliance over a greater distance than its 32-Caliber Stinger® counterpart. Used for routing crowds or groups that are mildly resistive.

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**c. Purpose/Authorized Uses:**

40mm Stinger rounds offer a less than lethal point-of aim, point of impact direct-fire capability as an intermediate force option for patrol, crowd control, and tactical officers. This department is committed to reducing the potential for violent confrontations when suspects are encountered. LLIMS projectiles, when used properly, are less likely to result in death or serious physical injury.

LLIMS projectiles are approved by the department and are fired from Defense Technology Single Shot 40 mm launchers. Certain munitions can be used in an attempt to de-escalate a potentially deadly situation, with a reduced potential for death or serious physical injury.

**d. Fiscal Impacts:**

The initial cost of these items was approximately \$480 dollars. These items are purchased for training purposes for recruits attending Police Academies. A minimum of 25 rounds are usually kept in the armory.

**e. Legal/Procedural Rules Governing Use:**

All applicable federal, state, and local laws governing police use of force, and various BART PD policies regarding use of force and firearms. Refer to BART PD Policies 300, 308 and 459 for more information.

**f. Training Required:**

The use of this munition is primarily used in the police training academy. All academy recruits are trained in various less lethal impact munitions.

**g. Other Notes:**

None.





Office of the  
**INDEPENDENT  
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

# MONTHLY REPORT

May 2022

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Issue date: June 13, 2022

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (B), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the BART Police Citizen Review Board (BPCRB). This report provides information for the period **May 1, 2022 through May 31, 2022**.<sup>1</sup> (The Quantitative Report includes all complaints received and administrative investigations initiated by both OIPA and the BART Police Department (BPD) Internal Affairs Bureau (IAB)).

## QUANTITATIVE REPORT

	Cases Filed <sup>2</sup>	Open Cases <sup>3</sup>	Investigations Resolved	OIPA Investigations Concluded <sup>4</sup>	Cases Appealed to OIPA <sup>5</sup>	Cases Appealed by BPCRB <sup>6</sup>
May 2021	9	69	4	1	0	0
June 2021	5	74	1	1	0	0
July 2021	10	81	3	0	0	0
August 2021	4	78	7	1	0	0
September 2021	10	81	8	2	0	0
October 2021	15	88	7	0	0	0
November 2021	8	87	11	1	0	0
December 2021	6	87	6	0	1	0
January 2022	4	84	7	1	0	0
February 2022	6	81	9	1	0	0
March 2022	6	73	14	1	0	0
April 2022	10	79	6	1	0	0
May 2022	14	86	6	1	0	0

## TYPES OF CASES FILED

Citizen Complaints (Formal)	14
Informal Complaints <sup>7</sup>	0
Administrative Investigations	0
Inquiries <sup>8</sup>	0
<b>TOTAL</b>	<b>14</b>

## CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT<sup>9</sup>

OIPA	2
BART Police Department	12
<b>TOTAL</b>	<b>14</b>

## COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During May 2022, **2 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #22-20) (IA2022-029)	Officer #1: • Policy/Procedure • Conduct Unbecoming an Officer	OIPA notified BPD which initiated an investigation.	34
2 (OIPA #22-22) (IA2022-034)	Officer #1: • Performance of Duty	OIPA notified BPD which initiated an investigation.	20

During May 2022, **10 Citizen Complaints (Formal)** were received by BPD:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2022-026)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	39
2 (IA2022-027)	Officers #1-2: • Force	BPD initiated an investigation.	44
3 (IA2022-028)	Employee #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	33
4 (IA2022-030)	Officer #1: • Performance of Duty • Conduct Unbecoming an Officer	BPD initiated an investigation.	32
5 (IA2022-032)	Officers #1-2: • Force	BPD initiated an investigation.	27
6 (IA2022-033)	Officer #1: • Conduct Unbecoming an Officer	BPD initiated an investigation.	24
7 (IA2022-035)	Officer #1: • Force • Bias-Based Policing	BPD initiated an investigation.	20
8 (IA2022-036)	Officers #1-2: • Performance of Duty	BPD initiated an investigation.	18
9 (IA2022-037)	Officer #1: • Force	BPD initiated an investigation.	21
10 (IA2022-038)	Officer #1: • Force  Officer #2: • Bias-Based Policing	BPD initiated an investigation.	13

## COMPLAINTS/INVESTIGATIONS RECEIVED DURING PRIOR REPORTING PERIOD

During April 2022, **1 Citizen Complaint (Formal)** was received by BPD but not previously reported:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2022-031)	Officers #1-2: • Force	BPD initiated an investigation.	53

## COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During April 2022, **1 Citizen Complaint** was concluded by OIPA:

Complaint # (IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (OIPA #22-17) (IA2022-022)	Officer addressed subject using a racist term.	Officer #1: • Racial Animus – Unfounded • Bias-Based Policing – Unfounded • Conduct Unbecoming an Officer – Exonerated	60	19

During May 2022, **5 Citizen Complaints** were concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2021-036)	Officers refused to assist complainant and ejected complainant from BART property.	Officers #1-2: • Performance of Duty – Unfounded	374	347
2 (IA2021-040)	One officer intentionally struck complainant during a Proof of Payment ejection and one officer spoke aggressively to complainant.	Officer #1: • Force – Exonerated  Officer #2: • Conduct Unbecoming an Officer – Unfounded	367	343
3 (IA2021-044)	Officers improperly detained juvenile for fare evasion, used excessive force during the detention, and did so because of the race of the detainee.	Officers #1-3: • Force – Exonerated • Arrest/Detention – Exonerated • Bias-Based Policing – Unfounded	381	343

4 (IA2021-045)	Officer was rude to complainant.	Officer #1: • Conduct Unbecoming an Officer – Not Sustained	366	342
5 (IA2021-047)	Officer refused to take law enforcement action as requested by complainant.	Officer #1: • Performance of Duty – Exonerated • Policy/Procedure – Unfounded	356	329

## DISCIPLINE ISSUED DURING REPORTING PERIOD

During May 2022, BPD took the following actions in cases where one or more allegations of misconduct were sustained:

Case #	Nature of Sustained Allegation(s) *	Classification of Sustained Allegation(s)	Action Taken
1	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Oral Counseling <sup>10</sup>
2	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion <sup>11</sup>
3	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion
4	Officer did not properly document a law enforcement contact.	Officer #1: • Policy/Procedure (AXON Camera)	Officer #1: • Letter of Discussion

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\*Some details regarding the nature of sustained allegations may be withheld to avoid unintentionally breaching mandatory confidentiality requirements. In some instances, the relative infrequency of the alleged misconduct may tend to allow for identification of the subject officer in violation of the applicable CA Penal Code section (832.7).

## ADDITIONAL NOTES

In accordance with the BART Citizen Oversight Model (Model), OIPA investigates certain complaints, conducts complainant-initiated appeals, and monitors and/or reviews complaint investigations conducted by BPD. Though potentially work-intensive, some complaint investigation reviews are completed informally, with any concerns being addressed through a conference with BPD's Internal Affairs investigators. Noting the various kinds of work that OIPA undertakes with regard to complaints and investigations, the following chart includes some of the pending cases in which OIPA is involved as of the end of this reporting period.

Investigations Being Conducted	8
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	73
Investigations Reviewed During Current Month	20†

†This number does not include all OIPA reviews, as OIPA commonly looks at a variety of cases in the Internal Affairs database to obtain updates on both pending and completed investigations.

The Model provides that OIPA shall have authority to require follow-up investigation into any citizen complaint or allegation that is handled by BPD. The OIPA Monthly Report will reflect information regarding monitored cases with detail not to exceed that which is allowable under state law. The investigations reviewed by OIPA during the period did not generate any notable recommendations for revisions or additional investigation.<sup>12</sup>

<sup>1</sup> In addition to reporting on complaints received by the BART Police Department, the Citizen Oversight Model requires reporting on all complaints received by the "Citizen Board, Office of the District Secretary, and other District departments." As complaints received by the BART Police Citizen Review Board are customarily directed to OIPA for further action, such complaints are included in the Quantitative Report above; OIPA is also made aware of additional complaints about the BART Police Department by the Office of the District Secretary or other District departments.

<sup>2</sup> This number includes all Citizen Complaints filed against members of the BART Police Department, as well as Administrative Investigations generated internally by BART Police Department members (as opposed to being filed by a citizen). This number also includes previously completed cases that have been re-opened during the current reporting period.

<sup>3</sup> This number indicates all investigations that are open as of the end of the reporting period. It includes Citizen Complaints (regardless of whether the investigation is being conducted by OIPA, the BART Police Department, or both) and Administrative Investigations.

<sup>4</sup> This number includes all cases completed by OIPA during the reporting period for which OIPA's findings are required by the BART Citizen Oversight Model to be submitted to the BART Police Citizen Review Board. It therefore includes independent investigations, as well as reviews of completed BART Police Department investigations initiated via appeal from a complainant. Unless otherwise noted, it does not include reviews of BART Police Department investigations initiated at the discretion of OIPA, which happen commonly and do not always generate a formal report; it also does not include reviews conducted by OIPA of complaint investigations where the complaint was filed with OIPA but did not fall under OIPA's investigative jurisdiction.

<sup>5</sup> This number refers to appeals filed with OIPA by complainants who have been issued the findings of the BART Police Department's internal investigation into their complaint regarding on-duty incidents. OIPA has a responsibility to review such appeals pursuant to the BART Citizen Oversight Model, Chapter 1-04 (E).

<sup>6</sup> This number refers to all appeals initiated by the BART Police Citizen Review Board after receiving and reviewing the findings issued by OIPA in a given case. The routes of all such appeals are described in detail in the BART Citizen Oversight Model, Chapter 1-04 (B) (iv-v).

<sup>7</sup> The BART Police Department defines an Informal Complaint as, "A comment on the actions of a Department employee, where the reporting party expressly states that he or she does not feel that the matter should be formally investigated with the understanding that an Informal Complaint does not hold the potential to result in disciplinary action against the employee." (BART Police Department Policy Manual, Policy 1020.1.1(d)).

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<sup>8</sup> BPD policy provides that if a person alleges or raises an issue that does not constitute a violation of Department policy, procedure, rules, regulations, or the law, the Department will classify the issue as an inquiry.

<sup>9</sup> It is important to note that OIPA does not separate citizen complaints it receives into "Formal" and "Informal" classifications. This chart reflects all citizen complaints received by OIPA and all Formal Complaints received by the BART Police Department.

<sup>10</sup> Oral Counseling (third level of pre-discipline): An oral counseling may be the next step of the informal process. It is documented in a memorandum to the employee entitled "Oral Counseling." Prior to issuance, the supervisor should discuss the performance or infraction in detail with the employee. The purpose of the discussion is for the employee to be made aware of the unacceptable behavior. An employee who is covered by a collective bargaining agreement and who may be issued an Oral Counseling is entitled to appropriate association representation. An Oral Counseling is pre-disciplinary, however, if the employee fails to correct the behavior, there will be cause to move to progressive discipline.

<sup>11</sup> Letter of Discussion (second level of pre-discipline): A letter of discussion may be the next step of the process of the informal process. It is a written memorandum to the employee making the employee aware of the unacceptable behavior. A letter of discussion is pre-disciplinary, however, if the employee fails to correct the behavior, there will be cause to move to the next level of the process or to move to formal progressive discipline. An employee who may be issued a letter of discussion is entitled to appropriate representation. (BPD Policy Manual)

<sup>12</sup> OIPA may submit recommendations to IA regarding minor clerical or record-keeping adjustments which are intended to maintain the integrity of the data collection and record-keeping processes at BPD. These are not considered by OIPA to be substantive recommendations requiring reporting herein.

## Recommendations for Discussion

- Remove the term “excited delirium” from the BPD Policy Manual and related training materials.
- Create a BPD Training Bulletin for Officers and Crisis Intervention Specialists about the changes to the Manual as an effort to prevent in-custody deaths and to promote the use of de-escalation techniques.
- District provide additional funding for more opportunities and future trainings for the police department (e.g., provided by Lexipol on the topic).
- Organize a future “Policy Forum” with OIPA, BPD and BPCRB to further discuss this and similar topics to work together on addressing racially disparate outcomes in policing.



## **Assembly Bill No. 481**

### **CHAPTER 406**

An act to add Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, relating to military equipment.

[Approved by Governor September 30, 2021. Filed with  
Secretary of State September 30, 2021.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 481, Chiu. Law enforcement and state agencies: military equipment: funding, acquisition, and use.

Existing law designates the Department of General Services as the agency for the State of California responsible for distribution of federal surplus personal property, excepting food commodities, and requires the department to, among other things, do all things necessary to the execution of its powers and duties as the state agency for the distribution of federal personal surplus property, excepting food commodities, in accordance with specified federal law. Existing law, the Federal Surplus Property Acquisition Law of 1945, authorizes a local agency, as defined, to acquire surplus federal property without regard to any law which requires posting of notices or advertising for bids, inviting or receiving bids, or delivery of purchases before payment, or which prevents the local agency from bidding on federal surplus property. Existing federal law authorizes the Department of Defense to transfer surplus personal property, including arms and ammunition, to federal or state agencies for use in law enforcement activities, subject to specified conditions, at no cost to the acquiring agency.

This bill would require a law enforcement agency, defined to include specified entities, to obtain approval of the applicable governing body, by adoption of a military equipment use policy, as specified, by ordinance at a regular meeting held pursuant to specified open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment, as defined. The bill would also require similar approval for the continued use of military equipment acquired prior to January 1, 2022. The bill would allow the governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it determines that the military equipment meets specified standards. The bill would require the governing body to annually review the ordinance and to either disapprove a renewal of the authorization for a type, as defined, of military equipment or amend the military equipment use policy if it determines, based on an annual military equipment report prepared by the law enforcement agency, as provided, that the military equipment does not comply with the above-described standards for approval. The bill would specify these provisions do not preclude a county or local municipality from implementing

additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.

This bill would also require a state agency, as defined, to create a military equipment use policy before engaging in certain activities, publish the policy on the agency's internet website, and provide a copy of the policy to the Governor or the Governor's designee, as specified. The bill would also require a state agency that seeks to continue use of military equipment acquired prior to January 1, 2022, to create a military equipment use policy.

This bill would also include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

By adding to the duties of local officials with respect to the funding, acquisition, and use of military equipment, this bill would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) The acquisition of military equipment and its deployment in our communities adversely impacts the public's safety and welfare, including increased risk of civilian deaths, significant risks to civil rights, civil liberties, and physical and psychological well-being, and incurment of significant financial costs. Military equipment is more frequently deployed in low-income Black and Brown communities, meaning the risks and impacts of police militarization are experienced most acutely in marginalized communities.

(b) The public has a right to know about any funding, acquisition, or use of military equipment by state or local government officials, as well as a right to participate in any government agency's decision to fund, acquire, or use such equipment.

(c) Decisions regarding whether and how military equipment is funded, acquired, or used should give strong consideration to the public's welfare, safety, civil rights, and civil liberties, and should be based on meaningful public input.

(d) Legally enforceable safeguards, including transparency, oversight, and accountability measures, must be in place to protect the public’s welfare, safety, civil rights, and civil liberties before military equipment is funded, acquired, or used.

(e) The lack of a public forum to discuss the acquisition of military equipment jeopardizes the relationship police have with the community, which can be undermined when law enforcement is seen as an occupying force rather than a public safety service.

SEC. 2. Chapter 12.8 (commencing with Section 7070) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 12.8. FUNDING, ACQUISITION, AND USE OF MILITARY  
EQUIPMENT

7070. For purposes of this chapter, the following definitions shall apply:

(a) “Governing body” means the elected body that oversees a law enforcement agency or, if there is no elected body that directly oversees the law enforcement agency, the appointed body that oversees a law enforcement agency. In the case of a law enforcement agency of a county, including a sheriff’s department or a district attorney’s office, “governing body” means the board of supervisors of the county.

(b) “Law enforcement agency” means any of the following:

(1) A police department, including the police department of a transit agency, school district, or any campus of the University of California, the California State University, or California Community Colleges.

(2) A sheriff’s department.

(3) A district attorney’s office.

(4) A county probation department.

(c) “Military equipment” means the following:

(1) Unmanned, remotely piloted, powered aerial or ground vehicles.

(2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.

(3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.

(4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.

(5) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.

(6) Weaponized aircraft, vessels, or vehicles of any kind.

(7) Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters,

or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.

(8) Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.

(9) Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.

(10) Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.

(11) Any firearm or firearm accessory that is designed to launch explosive projectiles.

(12) “Flashbang” grenades and explosive breaching tools, “tear gas,” and “pepper balls,” excluding standard, service-issued handheld pepper spray.

(13) Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).

(14) The following projectile launch platforms and their associated munitions: 40mm projectile launchers, “bean bag,” rubber bullet, and specialty impact munition (SIM) weapons.

(15) Any other equipment as determined by a governing body or a state agency to require additional oversight.

(16) Notwithstanding paragraphs (1) through (15), “military equipment” does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

(d) “Military equipment use policy” means a publicly released, written document governing the use of military equipment by a law enforcement agency or a state agency that addresses, at a minimum, all of the following:

(1) A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.

(2) The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.

(3) The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.

(4) The legal and procedural rules that govern each authorized use.

(5) The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of military equipment to ensure the full protection of the public’s welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.

(6) The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight

authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.

(7) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

(e) “State agency” means the law enforcement division of every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(f) “Type” means each item that shares the same manufacturer model number.

7071. (a) (1) A law enforcement agency shall obtain approval of the governing body, by an ordinance adopting a military equipment use policy at a regular meeting of the governing body held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable, prior to engaging in any of the following:

(A) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

(B) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(C) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(D) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.

(E) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.

(F) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, military equipment.

(G) Acquiring military equipment through any means not provided by this paragraph.

(2) No later than May 1, 2022, a law enforcement agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall commence a governing body approval process in accordance with this section. If the governing body does not approve the continuing use of military equipment, including by adoption pursuant to this subdivision of a military equipment use policy submitted pursuant to subdivision (b), within 180 days of submission of the proposed military equipment use policy to the governing body, the law enforcement agency shall cease its use of

the military equipment until it receives the approval of the governing body in accordance with this section.

(b) In seeking the approval of the governing body pursuant to subdivision (a), a law enforcement agency shall submit a proposed military equipment use policy to the governing body and make those documents available on the law enforcement agency's internet website at least 30 days prior to any public hearing concerning the military equipment at issue.

(c) The governing body shall consider a proposed military equipment use policy as an agenda item for an open session of a regular meeting and provide for public comment in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

(d) (1) The governing body shall only approve a military equipment use policy pursuant to this chapter if it determines all of the following:

(A) The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

(B) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

(C) If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

(D) Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

(2) In order to facilitate public participation, any proposed or final military equipment use policy shall be made publicly available on the internet website of the relevant law enforcement agency for as long as the military equipment is available for use.

(e) (1) The governing body shall review any ordinance that it has adopted pursuant to this section approving the funding, acquisition, or use of military equipment at least annually and, subject to paragraph (2), vote on whether to renew the ordinance at a regular meeting held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

(2) The governing body shall determine, based on the annual military equipment report submitted pursuant to Section 7072, whether each type of military equipment identified in that report has complied with the standards for approval set forth in subdivision (d). If the governing body determines that a type of military equipment identified in that annual military equipment report has not complied with the standards for approval set forth in subdivision (d), the governing body shall either disapprove a renewal of the authorization for that type of military equipment or require modifications

to the military equipment use policy in a manner that will resolve the lack of compliance.

(f) Notwithstanding subdivisions (a) to (e), inclusive, if a city contracts with another entity for law enforcement services, the city shall have the authority to adopt a military equipment use policy based on local community needs.

7072. (a) A law enforcement agency that receives approval for a military equipment use policy pursuant to Section 7071 shall submit to the governing body an annual military equipment report for each type of military equipment approved by the governing body within one year of approval, and annually thereafter for as long as the military equipment is available for use. The law enforcement agency shall also make each annual military equipment report required by this section publicly available on its internet website for as long as the military equipment is available for use. The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:

(1) A summary of how the military equipment was used and the purpose of its use.

(2) A summary of any complaints or concerns received concerning the military equipment.

(3) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.

(4) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.

(5) The quantity possessed for each type of military equipment.

(6) If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

(b) Within 30 days of submitting and publicly releasing an annual military equipment report pursuant to this section, the law enforcement agency shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the law enforcement agency's funding, acquisition, or use of military equipment.

7073. (a) A state agency shall create a military equipment use policy prior to engaging in any of the following:

(1) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

(2) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(3) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(4) Collaborating with a law enforcement agency or another state agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.

(5) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.

(6) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, or to apply to receive, acquire, use, or collaborate in the use of, military equipment.

(7) Acquiring military equipment through any means not provided by this subdivision.

(b) No later than May 1, 2022, a state agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall create a military equipment use policy.

(c) A state agency that is required to create a military equipment use policy pursuant to this section shall do both of the following within 180 days of completing the policy:

(1) Publish the military equipment use policy on the agency's internet website.

(2) Provide a copy of the military equipment use policy to the Governor or the Governor's designee.

7074. The Legislature finds and declares that ensuring adequate oversight of the acquisition and use of military equipment is a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities and shall supersede any inconsistent provisions in the charter of any city, county, or city and county.

7075. Nothing in this chapter shall preclude a county or local municipality from implementing additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which adds Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

Requiring local agencies to hold public meetings prior to the acquisition of military equipment further exposes that activity to public scrutiny and enhances public access to information concerning the conduct of the people's business.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would



result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

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