

San Francisco Bay Area Rapid Transit District

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



COMMITTEE MEETING AGENDA

Monday, May 8, 2023

4:00 PM

**The BPCRB Meeting will be held in-person and via simultaneous
teleconference, with an option for public participation via
teleconference.**

**BART Board Room, 2150 Webster Street, 1st Floor, Oakland, CA
94612. Zoom Link: <https://us06web.zoom.us/j/89562361248>**

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

May 8, 2023

4:00 p.m.

A regular meeting of the BART Police Citizen Review Board (BPCRB) will be held on Monday, May 8, 2023, at 4:00 p.m., in the BART Board Room, 2150 Webster Street, 1st Floor, Oakland, California 94612. This meeting shall consist of a simultaneous teleconference at the following locations:

BART Board Room
2150 Webster Street – 1st Floor
Oakland, CA 94612

The Berkeley Public Library West Branch
Reserved Room
(See Librarian for Room Location)
1125 University Avenue
Berkeley, CA 94702

SharkEye Tech
832 Escobar Street
Martinez, CA 94553

The Warner Library
Reserved Room
(See Librarian for Room Location)
121 North Broadway
Tarrytown, NY 10591

Please note that this meeting will be held in person in the BART Board Room, 2150 Webster Street, 1st Floor, Oakland, California 94612, and via teleconference at the locations listed above. Face masks are strongly recommended on BART property, including the BART Board Room.

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 attend the BPCRB Meeting in person or join via Zoom by calling (833) 548-0282 (Toll Free) and entering access code 895 6236 1248; logging in to Zoom.com and entering access code 895 6236 1248, or typing the following Zoom link into your web browser:

<https://us06web.zoom.us/j/89562361248>

If you wish to make a public comment:

- 1) Submit written comments via email to CitizenReviewBoard@bart.gov, using “public comment” as the subject line. Your comment will be provided to the BPCRB 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., on May 8, 2023, in order to be included in the record.
- 2) Complete a “Request to Address the BART Police Citizen Review Board” form (available at the entrance to the Board Room) and give it to the District Secretary’s Office staff before the Item is considered by the BPCRB.
- 3) Call (833) 548-0282 (Toll Free), enter access code 895 6236 1248, dial *9 to raise your hand when you wish to speak, and dial *6 to unmute when you are requested to speak; log in to Zoom.com, enter access code 895 6236 1248, and use the raise hand feature; or join the BPCRB Meeting via the Zoom link (<https://us06web.zoom.us/j/89562361248>) and use the raise hand feature.

Public comment is limited to three (3) minutes per person.

AGENDA

1. Call to Order.
 - a. Roll Call.
 - b. Pledge of Allegiance.
2. Approval of Minutes of the Meeting of April 10, 2023. For Action.

Attachments: [Approval of Minutes of the Meeting of April 10, 2023](#)

3. Reporting Out Announcement from BART Police Citizen Review Board (BPCRB) Subcommittees. For Discussion.
4. Chief of Police’s Report(s). For Discussion.
 - a. BART Police Department’s Monthly Report(s) for March 2023.
 - b. BART Police Department Deployment Update.

Attachments: [BART Police Department Deployment Update](#)

5. Independent Police Auditor's Report(s). For Discussion.
a. Office of the Independent Police Auditor (OIPA) Monthly Report(s) for March 2023.

Attachments: [OIPA Monthly Report - March 2023](#)

6. Review of Draft BPCRB Memo regarding the Hiring Process for the Next Chief of the BART Police Department (BPD). (Chairperson Erin Armstrong's Request). For Discussion.

Attachments: [Hiring Process for the Next Chief of the BPD - Draft Memo](#)

7. 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.)

8. Closed Session.
a. To Consider Public Employee Discipline/Dismissal/Release in Office of the Independent Police Auditor (OIPA) Case(s) #22-25. Govt. Code §54957.

9. Open Session.
a. Announcement from Closed Session, if any.

10. Adjournment.

BART provides services/accommodations upon request to persons with disabilities and individuals who are limited English proficient and 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, April 10, 2023

A regular meeting of the BART Police Citizen Review Board (BPCRB) was held Monday, April 10, 2023, convening at 4:00 p.m. in the following locations: BART Board Room, 2150 Webster Street, 1st Floor, Oakland, California 94612; and the Berkeley Public Library West Branch, 1125 University Avenue Berkeley, CA 94702, and SharkEye Tech, 832 Escobar Street, Martinez, California, 94553; and the Warner Library, 121 North Broadway, Tarrytown, New York, 10591. The meeting was called to order by Chairperson Erin Armstrong; Mag Tatum, Recording Secretary.

Chairperson Erin Armstrong gave instructions on the in-person meeting, with an option for public participation via teleconference, accessing the presentation materials online, Public comments, and Members' remarks.

1. Call to Order.

The regular meeting was convened at 4:00 p.m. by Chairperson Erin Armstrong.

Members Present in Oakland, CA:	Members Christina Gomez, Dana Lang, Les Mensinger, George Perezvelez, David Rizk, and Erin Armstrong.
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Member Present in Berkeley, CA:	Members Todd Davis (via Teleconference)
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Member Present in Martinez, CA:	Member Pedro Babiak (via Teleconference).
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Member Present in Tarrytown, NY:	Member William White (via Teleconference).
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The Pledge of Allegiance was recited.

2. Approval of Minutes of the Meeting of March 13, 2023.

Member Mensinger moved that the Minutes of the Meeting of March 13, 2023, be approved. Member Rizk seconded the motion, which was carried by a roll call vote.

Ayes – 8: Members Gomez, Babiak, Lang Mensinger, Perezvelez, Rizk White, and Armstrong. Noes – 0. Abstain – 1: Member Davis. Absent – 0. Vacant – 2.

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

Members Gomez, Perezvelez, and Lang presented information for various BART Police Citizen Review Board (BPCRB) Subcommittees. The item was discussed.

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

- a. BART Police Department's Monthly Reports for February 2023.

Interim Chief Kevin Franklin presented the BART Police Department's Monthly Reports for February 2023. The reports were discussed.

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

- a. Office of the Independent Police Auditor (OIPA) Monthly Report(s) for February 2023.

Russell Bloom, Independent Police Auditor, presented OIPA Monthly Report for February 2023. The reports were discussed.

6. **Overview of the Agreement between the California Department of Justice ("Cal DOJ"), and the Bay Area Rapid Transit (BART) Board of Directors ("BART"), through the BART Police Department ("BART PD") (Member David Rizk's Request).**

Member Rizk presented information for the overview of the agreement between the California Department of Justice, and the Bay Area Rapid Transit, Board of Directors, through the BART Police Department. The item was discussed.

7. **Public Comment.**

Chairperson Armstrong called for Public Comments.

Director Robert Raburn addressed the Board.

Chairperson Armstrong announced that the Board would enter into a closed session under Item 8-A (Public Employee Discipline/Dismissal/Release in OIPA Case #22-21 of the regular meeting agenda, and that the Board would reconvene in open session at the conclusion of the closed session.

The Meeting recessed at 5:55 p.m.

The Meeting reconvened in Closed Session at 7:10 p.m.

8. **Closed Session.**

- a. To Consider Public Employee Discipline/Dismissal/Release in Office of the Independent Police Auditor (OIPA) Case(s) #22-21. Govt. Code §54957.

Members Present in Oakland, CA:

Members Christina Gomez, Dana Lang, Les Mensinger, George Perezvelez, David Rizk, and Erin Armstrong.

Member Present in Berkeley, CA:

Members Todd Davis (via Teleconference)

Member Present in Tarrytown, NY:

Member William White (via Teleconference).

Absent:

Member Pedro Babiak.

9. Open Session.

The Meeting reconvened in Open Session at 7:10 p.m.

Chairperson Armstrong announced that the Board voted to accept the findings in OIPA Case #22-21. Member Davis voted not to accept the findings in OIPA Case #22-21

10. **Adjournment.**

The Meeting was adjourned at 7:10 p.m.

DRAFT



BAY AREA RAPID TRANSIT POLICE DEPARTMENT

Edgardo Alvarez, Chief of Police

101 8th Street

Oakland, CA 94607

www.bart.gov/police

MEMORANDUM

TO: BART Police Citizen Review Board

DATE: April 24, 2023

FROM: Kevin Franklin, Deputy Chief of Police

SUBJECT: BART Police Department Deployment Update

Executive Summary

Since the mid-1990's, the BART Police Department has utilized a policing strategy much like that of a small city. The Police Department has been organized into policing zones and primarily utilized vehicle beats to patrol each zone. This strategy works for a rapid response to 9-1-1 calls for service but does not provide as much visibility of uniformed personnel inside the BART system as is provided by a train-patrol focused strategy. Vehicle patrols tend to be more reactive to calls for service as opposed to train patrols which are proactive in addressing quality of life issues and criminal activity.

On March 20th, 2023, in direct response to the safety concerns raised by many of our riders and employees, the BART Police Department implemented a new patrol deployment to increase visibility on trains and in stations by focusing both sworn and unarmed civilian personnel on trains in the core areas of the BART system. The new patrol deployment strategy includes Police Officers, Community Service Officers, Fare Inspectors, Ambassadors, and Crisis Intervention Specialists assigned to train patrol.

This new deployment strategy allows the BART Police Department to place resources where most of the 9-1-1 calls for service originate and proactively address quality of life issues and criminal activity before the trains travel outside of the core areas of the system. In addition, the new deployment strategy provides a highly visible uniformed presence of sworn and unarmed civilian personnel in the areas of the system where the majority of passengers are traveling.

The Police Department is committed to evolving our policing strategies to best suit the needs of the District and will continue to find creative ways to provide safety within the BART system. Our focus is maintaining a highly visible presence of uniformed sworn and unarmed civilian personnel on the trains and in stations within the core areas of the BART system. Based on the initial data collected about the new deployment strategy, calls for service requiring a police response have decreased while positive customer feedback has increased.

Structure of Deployment

To increase train patrols, the BART Police Department adjusted the deployment for seven patrol beats from patrolling in vehicles to patrolling via trains. The patrol areas for the remaining vehicle patrol beats were extended, but the expectation is that by addressing calls for service in the core areas of the system fewer incidents will migrate towards the ends of the line which would require response from a vehicle beat. Train patrol officers are also available to respond to calls for service in their assigned areas and patrol sergeants supplement the availability of

personnel with vehicles for emergency patrol response. Patrol cars are also strategically placed at BART stations for use by train patrol officers for emergency response or in any other situations that require a vehicle (such as the transport of a victim, witness, or person who was arrested).

To free up resources for additional train patrols, the Police Department suspended the focused proof of payment inspections conducted on weekday mornings at Embarcadero Station thereby providing additional Fare Inspectors to ride trains and check proof of payment at stations during the day and evening hours.

The result of the new deployment strategy is that the Police Department is deploying eight to eighteen additional uniformed sworn and unarmed civilian personnel per shift dedicated to high visibility train patrol as compared to the prior vehicle patrol focused deployment.

Positive Outcomes

Compared with the same period in 2022, the BART Police Department has recorded a 38% decrease in calls for service and a 40% increase in arrests with this new deployment strategy. During this same period, BART ridership also increased by approximately 20% compared to the prior year.

The following tables show the decrease in calls for service and increase in arrests:

Period 3/20 through 4/16	2022	2023 (preliminary)
Calls for Service	12,746	7,804
Arrests	203	286

During this same period the Crisis Intervention Specialists supported the deployment by responding to 277 of the calls for service, avoiding a law enforcement response, and completed an additional 1,998 self-initiated contacts with individuals in need of services. This demonstrates that the Progressive Policing component of the deployment is diverting calls for service from law enforcement while providing a visible presence and a connection to services for persons in need of assistance within the BART system.

A review of preliminary use of force incident data and Internal Affairs complaint data show the following results for the same periods.

Period 3/20 through 4/16	2022	2023 (preliminary)
IA Complaints	5	9
Use of Force Incidents	21	21

It should be noted that the IA complaints recorded in the preliminary 2023 data include three incidents of complaints about inadequate police response, one complaint about an interaction with an employee during a phone call, and one administrative investigation for an interaction

between employees. These five incidents do not appear to be related to the changes implemented in the new deployment strategy. There was one complaint about police conduct when dealing with a person on a train and two complaints (from the same person) related to conduct associated with fare enforcement, but further research would be required to determine if the complaints were associated with changes implemented in the new patrol deployment strategy as opposed to general complaints. There does not appear to be a significant increase in use of force incidents or Internal Affairs complaints associated with the new patrol deployment strategy during this initial period.

Customer Feedback

BART Customer Services received six compliments specifically about the new deployment strategy. Customer Services reported no similar compliments received during the same period of 2022. Customer Services also reported an increase in complaints about fare evasion and lack of police presence between the same period in 2022 and 2023 indicating increased demand for uniformed presence from sworn and unarmed civilian personnel in the system.

- *It was very reassuring to see officers getting on and walking through the trains. Thank you 😊 via Android app Version 1.24.0064*
- *Hi, just wanted to thank you for adding more officers to ride on trains. I saw this on the news last night. I have had some iffy experiences on BART and a friend had a razor held to her throat a few months ago, so it has seemed unsafe. Really appreciate the response!*
- *Thank you to the BART police officers who stepped in at Lake Merritt this afternoon at 5:20 pm to check on a mentally challenged passenger in the Dublin direction. While it is sad to report such cases, I feel that it is necessary to report unruly behavior. The anticipated increase in police forces and the expected gate upgrade are welcoming news. Taxpayers should support such measures. Thank you!*
- *I want to thank all the individuals for making their presence on the trains and the Bart Administration for listening to the Riders and seeing the decreased number of riders using public transportation. We did stop, especially at night. I quit taking Union Entertainment jobs in San Francisco because of the conditions on Bart. These actions by the public can make a difference. I now feel much safer and experience less anxiety with the knowledge of the presence of police, peace keepers, and fair enforcement. Thank you for listening. Sincerely, via Android app Version 1.24.0064*
- *I just want to relay the very positive interaction I saw on the Bart train yesterday. Two Bart policemen got on at the 12th Street Station and approached the "homeless" man sitting on the train. (I don't know for sure if he was homeless). They were calm, spoke in normal-tone voices, and asked the man reasonable questions about how he was doing. Obviously the man was in some trouble mentally and probably physically, because his pants were around his thighs. The police escorted the man off the train at 19th Street without any kind of scene. These are the most basic details of the incident but the policemen are to be commended, and I thank them, for their appropriate response to the situation.*
- *Noticed a cleaner car, some police presence, and people walking the cars checking*

tickets today. Keep up the good work. I look forward to being comfortable bringing my toddler son along with me on the train sometime in the near future. My wife and i decided that we would not be able to do this some time ago given the conditions frequently encountered on the cars. She and my sister also will not ride anymore, which is a shame because we specifically chose to live near a bart station as my wife cannot drive. I commute most days. Happy to see inprovement please keep it up!

Conclusion

Overall, these results demonstrate that the new patrol deployment strategy is making a positive impact. BART is serving more passengers and the Police Department has received fewer 9-1-1 calls for service in spite of this increased ridership. This is a collective effort with sworn police officers and unarmed civilian personnel being responsive to the needs of our passengers and employees.

A handwritten signature in black ink, appearing to read 'Kevin Franklin', positioned above a horizontal line.

Kevin Franklin



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

MONTHLY REPORT

March 2023

Issue date: May 8, 2023

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 **March 1, 2023 through March 31, 2023**.¹ (The Quantitative Report includes all complaints received and administrative investigations initiated by both OIPA and the BART Police Department (BPD) Internal Affairs Bureau (IA)).

QUANTITATIVE REPORT

	Cases Filed ²	Open Cases ³	Investigations Resolved	OIPA Investigations Concluded ⁴	Cases Appealed to OIPA ⁵	Cases Appealed by BPCRB ⁶
March 2022	6	73	14	1	0	0
April 2022	10	79	6	1	0	0
May 2022	14	86	6	1	0	0
June 2022	8	87	7	1	0	0
July 2022	10	91	5	0	0	0
August 2022	10	85	17	2	0	0
September 2022	11	90	7	0	0	0
October 2022	5	82	13	1	0	0
November 2022	5	84	3	1	0	0
December 2022	5	86	3	0	0	0
January 2023	6	87	5	0	0	0
February 2023	12	91	9	1	0	0
March 2023	10	98	4	1	0	0

TYPES OF CASES FILED

Citizen Complaints (Formal)	9
Informal Complaints ⁷	0
Administrative Investigations	1
Inquiries ⁸	0
TOTAL	10

CITIZEN COMPLAINTS RECEIVED PER DEPARTMENT⁹

OIPA	4
BART Police Department	5
TOTAL	9

COMPLAINTS/INVESTIGATIONS INITIATED DURING REPORTING PERIOD

During March 2023, **4 Citizen Complaints** were received by OIPA:

Complaint # (OIPA Case #) (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (OIPA #23-06) (IA2023-021)	Unknown Employee #1: • Unknown Allegation(s)	OIPA notified BPD which contacted complainant and determined there was no misconduct complaint. BPD initiated a Supervisor Referral. ¹⁰	54
2 (OIPA #23-05) (IA2023-022)	Officers #1-5: • Bias-Based Policing • Conduct Unbecoming an Officer Officers #1&5 • Arrest/Detention Officers #2&5: • Force Officer #5: • Search/Seizure • Policy Procedure (Body Worn Camera)	OIPA notified BPD which initiated an investigation.	55
3 (OIPA #23-07) (IA2023-024)	Officer #1: • Performance of Duty	OIPA notified BPD which initiated an investigation.	48
4 (OIPA #23-08) (IA2023-029)	Officer #1: • Conduct Unbecoming an Officer Officer #2: • Arrest/Detention • Force	OIPA notified BPD which had already initiated an investigation after receiving the same complaint.	40

During March 2023, **5 Citizen Complaints (Formal)** were received by BPD:

Complaint # IA Case #	Nature of Complaint	Action Taken	Days Elapsed Since Complaint Filed
1 (IA2023-019)	Officer #1: • Arrest/Detention • Search/Seizure	BPD initiated an investigation.	61
2 (IA2023-020)	Employee #1: • Policy/Procedure • Performance of Duty	BPD initiated an investigation.	60
3 (IA2023-023)	Employee #1: • Performance of Duty • Bias-Based Policing	BPD initiated an investigation.	48

4 (IA2023-026)	Officers #1-2: • Performance of Duty • Bias-Based Policing	BPD initiated an investigation.	42
5 (IA2023-028)	Officer #1: • Search/Seizure	BPD initiated an investigation.	40

During March 2023, **1 Administrative Investigation** was initiated by BPD:

Complaint # (IA Case #)	Nature of Complaint	Action Taken	Days Elapsed Since Investigation Initiated
1 (IA2023-025)	Officer #1: • Conduct Unbecoming an Officer • Performance of Duty • Policy/Procedure	BPD initiated an investigation.	44

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING REPORTING PERIOD

During March 2023, **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 #18-08) (IA2018-001)*	Officer used excessive and unnecessary force and was untruthful when interviewed about the use of force. Supervisor returned officer to duty prematurely after critical incident and improperly promoted officer. Supervisor's public comments violated media relations policy.	Officer #1: • Force – Exonerated • Truthfulness – Exonerated Officer #2: • Supervision – Exonerated • Policy/Procedure (Officer-Involved Shooting Media Relations) – Sustained	1876	1816†

* The BPD Internal Affairs investigation of this officer-involved shooting remains open as of this reporting. BPD Policy 310.7 (Administrative Investigation) provides that “[i]n addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of BART PD officers to determine conformance with department policy. The investigation will be conducted under the supervision of the Internal Affairs Division and will be considered a confidential officer personnel file.

† Separate criminal investigations were conducted and completed by the Oakland Police Department (OPD) and Alameda County District Attorney's Office (ACDA) regarding this officer-involved shooting. There were also civil proceedings that resolved on October 5, 2022. This OIPA investigation was tolled during those proceedings and resumed at the conclusion of the civil litigation. Tolling of this investigation was in reliance on Government Code section 3304(2)(F), also known as the California Peace Officers' Bill of Rights, which provides, “If the investigation involves a matter in civil litigation where the public safety officer is named as a party defendant, the one-year time period shall be tolled while that civil action is pending.”

During March 2023, **2 Citizen Complaints** were concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2023-013)	Officer inappropriately requested the name of a person in medical distress.	Officers #1-2: • Policy/Procedure – Supervisor Referral	83	21
2 (IA2022-016)	Officers witnessed a crime and failed to take law enforcement action.	Officers #1-2: • Performance of Duty – Administratively Closed ¹¹	398	332

COMPLAINTS/INVESTIGATIONS CONCLUDED DURING A PRIOR REPORTING PERIOD BUT NOT PREVIOUSLY RECORDED BY INTERNAL AFFAIRS

During February 2023, **1 Informal Complaint** was concluded by BPD:

(IA Case #)	Nature of Complaint	Disposition	Days Elapsed Since Complaint Filed	Days Taken to Complete Investigation
1 (IA2022-056)	Officers did not wear face coverings as required	Officers #1-5: • Policy/Procedure – Supervisor Referral	282	208

DISCIPLINE ISSUED DURING REPORTING PERIOD

During March 2023, 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 ¹²

ADDITIONAL NOTES

‡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).

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	7
Complainant-Initiated Appeals	0
BPD-Initiated Appeals	0
Investigations Being Monitored	22
Investigations Reviewed During Current Month	8†

†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.¹³ 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.

¹ 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.

² 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.

³ 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.

⁴ 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.

⁵ 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).

⁶ 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).

⁷ 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)).

⁸ 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.

⁹ 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.

¹⁰ A Supervisor Referral refers to an instance involving an Inquiry or an Informal Complaint. An assigned supervisor addresses the issue informally with the involved employee and documents the content of the conversation with a memorandum to IA.

¹¹ Administrative Closure is defined as follows in the BPD Policy Manual: Allegations that are received and documented; however, the Chief of Police or his/her designee determines, based on a preliminary investigation, that further investigation is not warranted. Under these circumstances, the complaint will be Administratively Closed and documented in a summary memorandum to the case file. Employees will be documented as witnesses only, not as subjects to the complaint. Internal Affairs will send a letter to the complainant notifying them that the case was closed following a preliminary investigation.

¹² 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.

¹³ 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.

BART POLICE CITIZEN REVIEW BOARD

MEMORANDUM

TO: Board of Directors **DATE:** April 28, 2023
FROM: BART Police Citizen Review Board (Chairperson Erin Armstrong's Request)
SUBJECT: Hiring Process for the Next Chief of the BART Police Department

Dear Board of Directors,

The BART Police Community Review Board (BPCRB) is requesting enhanced involvement in the hiring process of the next Chief of Police for the BART Police Department (BPD).

As you know, the BPCRB is responsible for overseeing the policy and conduct of the BPD, and we report directly to the Board of Directors. It is therefore critical that we have a say in who is ultimately selected to lead the department, and that we are involved in the interview process.

In recent hiring processes, BPCRB has only had a limited role in the selection of the BPD Chief, in contrast to our historic role. However, we believe that our input is vital to ensuring that the next Chief of Police is someone who is committed to community engagement, oversight, accountability, and transparency.

We respectfully request that the BPCRB be granted an expanded role in the hiring process of the next BPD Chief. Specifically, we request that:

- BPCRB be given a hand in shaping the interview process for the final candidates, including the questions that will be asked during the interviews.
- Final candidates be required to interview publicly at a BPCRB meeting, to allow for community input and transparency.



- BPCRB be given access to all relevant information and materials related to the candidates, including resumes, background checks, and references.

We believe that these changes will not only improve the integrity of the hiring process but also foster greater trust and accountability between the BPD and the communities it serves.

Thank you for considering our request.

Sincerely,

BART Police Citizen Review Board

cc: BPCRB Members

