

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
300 Lakeside Drive, P. O. Box 12688, Oakland, CA 94604-2688

Special Meeting of the Board of Directors
July 30, 2009
6:30 p.m.

AGENDA

MEMBERS OF THE PUBLIC MAY ADDRESS THE BOARD OF DIRECTORS REGARDING ANY MATTER ON THIS AGENDA. PLEASE COMPLETE A "REQUEST TO ADDRESS THE BOARD" FORM (AVAILABLE AT THE ENTRANCE TO THE AUDITORIUM) AND HAND IT TO THE SECRETARY BEFORE THE ITEM IS CONSIDERED BY THE BOARD. IF YOU WISH TO DISCUSS A MATTER THAT IS NOT ON THE AGENDA DURING A REGULAR MEETING, YOU MAY DO SO UNDER GENERAL DISCUSSION AND PUBLIC COMMENT.

ANY ACTION REQUIRING MORE THAN A MAJORITY VOTE FOR PASSAGE WILL BE SO NOTED.

1. Roll Call and Pledge of Allegiance. (MetroCenter Auditorium, 101 Eighth Street, Oakland)
2. Draft Model: Citizen Oversight of BART Police Department.* For information.
3. Public Comment on Item 2 Only.

Please refrain from wearing scented products (perfume, cologne, after-shave, etc.) to this meeting, as there may be people in attendance susceptible to environmental illnesses.

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

DRAFT

BART CITIZEN OVERSIGHT MODEL

Purpose: To provide an effective, independent citizen oversight system that promotes integrity and encourages systemic change and improvement in the police services BART provides to the public by ensuring that internal police accountability systems function properly; that behavioral, procedural and policy deficiencies are identified and appropriately addressed, including racial profiling and allegations of racially abusive treatment; and, that complaints are investigated through an objective and fair process for all parties involved. The system will analyze allegations of misconduct; utilize data to identify trends, including disciplinary outcomes and trends; recommend corrective action and or training; maintain confidentiality; make policy recommendations; and, report regularly to the BART Board of Directors and the public. The essential community involvement component of the system shall be accomplished through the inclusion of a Citizen Board.

Chapter 1:

- 1-01 OFFICE OF THE INDEPENDENT POLICE AUDITOR
- 1-02 APPOINTMENT OF THE AUDITOR
- 1-03 SCOPE
- 1-04 DUTIES AND RESPONSIBILITIES
- 1-05 RELATIONSHIP BETWEEN OFFICE OF INDEPENDENT POLICE AUDITOR AND CITIZEN BOARD
- 1-06 RELATIONSHIP BETWEEN THE OFFICE OF THE INDEPENDENT POLICE AUDITOR AND THE BART POLICE DEPARTMENT AND OTHER DEPARTMENTS
- 1-07 COOPERATION WITH THE OFFICE OF THE INDEPENDENT POLICE AUDITOR
- 1-08 INDEPENDENCE OF THE AUDITOR
- 1-09 CONFIDENTIALITY OF RECORDS AND INFORMATION
- 1-10 CODE OF ETHICS
- 1-11 TIMELINESS

Chapter 2:

- 2-01 CITIZEN BOARD
- 2-02 APPOINTMENT OF THE CITIZEN BOARD MEMBERS
- 2-03 CITIZEN BOARD MEMBER QUALIFICATIONS/RESTRICTIONS
- 2-04 REMOVAL OF CITIZEN BOARD MEMBERS
- 2-05 SCOPE
- 2-06 DUTIES AND RESPONSIBILITIES
- 2-07 RELATIONSHIP BETWEEN CITIZEN BOARD AND OFFICE OF THE INDEPENDENT POLICE AUDITOR
- 2-08 CONFIDENTIALITY OF RECORDS AND INFORMATION
- 2-09 CODE OF ETHICS

Chapter 3:

- 3-01 OVERSIGHT SYSTEM EVALUATION

Chapter 1-01 OFFICE OF THE INDEPENDENT POLICE AUDITOR

The Office of the Independent Police Auditor shall be established by the Board of Directors in keeping with the Core Principles for an Effective Police Auditor's Office.¹

Chapter 1-02 APPOINTMENT OF THE AUDITOR

The Auditor shall be appointed by and report directly to the BART Board of Directors.

Chapter 1-03 SCOPE

The Office of the Independent Police Auditor shall have the authority to exercise its duties and responsibilities as outlined below, with regard to any and all law enforcement and police activities or personnel operating under authority of the San Francisco Bay Area Rapid Transit District. The Auditor's scope of authority does not extend beyond the BART Police Department.

Chapter 1-04 DUTIES AND RESPONSIBILITIES

A) Citizen Complaints

A victim of on-duty police misconduct, a victim's parent or guardian, or a witness to misconduct may file with the Office of the Independent Police Auditor a complaint or allegation of wrongdoing against a BART police officer. Upon receipt of such complaint or allegation, the Office of the Independent Police Auditor shall:

- i) Ensure that a timely, thorough, complete, objective and fair investigation into the complaint is conducted. The Police Auditor shall investigate all complaints of allegations of police officer misconduct regarding unnecessary or excessive use of force, racial profiling, sexual orientation bias, sexual harassment, and the use of deadly force, suspicious and wrongful deaths.
- ii) Provide timely updates on the progress of all investigations conducted by the Office of the Independent Police Auditor to the complainant and the officer who is the subject of the investigation, unless the specific facts of the investigation would prohibit such notification.
- iii) Based on the results of the investigation, reach an independent finding as to the facts. The Auditor shall assess the conduct of the BART police officer in light of the facts discovered through the investigation, the law, and the policies and training of the BART Police Department.

B) Recommendations for Corrective Action

- i) Independent investigative findings made by the Office of the Police Auditor shall include recommendations for corrective action, up to and including termination where warranted and shall include prior

¹ Report of the First National Police Auditors Conference, March 26-27, 2003, Prepared by Samuel Walker

complaints and their disposition. When the evidence does not support the allegations of misconduct, the Auditor shall recommend that the matter be dismissed.

- ii) In a confidential personnel meeting, the Auditor shall submit his/her investigative findings and recommendations to the Citizen Board for review. Should the Citizen Board agree with the findings and recommendations, the report will be submitted to the Chief of Police for appropriate action. The Chief of Police shall implement the recommended action, absent appeal.

- iii) Should the Chief of Police disagree with the findings and recommendation of the Auditor and Citizen Board, the Chief of Police, in a confidential personnel meeting, may appeal to the General Manager. The Chief of Police will submit his/her disagreements and recommendations to the General Manager. In a confidential personnel meeting, the General Manager shall make a decision and make his/her decision known to the Chief of Police, Citizen Board and the Auditor. The Chief of Police shall implement the General Manager's decision, absent appeal. Appeal of decisions made by the General Manager shall follow the process outlined in Chapter 1-04(B)vi.

- iv) Should the Citizen Board disagree with the Auditor's findings, by simple majority, in a confidential personnel meeting, the Auditor and the Citizen Board shall attempt to come to a consensus. If the Citizen Board and the Auditor fail to come to a consensus, by simple majority, the Citizen Board may appeal. The efforts made to achieve consensus shall be documented by the Citizen Board and shall be forwarded to the Chief of Police as a part of the appeal. All appeals regarding findings and recommendations for corrective action or dismissal, between the Citizen Board and the Auditor will be initially appealed to the Chief of Police, in a confidential personnel meeting. The Citizen Board will submit their disagreements and recommendations to the Chief of Police, in a confidential personnel meeting. The Auditor will submit his/her recommendation to the Chief of Police, in a confidential personnel meeting. The Chief of Police shall make a decision on the matter and make his/her decision known to the Citizen Board and the Auditor, in a confidential personnel meeting. The Chief of Police shall implement discipline or dismissal, absent appeal.

- v) If the Citizen Board disagrees with the Chief of Police's decision and it is reflected by simple majority of its members, they may appeal to the General Manager, in a confidential personnel meeting. The Citizen Board and the Auditor's recommendations will be submitted to the General Manager, in a confidential personnel meeting. The General Manager will render a finding and report it to the Chief of Police and Citizen Board, in a confidential personnel meeting. The Chief of Police shall implement the General Manager's decision, absent appeal.

vi) If the Citizen Board disagrees with the General Manager with a super (2/3) majority, they may appeal to the BART Board of Directors. All reports developed as part of the investigation will be submitted to the BART Board of Directors, who will render a decision in a closed personnel session. BART Board of Directors decisions regarding discipline will require a super (2/3) majority of the BART Board of Directors for approval. In a confidential personnel session, the BART Board will notify the Citizen Board, General Manager and Chief of Police. The Chief of Police will implement the decision of the Board of Directors, which will be final.

vii) Discipline recommended herein shall be subject to an administrative hearing prior to implementation, in a manner consistent with addressing the due process rights of public employees, when applicable.

C) **Review Internal Affairs Investigations conducted by the BART Police Department**

The Office of the Independent Police Auditor shall review internal affairs investigations conducted by the BART Police Department to determine if the investigations are complete, thorough, objective and fair. The Auditor, at his or her discretion, shall have authority to monitor or require follow-up investigation into any citizen complaint or allegation that is handled by the BART Police Department.

D) **Mediation**

The Office of the Independent Police Auditor shall develop a voluntary alternative dispute resolution process for resolving those citizen complaints which involve conduct which may most appropriately be corrected or modified through less formal means. The Auditor shall review a draft of the voluntary alternative dispute resolution process with the Citizen Board and BART Police Associations and secure their concurrence prior to implementation.

E) **Appeal of Internal Affairs Investigation Findings**

Any complainant may file with the Office of the Independent Police Auditor an appeal of the findings of an internal investigation conducted by the BART Police Department regarding on-duty incidents. Upon receipt of such an appeal, the Office of the Independent Auditor shall:

- i) Review the completed investigation.
- ii) Determine whether or not further investigation is warranted and, if necessary, ensure that a timely, thorough, complete, objective and fair

follow-up investigation into the complaint or allegation is conducted. This follow-up investigation may, at the discretion of the Auditor, be conducted by the Office of the Independent Police Auditor, the BART Police Department or any other competent investigative agency.

- iii) Provide timely updates on the progress of the review and any follow-up investigation to the complainant, to the extent permitted by law, and to the BART police officer who was the subject of the original investigation, unless the specific facts of the investigation would prohibit such notification.
- iv) Based on the review of the original investigation and the results of any follow-up investigation (if conducted), reach an independent finding as to the facts.
- v) Independent investigative findings made by the Office of the Police Auditor shall include recommendations for corrective action, up to and including termination where warranted and when the evidence does not support the allegations of misconduct, the Auditor shall recommend that the matter be dismissed.
- vi) All internal affairs investigative findings that are appealed to the Office of the Independent Police Auditor shall be subject to the procedures for corrective action as outlined in Chapter 1-04.B, above.

F) On-Duty Officer Involved Shooting Incidents

The Auditor shall be notified immediately by the officer in charge at the scene to respond to the investigative scene regarding an officer involved shooting, resulting in the death or serious bodily injury to a citizen or a police officer.

G) Recommendations on Procedures, Practices and Training

The Office of the Independent Police Auditor shall develop specific recommendations concerning General Orders and Directives, procedures, practices and training of the BART Police Department. Such recommendations should have as their goal improved professionalism, safety, effectiveness and accountability of BART Police Department employees. The Office of the Independent Police Auditor shall review with the Chief of Police and other stakeholders and shall present its recommendations to the Citizen Board for review and comment.

H) BART Police Associations

The Auditor shall meet periodically with and seek input from the BART Police Managers Association and the BART Police Officers Association regarding the work of the Office of the Independent Police Auditor.

I) Community Outreach

The Office of the Independent Police Auditor, in conjunction with the Citizen Board, shall develop and maintain a regular program of community outreach and communication for the purpose of listening to and communicating with citizens in the BART service area, and educating the public on the responsibilities and services of the Independent Police Auditor and functions of the Citizen Board.

J) Reporting

The Auditor shall prepare annual reports for the Board of Directors and the public, which prior to being finalized shall be reviewed in draft with the Citizen Board. To the extent permitted by law, reports shall include the number and types of cases filed, number of open cases, the disposition of and any action taken on cases including recommendations for corrective action, and the number of cases being appealed; findings of trends and patterns analyses; and, recommendations to change BPD policy and procedures, as appropriate. The reports shall include all complaints regarding police officers received by the Office of the Independent Police Auditor, BART Police Department, Office of the District Secretary, and other District departments.

Chapter 1-05 RELATIONSHIP BETWEEN OFFICE OF THE INDEPENDENT POLICE AUDITOR AND THE CITIZEN BOARD

- A) At least monthly, the Citizen Board shall receive reports from the Independent Police Auditor on the number and types of cases filed, number of open cases, the disposition of and any action taken on cases, recommendations for corrective action, including discipline and dismissals; the number of independent investigations concluded by the Office of the Independent Auditor. The report shall also include the number of cases being appealed either to the Office of Police Auditor by citizens or by the Citizen Board according to the appeals process described in Chapter 1-04.b.ii-iv, above in the case of disagreements between the Chief of Police and the Auditor, Citizen Board to the General Manager or Citizen Board to the BART Board of Directors.

Reports shall include all complaints received by the Office of the Independent Police Auditor, BART Police Department, Citizen Board, Office of the District Secretary, and other District departments. For tracking purposes and to insure timeliness, this report shall include the number of days that have elapsed between the date of the complaint and the report to the Citizen Board.

- B) The Office of the Independent Police Auditor shall, for informational purposes, promptly notify the Chair of the Citizen Board whenever the Auditor is informed of a critical on-duty officer involved incident where death or serious bodily injury results.

- C) The Office of the Independent Police Auditor will facilitate the preparation of reports by the Citizen Board to the Board of Directors and the public.
- D) The Office of the Independent Police Auditor will provide staff support to and facilitate training for the Citizen Board.
- E) The Office of the Independent Police Auditor will coordinate a regular program of community outreach and communication with the public, in conjunction with the Citizen Board.
- F) The Office of the Independent Police Auditor will facilitate the application process for seats on the Citizen Board and will coordinate the selection process with the Office of the District Secretary and the Board of Directors.
- G) The performance and effectiveness of the Office of the Independent Police Auditor shall be assessed by the Citizen Board for consideration by the Board of Directors' Personnel Committee.

Chapter 1-06 RELATIONSHIP BETWEEN OFFICE OF THE INDEPENDENT POLICE AUDITOR, BART POLICE DEPARTMENT, OFFICE OF THE DISTRICT SECRETARY, AND OTHER DISTRICT DEPARTMENTS

- A) The Chief of Police, District Secretary and other Executive Managers with employees that routinely receive comments/complaints from the public shall each, jointly with the Auditor, develop standard operating procedures to govern the relationship and flow of communication regarding complaints involving police officers between the Office of the Independent Police Auditor and each of their respective departments.
- B) The Office of the Independent Police Auditor and the Chief of Police shall provide each other with timely notification of complaints, investigations, appeals and findings and with such information and cooperation as is appropriate and necessary.

Chapter 1-07 COOPERATION WITH THE OFFICE OF THE INDEPENDENT POLICE AUDITOR

- A) The Auditor shall have unfettered access to police reports and police personnel records. All parties who have access to confidential information shall comply with all confidentiality requirements of the Department, the District, and all state and federal laws.
- B) During an investigation all involved sworn personnel shall be compelled to meet and cooperate with the Auditor in accordance with the Government Code 3300-3313.

- C) No person shall directly or indirectly force, or by any threats to person or property, or in any manner willfully intimidate, influence, impede, deter, threaten, harass, obstruct or prevent, another person, including a child, from freely and truthfully cooperating with the Office of the Independent Police Auditor.

Chapter 1-08 INDEPENDENCE OF THE OFFICE OF THE INDEPENDENT POLICE AUDITOR

- A) The Auditor and any employee of the Office of the Independent Police Auditor shall, at all times, be totally independent. All investigations, findings, recommendations and requests made by the Office of the Independent Police Auditor shall reflect the views of the Office of the Independent Police Auditor alone.
- B) No District employee or Director shall attempt to unduly influence or undermine the independence of the Auditor or any employee of the Office of the Independent Police Auditor in the performance of the duties and responsibilities set forth in this Chapter.

Chapter 1-09 CONFIDENTIALITY OF RECORDS AND INFORMATION

The Office of the Independent Police Auditor shall comply with all state and federal laws requiring confidentiality of law enforcement records, information, and confidential personnel records, and respect the privacy of all individuals involved.

Chapter 1-10 CODE OF ETHICS

The employees of the Office of the Police Auditor shall adhere to the National Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics.

Chapter 1-11 TIMELINESS

Nothing in this section is intended to delay or interfere with the timely investigation and disposition of internal affairs investigations of alleged police misconduct. The Auditor and Citizen Board shall jointly develop a timeline for completion of the disciplinary process that will be concluded within 365 days.

Chapter 2-01 CITIZEN BOARD

A Citizen Board shall be established by the Board of Directors to increase visibility for the public into the delivery of BART police services, to provide community participation in the review and establishment of BART Police Department policies, procedures, practices and initiatives, and to receive citizen complaints and allegations of misconduct by BART Police Department employees. Results of investigations into allegations of misconduct by BART police and recommendations for corrective action, including discipline, will be reviewed by the Citizen Board.

Chapter 2-02 APPOINTMENT OF CITIZEN BOARD MEMBERS

The Citizen Board shall report directly to the BART Board of Directors. The Citizen Board shall consist of eleven (11) members appointed as follows: Each BART Director shall appoint one (1) member. The BART Police Associations (BPMA and BPOA) shall jointly appoint one (1) member, who will not be a current member of either Association. There shall be one (1) public-at-large member to be appointed by the BART Board of Directors. Members of the Citizen Board must reside in one of the three counties that make up the BART District and shall agree to adhere to the Code of Ethics described in Chapter 2-08. The initial appointments of Citizen Board members will be a combination of one-year and two-year terms. All subsequent appointments or re-appointments to the Citizen Board shall be for two-year terms. Service on the Citizen Board shall be voluntary. (*COMPENSATION TO BE DETERMINED*)

Chapter 2-03 CITIZEN BOARD MEMBER QUALIFICATIONS

Citizen Board members must reside in one of the three counties that make up the BART District. Citizen Board members must be fair minded and objective with a demonstrated commitment to community service. All appointees to the Citizen Board shall be subject to background checks. No person convicted of a felony shall serve on the Citizen Board.

Chapter 2-04 REMOVAL OF CITIZEN BOARD MEMBERS

The members of the Citizen Advisory Board shall adhere to the National Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics and comply with all applicable state and federal laws regarding confidentiality. Citizen Board members shall not miss more than three regularly scheduled meeting per year. In cases that warrant removal of a member from the Citizen Board for reasons including but not limited to breach of ethics, confidentiality, or criminal conviction, said removal shall be accomplished only by a resolution adopted by the majority of the Board of Directors.

Chapter 2-05 SCOPE

The Citizen Board shall have the authority to exercise its duties and responsibilities as outlined below, with regard to law enforcement and police activities or personnel operating under authority of the San Francisco Bay Area Rapid Transit District.

Chapter 2-06 DUTIES AND RESPONSIBILITIES

A) Citizen Complaints

A victim of on-duty police misconduct, a victim's parent or guardian, or a witness to misconduct may file, at any public meeting of the Citizen Board, a written complaint or allegation of wrongdoing against a BART police officer. Upon receipt of such complaint or allegation, the Citizen Board will immediately turn the complaint or allegation over to the Office of the Independent Police Auditor for investigation.

B) Recommendations for Corrective Action

- i) In a confidential personnel meeting, the Auditor shall submit his/her investigative findings and recommendations to the Citizen Board for review. Should the Citizen Board agree with the findings and recommendations, the report will be submitted to the Chief of Police for appropriate action. The Chief of Police shall implement the recommended action, absent appeal.**
- ii) Should the Chief of Police disagree with the findings and recommendation of the Auditor and Citizen Board, the Chief of Police, in a confidential personnel meeting, may appeal to the General Manager. The Chief of Police will submit his/her disagreements and recommendations to the General Manager. In a confidential personnel meeting, the General Manager shall make a decision and make his/her decision known to the Chief of Police, Citizen Board and the Auditor. The Chief of Police shall implement the General Manager's decision, absent appeal.**
- iii) Should the Citizen Board disagree with the Auditor's findings by simple majority, in a confidential personnel meeting, the Auditor and the Citizen Board shall attempt to come to a consensus. If the Citizen Board and the Auditor fail to come to a consensus, by simple majority, the Citizen Board may appeal. The efforts made to achieve consensus shall be documented by the Citizen Board and shall be forwarded to the Chief of Police as a part of the appeal. All appeals regarding findings and recommendations for corrective action or dismissal, between the Citizen Board and the Auditor will be initially appealed to the Chief of Police, in a confidential personnel meeting. The Citizen Board will submit their disagreements and recommendations to the Chief of Police, in a confidential personnel meeting. The Auditor will submit his/her recommendation to the Chief of Police, in a confidential personnel meeting. The Chief of Police shall make a decision on the matter and make his/her decision known to the Citizen Board and the Auditor, in a confidential personnel meeting. The Chief of Police shall implement discipline or dismissal, absent appeal.**
- iv) If the Citizen Board disagrees with the Chief of Police's decision and it is reflected by simple majority of its members, they may appeal to the General Manager, in a confidential personnel meeting. The Citizen Board, Auditor and Chief of Police recommendations will be submitted to the General Manager, in a confidential personnel meeting. The General Manager will render a finding and report it to the Chief of Police, Auditor and Citizen Board, in a confidential personnel meeting. The Chief of Police shall implement the General Manager's decision, absent appeal.**
- v) If the Citizen Board disagrees with the General Manager with a super (2/3) majority, they may appeal to the BART Board of Directors. All**

reports will be submitted to the BART Board of Directors, who will render a decision in a closed personnel session. All of the BART Board of Director's decisions will require a super (2/3) majority of the BART Board of Directors for approval. In a confidential personnel session, the BART Board will notify the Citizen Board, General Manager and Chief of Police. The Chief of Police will implement the decision of the Board of Directors, which will be final.

vi) Discipline recommended herein shall be subject to an administrative hearing prior to implementation, in a manner consistent with addressing the due process rights of public employees, when applicable

C) Recommendations on Procedures, Practices and Training

The Citizen Board shall develop and review recommendations as to the general orders and directives, procedures, and practices of the BART Police Department in consultation with the Auditor. Recommendations should have as their goal improved professionalism, safety, effectiveness and accountability of BART Police Department employees. The Citizen Board may make recommendations to the Chief of Police, General Manager, and Board of Directors, as appropriate.

The Citizen Board shall review and comment on all additions and changes to policy, procedures and practices as well as all new initiatives (including training and equipment) proposed by the BART Police Department or the Office of the Independent Police Auditor and make recommendations to the BART Board of Directors.

D) Disagreements Regarding Proposed Policies, Procedures, and Practices

The Board of Directors shall review and resolve all disagreements regarding proposed policies, procedures, and practices that may arise between the Citizen Board and the Chief of Police, Auditor or General Manager. The Board of Directors shall make the final determination in all such instances.

E) BART Police Associations

The Citizen Board shall meet periodically with and seek input from the BART Police Managers Association and the BART Police Officers Association on issues of interest to the parties.

F) Community Outreach

The Citizen Board, in conjunction with the Office of the Independent Police Auditor, shall develop and maintain a regular program of community outreach and communication for the purpose of listening to

and communicating with citizens in the BART service area, and educating the public on the responsibilities and services of the Independent Police Auditor and functions of the Citizen Board.

G) Reporting

The Citizen Board shall file quarterly reports of its activities with the Office of the District Secretary for distribution to the Board of Directors and shall prepare an annual report on its accomplishments and activities (including recommendations to improve BART Police Department services) for presentation to the Board of Directors and the public.

The Citizen Board shall review and comment on annual report drafts prepared by the Office of the Independent Police Auditor prior to the report being finalized for distribution to the Board of Directors and the public.

H) Monitor Study Recommendations

The Citizen Board shall report on the accomplishments or lack of progress made by the BART Police Department in implementing recommendations resulting from periodic studies that may be conducted to look at departmental policies and procedures, practices and training.

Chapter 2-07 RELATIONSHIP BETWEEN THE CITIZEN BOARD AND THE OFFICE OF THE INDEPENDENT POLICE AUDITOR

- A) At least monthly, the Citizen Board shall meet to receive reports from the Independent Police Auditor on the number and types of cases filed, number of open cases, the disposition of and any action taken on cases, recommendations for corrective action, including discipline and dismissals; the number of independent investigations concluded by the Office of the Independent Auditor; and, the number of cases being appealed either to the Office of Police Auditor by citizens or in the case of disagreements between the Chief of Police and the Auditor, Citizen Board to the General Manager or Citizen Board to the BART Board of Directors.

Reports by the Independent Police Auditor shall include all complaints received by the Office of the Independent Police Auditor, BART Police Department, Citizen Board, Office of the District Secretary, and other District departments. This report shall also include the number of days that have elapsed between the date of the complaint and the report to the Citizen Board.

- B) The Citizen Board shall make forms available at its meetings to accept complaints and allegations of police misconduct from the public. The Citizen Board will immediately file all complaints and allegations it receives from the public with the Office of the Independent Police Auditor for investigation.

- C) The Chair of the Citizen Board shall, for informational purposes, be promptly informed by the Office of the Independent Police Auditor of all critical on-duty officer involved incidents, where death or serious bodily injury results.
- D) The Citizen Board shall prepare reports for the Board of Directors and the public with support provided by the Office of the Independent Police Auditor.
- E) The Citizen Board (as well as the BART Police Associations) shall participate in an advisory role in the selection of the Chief of Police by interviewing finalist candidates.
- F) The Citizen Board shall assess and report to the Board of Directors' Personnel Committee on the performance and effectiveness of the Office of the Independent Police Auditor.
- G) The Citizen Board (as well as the BART Police Associations) shall participate in an advisory role in the process of selecting all successors to the first Independent Police Auditor.
- H) The Citizen Board will participate in a regular program of community outreach and communication with the public, in conjunction with the Independent Police Auditor.
- I) The Office of the Independent Police Auditor will provide staff support to and facilitate training for the Citizen Board.

Chapter 2-08 CONFIDENTIALITY OF RECORDS AND INFORMATION

Members of the Citizen Board shall comply with all state and federal laws requiring confidentiality of law enforcement records, information, and confidential personnel records, and respect the privacy of all individuals involved.

Chapter 2-09 CODE OF ETHICS

The members of the Citizen Board shall agree to adhere to the National Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics.

Chapter 3-01 OVERSIGHT SYSTEM EVALUATION

The Board of Directors, with input from the Citizen Board, Auditor, BART Police Associations, complainants and the public, will evaluate the BART Police citizen oversight structure after the first year of implementation to determine if the need exists to make changes and or otherwise make adjustments to the system to improve its continued performance. This evaluation shall in no way be intended to eliminate the BART Police citizen oversight structure.

DRAFT MISSION STATEMENT:

Establish an effective, independent citizen oversight system that will improve the police services BART provides to the public by ensuring that internal police accountability systems function properly; that behavioral, procedural and policy deficiencies are identified and appropriately addressed;; and, that complaints are investigated through an objective and fair process for all parties involved. The system will analyze allegations of misconduct, monitor discipline, utilize data to identify trends, recommend corrective training, maintain confidentiality, make policy recommendations and, report regularly to the BART Board of Directors and the public.

ELEMENTS OF BART CITIZEN OVERSIGHT MODEL

- Maintain an internal and public complaint log; internal log used in Pitchess motions.
- Critique behavior and policy.
- Link racial, gender and sexual orientation bias complaints with abuse of authority charges.
- Require review panel to have diverse qualifications (including race, background, experience, geographic residency, etc).
- For Auditor or Commission models outline who they report to?
- Incorporate broad community participation.
- Establish a system that is effective, critiques behavior, disciplines misbehavior, analyzes behavioral trends of misconduct and establishes corrective training.
- Identify the types of complaints the model will handle.
- Impact officer training by ensuring officers hear about types of complaints that are being filed during annual training courses.
- System should have the ability to review and suggest training beyond POST requirements.
- Protection of officers' rights and citizens' rights.
- Streamline process of interviewing officers.
- Comply with State laws.
- One entity should receive all citizen complaints.
- Annual report of statistics, analysis of patterns, policy recommendations (and whether or not they were implemented).
- Proactive review of budget, policy, procedures.

- Formal and regular reports to Board of Directors which includes recommendations.
- Oversight entity's role in discipline system – can complaints be appealed?
- Define appeal process regarding disposition of complaints.
- Process must be fair, objective and neutral to all parties involved.
- System improvement for District, stakeholders
- Maintains confidentiality.
- Ensure that internal Police Department accountability systems are working and the public is informed about whether they are working or not.
- Ensure the quality and integrity of the investigative process of citizens' complaints.
- Amend the BART Act to accommodate whatever civilian review reporting structure is adopted through this process.
- Define the process for reporting back to community.

CIVILIAN OVERSIGHT MODELS

Description	Number of Police Officers	2008 Cases Filed	YTD Open Cases	Staff Positions	2008-2009 Budget
<p>primary functions of the IPA: (1) Serve as an alternative location to file complaints against San Jose officers; (2) To monitor and audit SJPd complaint investigations to ensure they are thorough, objective, (3) To conduct outreach about the complaint process and the services the office provides to the city; (4) To make periodic reports to the City Council which include policy recommendations to improve procedures of the SJPd; and (5) to perform enumerated tasks arising from officer-involved-shooting incidents, e.g., respond to scene, participate in review panel.</p>	1390	<p>NOTE: (Jan – June '08)</p> <p>293 (656 allegations)</p>	Not Publicly Available Until June '09	6	\$830,000
<p>C is a nine-member body having independent authority to investigate and hear complaints filed against officers of the Berkeley Police Department (BPD) and to provide citizens involvement in setting and reviewing policies, practices, and procedures. The Commission conducts boards of inquiry and forwards recommended actions to City Manager and Chief of Police. If the Commission sustains an allegation, the police officer could be subject to a finding to a state administrative law judge. The Commission also advises the City Council on police matters.</p>	186	<p>39 (255 allegations)</p>	21	4 (+ 2 interns)	\$595,000
<p>B is a nine member advisory body. Complaints are investigated by a civilian complaint investigator who provides an investigative report for the Board. The Board conducts public hearings on some cases and may make recommendations to the City Administrator for discipline of officers. The City Administrator decides whether to implement the recommendations of the Board, to implement them with modifications, or not to implement them.</p>	803	<p>75 (202 allegations)</p>	56	5	\$900,000
<p>Functions of the nine member RPC are (1) Investigate citizens' complaints of excessive or unnecessary force or police abusive treatment (2) Handle appeals from Professional Standards investigations. 3) Review police policies; and 4) Recommend strategies to improve police/community relationships. The RPC reviews police reports and sends its findings, recommendation and all complaints to the Police Chief who may conduct his own investigation. If the Police Chief does not accept the recommendation of the RPC, the matter is referred to the City Manager for final disposition. Policy recommendations may be appealed to the City Council.</p>	168	<p>5 NA - allegations</p>	2	1.5	\$320,000
<p>OCC is a civilian-staffed local governmental agency that reports to the Police Commission. The Police Commission is a volunteer civilian body of seven members. OCC performs four distinct functions: (1) it receives complaints and makes findings on those complaints; (2) it mediates complaints; (3) it analyzes police policies and practices; and (4) it performs community outreach.</p>	2371	<p>1021 (2337 allegations)</p>	395	35	\$4.2M
<p>CA monitors the investigation of citizens' complaints against the Sacramento Police and Fire Departments. The Director has broad oversight authority that includes the evaluation of the overall quality of police by employees and the authority to encourage systemic change. The Office specifically tracks and reports on high profile or a serious complaint case to conclusion, reviews completed investigations, and advises the Director of any deficient investigations.</p>	706	<p>58 (201 allegations)</p>	17	3	\$413,000
TBD	206	12	15	N/A	N/A

**Discussion by Director Tom Radulovich
BART Police Department Review Committee Meeting
Monday, April 20, 2009**

Three Governance Models:

Auditor or Civilian Ombudsperson:

In this model, civilian oversight is independent of the police, and in a separate office. Civilian review typically works under a city manager rather than elected or appointed officials. An auditor investigates the process by which the police department accepts and investigates complaints and reports on the thoroughness and fairness of the process to the department and the public. Sacramento and San Jose use this model.

Commission:

In this model, civilian review powers rest with an appointed board or commission, with a professional staff supporting their work. The Police Department retains a separate internal affairs function, but the civilian review agency has a role in investigating complaints, reporting, policy recommendations, and/or officer discipline. Berkeley, Oakland, and Richmond use this model.

Investigative or Agency:

Citizens investigate allegations of police misconduct. San Francisco uses this model where SFPD has a high level of oversight with an Office of Citizens Complaints (OCC) and a citizen Police Commission. Serious allegations are investigated internally by the SFPD Management Control Division (MCD) or by OCC and may be referred to the Police Commission for disciplinary action. Allegations can be investigated by both OCC and the MCD; however, MCD typically investigates officer involved shootings, in custody deaths or allegations while an officer is off-duty and OCC investigates allegations of excessive force, civilian harassment and other infractions by on-duty officers. Both the OCC and the Police Department answer to San Francisco's Police Commission, which is appointed by the Mayor (4 seats) and the Board of Supervisors (3 seats).

Elements of Successful Civilian Review:

1. Independence - The civilian review body must be independent of the Police Department.

Note: A civilian review body under the BART General Manager could probably be done under the current BART Act (the state statute governing BART). A civilian review body answering directly to the BART Board, or to an appointed commission, would probably require amendments to the BART Act.

2. Investigative Power - The civilian review body must have the authority and resources to independently investigate complaints. Sacramento includes civilian review investigators on the 'shooting team', which responds immediately to police-involved shootings.
3. Mandatory Police Participation (aka Subpoena Power) - The civilian review body must be able to compel the participation of officers in their investigations and hearings.
4. Role in the Discipline System - A civilian review body must have a role in the discipline of officers where complaints are upheld. That role may be advisory to the Police Department, or civilian review may have a disciplinary role in certain defined cases. The San Francisco Police Commission has almost exclusive authority over police discipline in San Francisco.
5. Statistical Analysis and Reporting - The civilian review body should issue a report annually, or more frequently, on statistics involving police complaints and other aspects of policing, and analyze the data to identify trends and to identify practices or even individual officers that may require remedial action to improve policing and prevent future incidents.
6. Policy Recommendations - The civilian review body should be both retrospective, investigating individual complaints, but also prospective, proactively looking at ways to improve policing. Policy recommendations in other civilian review bodies are often the result of investigating individual complaints, which may identify a need for new or better police practices, policies, or training. San Jose's annual report has a well-organized account of the police review body's policy recommendations, and of the Police Department's response to those policy recommendations.

Note: In discussions of BART police review, some stakeholders support the civilian review body doing periodic best practices reviews, or detailed policy reviews in areas of concern.

7. Hearing Component (Formal or Informal) - The civilian review body must have the ability to conduct hearings on individual complaints and on matters of policy. Hearings about specific cases of officer misconduct in cities like San Francisco, Oakland, and Berkeley, which previously were formally open are now closed because of a recent court case.

Note: If BART hearings on officer misconduct were to be open, it would require a change to state law. Hearings on matters of policy are generally still open.

8. Adequate Funding - Funding must be adequate to effectively support the investigative, analysis and reporting, and policy roles of civilian review.
9. Reflects Community Diversity - Both the staff and the board or commission should reflect community diversity. Hiring of staff and appointment of commissioners must consider how to reflect community diversity.
10. Accessibility - The public must be able to easily and directly access the civilian review body, whether physically, by phone, email or fax. The physical location of the police review office is an important consideration, and should reflect both the public accessibility of the body, and its independence from the police department.

Note: BART staff, including station agents and other 'front line' employees as well as customer service agents, should be trained to identify which complaints ought to have follow up by the civilian review body, and should be ready to both provide contact information for the civilian review office, and/or to take basic contact information from members of the public so that civilian review staff can follow up appropriately. Also, 311 and other non-BART governmental customer service providers should know how to contact the civilian review body if they are contacted with potential complaints involving BART police.

11. Qualifications and Training - The civilian review staff must be appropriately qualified and trained, and time and funding dedicated to continuing education and peer-to-peer learning. Appointed commissioners may be required to meet specific qualifications, and will probably need to be given initial orientation and/or training, with opportunities for ongoing education and peer-to-peer learning.

CORE PRINCIPLES FOR AN EFFECTIVE POLICE AUDITOR'S OFFICE

INDEPENDENCE

A police auditor's office must be fully independent of the law enforcement agency under its jurisdiction.

Specific language in the enabling ordinance must indicate that an auditor may be removed from office only for cause and through a clearly defined removal process.

CLEARLY DEFINED SCOPE OF RESPONSIBILITIES

The scope of the responsibilities of a police auditor's office must be clearly defined by ordinance (or contract).

Specific language, for example, must define the auditor's responsibility to audit complaint files, have unfettered access to all relevant records and reports, to make policy recommendations, to issue public reports, to investigate individual critical incidents, and so on.

ADEQUATE RESOURCES

A police auditor's office must have adequate resources to ensure that all duties can be conducted effectively and efficiently.

Adequate resources primarily include full-time professional and clerical staff.

Part-time staff only are not considered adequate.

Volunteer staff are not adequate.

The exact size of an auditor's office staff should be based on a formula reflecting the size of the law enforcement agency under the auditor's jurisdiction, as measured by the number of full-time sworn officers.

UNFETTERED ACCESS

A police auditor must have unfettered access to all documents and data in the law enforcement agency.

This unfettered access must be spelled out in the enabling ordinance.

The only exception to this rule would be files related to an on-going criminal investigation.

All documents must be provided to the police auditor without charge to the auditor's office.

FULL COOPERATION

A police auditor must have the full cooperation of all employees of the law enforcement agency under its jurisdiction.

All employees, including sworn officers, shall cooperate as a condition of their employment.

With respect to potential self-incrimination, the standards defined in *Garrity v. New Jersey* shall prevail.

SANCTIONS FOR FAILURE TO COOPERATE

The enabling ordinance of an auditor's office must specify sanctions for failure to cooperate with the work of an auditor on the part of any law enforcement agency employee.

PUBLIC REPORTS

A police auditor must issue periodic public reports.

Such public reports shall be issued at least once a year and, ideally, more frequently.

NO PRIOR CENSORSHIP BY THE POLICE DEPARTMENT

Reports by the police auditor shall not be subject to prior censorship by the law enforcement agency.

A police auditor may reject any and all demands by the law enforcement agency to see draft copies of public reports.

COMMUNITY INVOLVEMENT

A police auditor must have the benefit of community involvement and input.

Community involvement and input can best be achieved through an advisory board consisting of members who represent the diverse composition of the local population.

CONFIDENTIALITY / ANONYMITY

The work of a police auditor must respect the confidentiality of public employees as defined in the applicable state statute.

Violation of confidentiality shall be considered a serious breach of professional standards.

In the interests of enhancing public understanding, a police auditor may report on specific incidents with personal identifiers removed without violating standards of confidentiality.

ACCESS TO THE POLICE CHIEF / SHERIFF

A police auditor must have direct access to the chief executive of the law enforcement agency under its jurisdiction.

Upon request, a police chief or sheriff must agree to meet with the police auditor.

It is understood that a chief executive may decline to meet in the case of an unreasonable number of such requests.

Failure to meet with a police auditor for a period of one year shall be considered unsatisfactory performance on the part of a chief executive and be taken into consideration in performance review.

NO RETALIATION

The enabling ordinance of an auditor's office must specify that there shall be no retaliation against the auditor for work done as a part of the auditor's responsibilities, including statements made in public reports.



NACOLE CODE OF ETHICS

Preamble

Civilian oversight practitioners have a unique role as public servants overseeing law enforcement agencies. The community, government, and law enforcement have entrusted them to conduct their work in a professional, fair and impartial manner. They earn this trust through a firm commitment to the public good, the mission of their agency, and to the ethical and professional standards described herein.

The standards in the Code are intended to be of general application. It is recognized, however, that the practice of civilian oversight varies among jurisdictions and agencies, and additional standards may be necessary. The spirit of these ethical and professional standards should guide the civilian oversight practitioner in adapting to individual circumstances, and in promoting public trust, integrity and transparency.

Personal Integrity

Demonstrate the highest standards of personal integrity, commitment, truthfulness, and fortitude in order to inspire trust among your stakeholders, and to set an example for others. Avoid conflicts of interest. Conduct yourself in a fair and impartial manner and recuse yourself or personnel within your agency when significant conflict of interest arises. Do not accept gifts, gratuities or favors that could compromise your impartiality and independence.

Independent and Thorough Oversight

Conduct investigations, audits, evaluations and reviews with diligence, an open and questioning mind, integrity, objectivity and fairness, in a timely manner. Rigorously test the accuracy and reliability of information from all sources. Present the facts and findings without regard to personal beliefs or concern for personal, professional or political consequences.

Transparency and Confidentiality

Conduct oversight activities openly and transparently providing regular reports and analysis of your activities, and explanations of your procedures and practices to as wide an audience as possible. Maintain the confidentiality of information that cannot be disclosed and protect the security of confidential records.

Respectful and Unbiased Treatment

Treat all individuals with dignity and respect, and without preference or discrimination including but not limited to the following protected classes: age, ethnicity, culture, race, disability, gender, religion, sexual orientation, socioeconomic status or political beliefs.

Outreach and Relationships with Stakeholders

Disseminate information and conduct outreach activity in the communities that you serve. Pursue open, candid, and non-defensive dialog with your stakeholders. Educate and learn from the community.

Agency Self-examination and Commitment to Policy Review

Seek continuous improvement in the effectiveness of your oversight agency, the law enforcement agency it works with, and their relations with the communities they serve. Gauge your effectiveness through evaluation and analysis of your work product. Emphasize policy review aimed at substantive organizational reforms that advance law enforcement accountability and performance.

Professional Excellence

Seek professional development to ensure competence. Acquire the necessary knowledge and understanding of the policies, procedures, and practices of the law enforcement agency you oversee. Keep informed of current legal, professional and social issues that affect the community, the law enforcement agency, and your oversight agency.

Primary Obligation to the Community

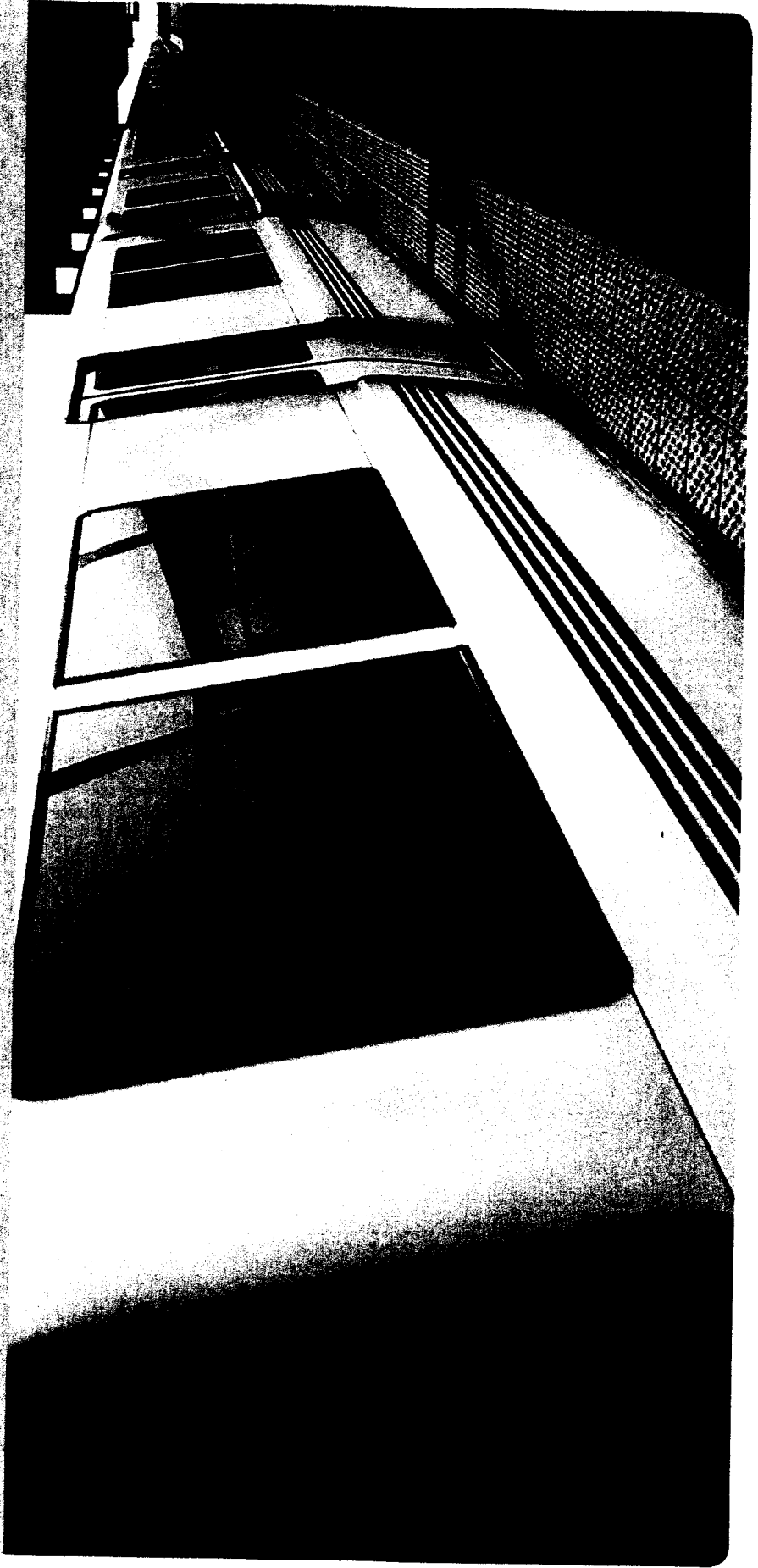
At all times, place your obligation to the community, duty to uphold the law and to the goals and objectives of your agency above your personal self-interest.

**NATIONAL ORGANIZATION OF BLACK LAW
ENFORCEMENT EXECUTIVES (NOBLE)**

NOBLE is conducting a comprehensive review of the BART Police Department. As part of their work, they are seeking public comment on BART Police services. Please e-mail comments to: bartreview@noblenatl.org



Draft Model - Citizen Oversight of BART's Police Department



**BART Police Department
Review Committee**



Director Carole Ward Allen, Chair

BART District 4 - Alameda County

Director Joel Keller, Vice Chair

BART District 2 - Contra Costa County

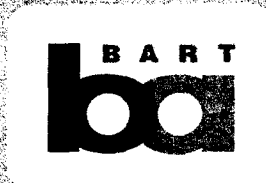
Director Tom Radulovich

BART District 9 - San Francisco County

Director Lynette Sweet

BART District 7 - Alameda, Contra Costa & S.F. Counties

Citizen Oversight
Subcommittee



Director Lynette Sweet

Director Tom Radulovich

Dorothy Dugger, BART General Manager

Reginald Lyles, Consultant to BPD Review Committee

Rev. Daniel Buford, Allen Temple Baptist Church

Min. Keith Muhammad, Nation of Islam

Donald Casimere, Citizen Oversight Professional

Gregg Savage, President, BART Police Managers Assoc.

Jesse Sekhon, President, BART Police Officers Assoc.

DRAFT MODEL Citizen Oversight

Mission Statement/Purpose



- **Provide effective, independent citizen oversight through an Independent Police Auditor**
- **Promote integrity and encourages systematic change and improvement in BART police services.**
- **Ensure internal police accountability systems function properly and procedural deficiencies are addressed.**
- **Analyze allegations of misconduct data, identifies trends, recommends corrective action and or training.**
- **Incorporate an essential community involvement component through inclusion of a Citizen Board.**

Citizen Oversight Model Selection Process



- Reviewed police oversight models used in other jurisdictions: *6 of 9 Bay Area counties have some form of citizen oversight as does Sacramento .*
- Outlined elements for a BART specific model.
- Sought and considered community input on citizen oversight at BART.
- Refined draft model based on community concerns, relevant factors like the size of BART's police force and number of cases.
- Reached general consensus through discussion and compromise.



- **Established in keeping with “Core Principles for an Effective Police Auditor’s Office.” [1]**
- **Appointed by and report directly to the BART Board of Directors.**
- **Investigate all allegations of police officer misconduct regarding unnecessary or excessive use of force, racial profiling, sexual orientation bias, sexual harassment, and the use of deadly force, suspicious and wrongful deaths.**
- **Recommend corrective action to the Citizen Board, up to and including termination where warranted.**

[1] Report of the First National Police Auditors Conference, March 26-27, 2003, Prepared by Samuel Walker

Office of the Independent Police Auditor



- **Will be totally independent.**
- **All investigations and findings will reflect the views of the Auditor's Office only.**
- **Review BPD internal affairs investigations and monitor or require follow-up investigations into any citizen complaint or allegation handled by BPD.**
- **Has unfettered access to police reports and police personnel records.**

- **The Office of the Independent Police Auditor must comply with all State and Federal laws requiring confidentiality of law enforcement records, information, and confidential personnel records, and respect the privacy of all individuals involved.**
- **The employees of the Office of the Police Auditor shall adhere to the National Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics.**

Citizen Board



- **An eleven member Citizen Board will be established by the Board of Directors:**
 - To increase visibility for the public into the delivery of BART police services
 - To provide community participation in the review and establishment of BART Police Department policies, procedures, practices and initiatives, and
 - To receive citizen complaints and allegations of misconduct by BART Police Department employees.
- **Reviews investigative reports prepared by the Auditor regarding allegations of misconduct by BART police and any related recommendations for corrective action, including discipline.**

Transparent Reporting to Citizen Board



At least monthly, the Citizen Board will receive reports from the Auditor on the number and types of cases filed, number of open cases, the disposition of and any action taken on cases, recommendations for corrective action, including the number of investigations concluded by the Office of the Independent Auditor; and, the number of cases being appealed.

Citizen Board



- **Citizen Board members must comply with state and federal laws requiring confidentiality of law enforcement records, information, and confidential personnel records, and respect the privacy of all individuals involved.**
- **Citizen Board members must agree to adhere to the National Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics.**

Citizen Board Members



- **Citizen Board members must:**
 - **Reside in one of the three counties that make-up the BART District.**
 - **Be fair-minded and objective with a demonstrated commitment to community service.**
- **Initial appointments to the Citizen Board will be a combination of one-year and two-year terms.**
- **All subsequent appointments or re-appointments to the Citizen Board will be for two-year terms.**

Citizen Complaints



Complaints or allegations of wrongdoing against a BART officer may be filed with the Office of the Independent Police Auditor, the Citizen Board, or BART Police by a victim of police misconduct, a victim's parent or guardian or a witness to misconduct.

Cooperation Between Auditor and Chief of Police

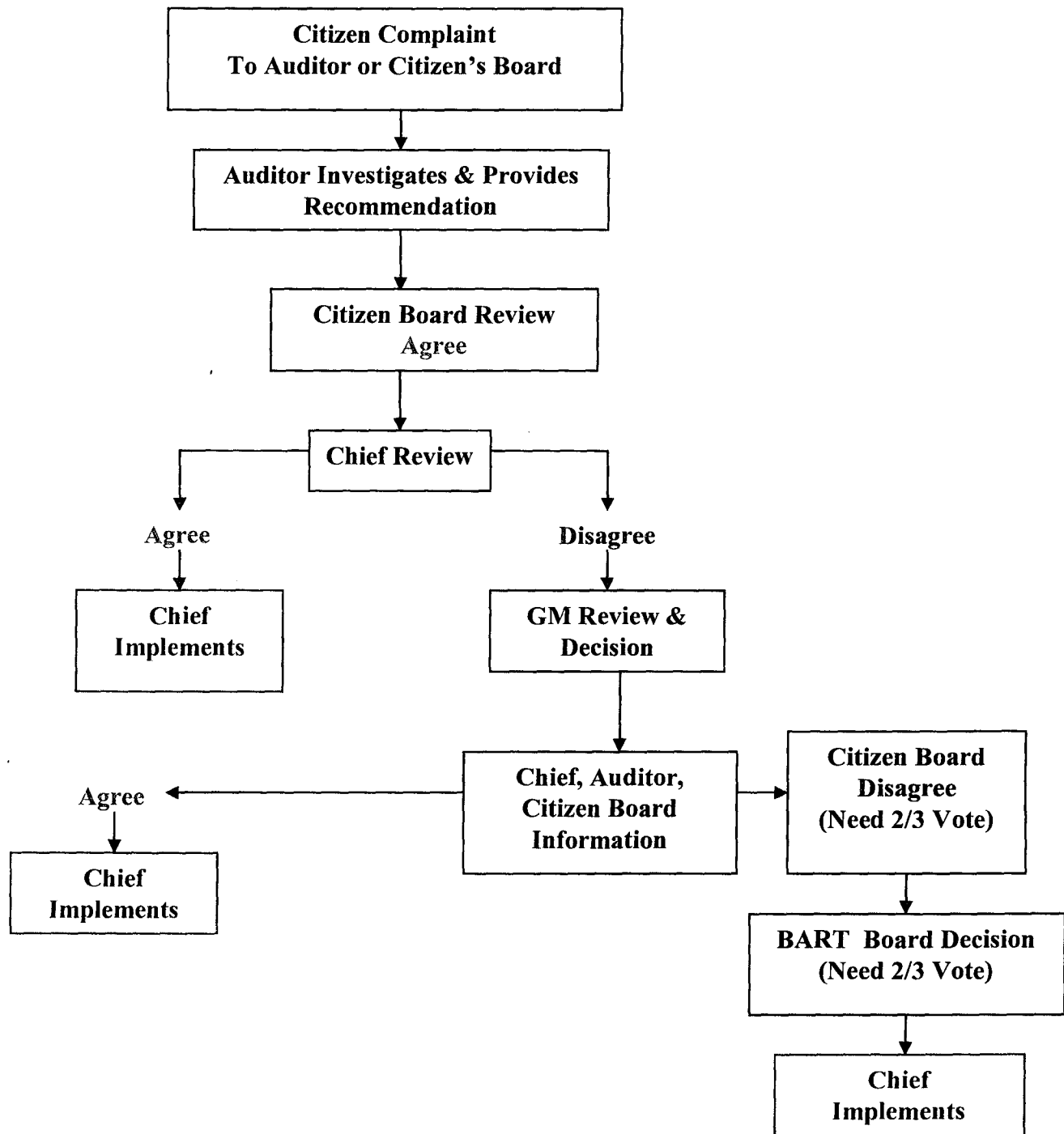


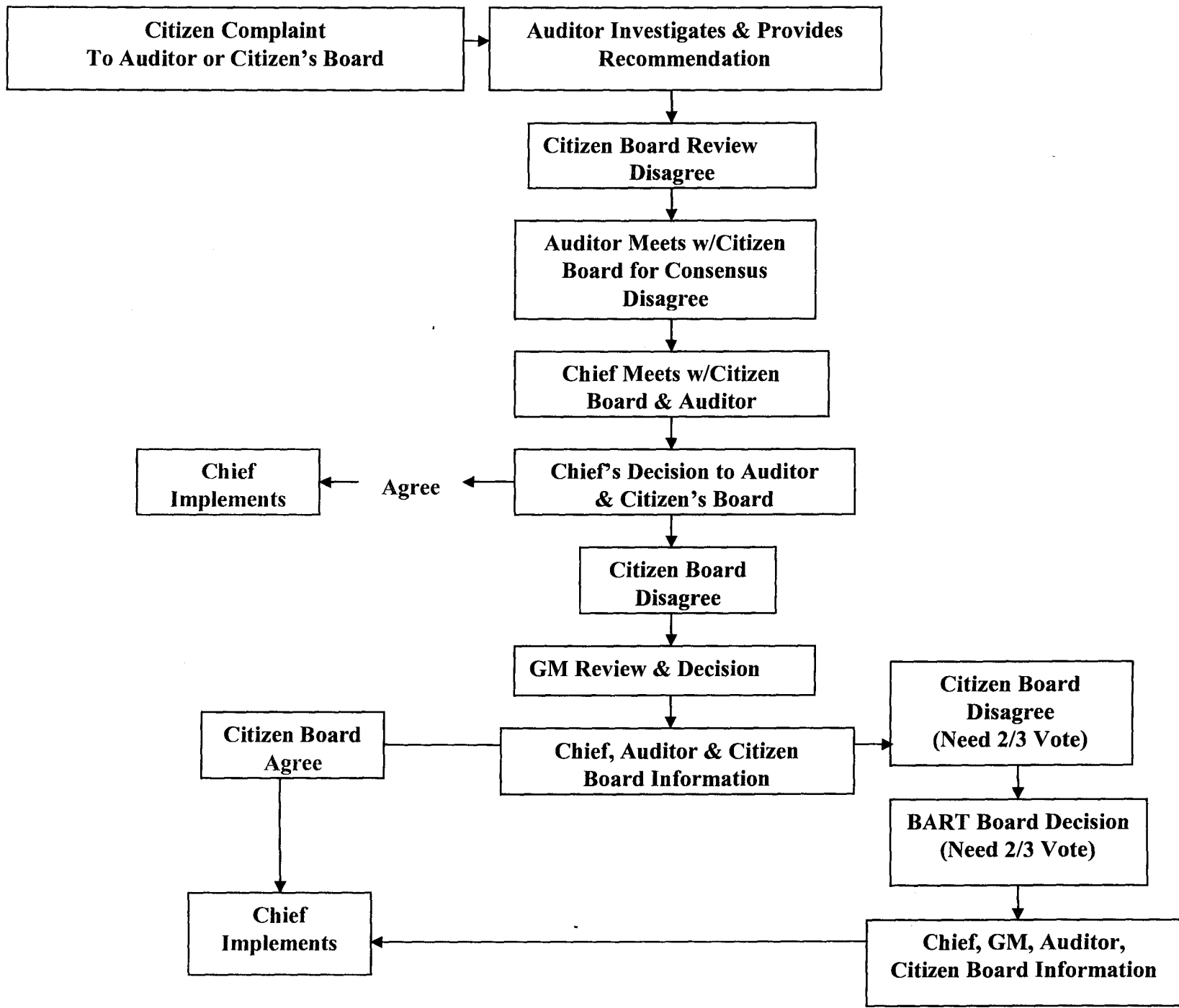
The Office of the Independent Police Auditor and the Chief of Police shall provide each other with timely notification of complaints, investigations, appeals and findings and other information and cooperation as is appropriate and necessary.

Appeal of Findings



- **Any complainant may file with the Office of the Independent Police Auditor an appeal of the findings of an internal investigation conducted by the BART Police Department regarding incidents of police misconduct.**
- **Citizen Board may appeal findings/recommendations of Independent Auditor investigations.**





Mediation



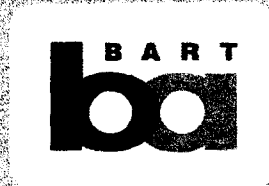
The Office of the Independent Police Auditor will develop a voluntary alternative dispute resolution process for resolving those citizen complaints about conduct which may most appropriately be corrected or modified through less formal means when all parties agree to the process.

Officer Involved Shooting Incidents



- **The Auditor will immediately be notified to respond to the investigative scene regarding an officer involved shooting, resulting in the death or serious bodily injury to a citizen or a police officer.**
- **The Chair of the Citizen Board shall, for informational purposes, be promptly informed by the Office of the Independent Police Auditor of all critical officer involved incidents, where death or serious bodily injury results.**

Auditor and Chief of Police Selection Process



- **The Citizen Board will participate in an advisory role in the selection of the Chief of Police by interviewing finalist candidates.**
- **The Citizen Board shall assess and report to the Board of Directors' Personnel Committee on the performance and effectiveness of the Office of the Independent Police Auditor.**
- **The Citizen Board will participate in an advisory role in the process of selecting all successors to the first Independent Police Auditor.**

Community Outreach



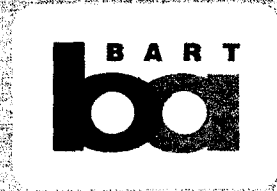
The Office of the Independent Police Auditor, in conjunction with the Citizen Board, shall develop and maintain a regular program of community outreach and communication for the purpose of listening to and communicating with citizens in the BART service area, and educating the public on the responsibilities and services of the Independent Police Auditor and functions of the Citizen Board.

Policy Recommendations



- **The Auditor will develop recommendations regarding procedures, practices and training of BPD as appropriate for review with the Chief of Police and other stakeholders.**
- **The Citizen Board, in consultation with the Auditor, can recommend changes to BPD procedure and practices.**
- **The Citizen Board will review and comment on all additions and changes to policy and procedures and all new initiatives (including training and equipment) proposed by the BART Police Department or the Office of the Independent Police Auditor.**

Oversight System Evaluation



The Board of Directors, with input from the Citizen Board, Auditor, BART Police Associations, complainants and the public, will evaluate the BART Police citizen oversight structure after the first year of implementation to determine if the need exists to make changes and or otherwise make adjustments to the system to improve its continued performance. This evaluation shall in no way be intended to eliminate the BART Police citizen oversight structure.

Legislative Changes to BART Act



- **The roles and responsibilities of the District are established by State law.**
- **Legislative change would be required to allow the Independent Police Auditor to report to the Board of Directors.**
- **Additional change required to provide Board of Directors, Auditor and Citizen Board role in discipline of police.**
- **Seeking bill to amend that would allow these changes before legislative session ends.**

Next Steps



- **BART Board of Directors will accept written comments on the draft model via e-mail or U.S. Mail until Friday, August 7, 2009:**
 - BART Board of Directors**
 - P.O. Box 12688**
 - Oakland, 94604-2688**
 - boardofdirectors@bart.gov**
- **The Board will consider a resolution to adopt a model of citizen oversight at a regularly scheduled Board Meeting in August.**