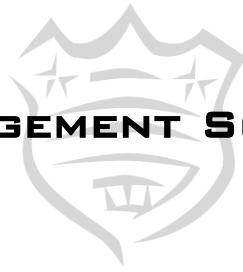


POLICE MANAGEMENT SOLUTIONS, INC.



**BAY AREA RAPID TRANSIT POLICE DEPARTMENT
PERFORMANCE MANAGEMENT AUDIT
November 7, 2013**



***BAY AREA RAPID TRANSIT POLICE
DEPARTMENT***

PERFORMANCE AUDIT

CONDUCTED JULY - SEPTEMBER, 2013

FINAL REPORT

Prepared by

**Police Management Solutions, Inc.
Police Management Studies**

CONSULTANTS

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Biographies

Consultant Biography:**PATRICK OLIVER, Ph.D.**

Patrick Oliver is currently Director of the Criminal Justice Program for Cedarville University. He recently served as Chief of Police for the City of Fairborn, Ohio. He previously served as Chief of Police in Grandview Heights, Cleveland, Ohio, and the Ranger Chief of Cleveland Metropolitan Park District. Other law enforcement experience includes 11 years as a trooper with the Ohio State Highway Patrol. He is a 1989 graduate of Penn State University Police Executive School, a graduate of the FBI's Law Enforcement Executive Development School in 1993, and a graduate of the Ohio Association Chiefs of Police Executive Leadership College in 1994. He became a Certified Law Enforcement Executive (CLEE) in 1996. He is also a graduate of the rural Executive Management Institute. Oliver holds a Bachelor of Arts Degree in Criminal Justice and a Master's Degree in Business Administration, both from Baldwin Wallace College, Berea, Ohio. He also has a Ph.D. in Leadership and Change from Antioch University, Yellow Springs, Ohio.

Chief Oliver has previously taught Criminal justice and business courses at Cuyahoga Community College, and Wright State University. He serves as a consultant and a trainer with the Ohio Association of Chiefs of Police, the International Association of Chiefs of Police, and the National Organization of Black Law Enforcement Executives. He is also a past commissioner for the Commission of Accreditation for Law Enforcement Agencies. He is a past president for the Ohio Association of Chiefs of Police. He is a member of the Civil Rights committee for the International Association of Chiefs of Police. He is also the founder and Director of the Chief Executive Officers Mentoring Program for the National Organization of Black Law Enforcement Executives. He has international law enforcement training experience, teaching at the International Law Enforcement Training Academy in Gaborone, Botswana in both 2003 and 2012, teaching both investigations and leadership to law enforcement officials from 20 African nations.

Consultant Biography:**LOUIS M. DEKMAR**

Louis M. Dekmar has 36 years of civilian police experience, with 22 years as police chief or chief of public safety. Presently, he serves as Chief of Police and Chief of Public Safety for the City of LaGrange, Georgia. He is responsible for supervision, personnel and management of the LaGrange Police and Fire Departments. In the Police Department, Chief Dekmar instituted significant personnel, operational, and service-related initiatives, improving training and educational curriculum, and developing and expanding community and problem-solving policing programs, reducing liability and crime rates and increasing customer satisfaction. The police department was accredited by CALEA in 1999 and re-accredited in 2002, 2005, 2008, and 2011; State Certified in 1998, 2002, 2008, and 2011. The Fire Department (Class 2) operates four stations and provides a variety of fire and EMS services. The Departments of Public Safety employ over 180 full-time and part-time employees. The Police Department provides contract police services for LaGrange Downtown Development Authority and LaGrange Public Housing Authority.

Chief Dekmar holds a Masters of Public Administration, Georgia College and State University, and a Bachelor of Science, University of Wyoming. He is a graduate of the FBI National Academy and a graduate of the FBI Law Enforcement Executive Development Seminar (LEEDS). Chief Dekmar is a member of the Georgia Association of Chiefs of Police, International Association of Chiefs of Police (past co-chair of the Police Image and Ethics committee and current member of the Private Sector Liaison committee); he is a member of the National Organization of Black Law Enforcement Executives; and the FBI National Academy Associates. In 2004, he was selected as the delegation leader for the Georgia International Law Enforcement Exchange (GILEE) that traveled to Israel for a two-week training exchange with the Israel National Police, and is currently a Board Member for GILEE.

Chief Dekmar is a national presenter for police leaders and elected officials on a range of topics involving leadership, ethics, and law enforcement management and liability issues. He has

provided over 300 training programs to police chiefs, elected officials, and other law enforcement personnel throughout the nation and Mexico. Chief Dekmar is a Georgia POST certified instructor, and for over 28 years, he has served as an adjunct professor for Eastern Wyoming College, Georgia College and State University, LaGrange College, and Columbus State University, teaching organizational management, human resources, criminal justice, and ethics courses.

Chief Dekmar currently serves as a Commissioner and as Chair/President for the Commission on Accreditation for Law Enforcement Agencies (CALEA). He is a former Governor-appointed member of the Georgia Board of Public Safety, which provides policy oversight for the Georgia State Patrol, Georgia Bureau of Investigation, and the Georgia Public Safety Training Center.

Chief Dekmar is a former member of the Peace Officer's Standards and Training Council (POST), serving on the Probable Cause Committee. He is also a "past president" of the Georgia Association of Chiefs of Police, representing over 550 police chiefs in a variety of forums. In 2006, he chaired a "vehicle pursuit" committee for the Georgia Chief's Association, which published a white paper. The pursuit research was accepted by the United States Supreme Court in a Brief of Amicus Curiae (Scott v Harris 2007).

Chief Dekmar was appointed and served as a Civil Rights Monitor for the U.S. Department of Justice, Civil Rights Division (DOJ); he monitored a police agency for three years to ensure compliance with tasks detailed in a Memorandum of Understanding between the agency and DOJ. In that capacity, Chief Dekmar assisted the agency in developing policies, protocols, and procedures to ensure sufficient managerial safeguards addressing officer misconduct issues, particularly those involving bias-based profiling. In addition, he conducts police management audits, assessments, and use of force reviews and inquiries for law enforcement agencies, recommending modifications in policy, processes, and training to increase efficiencies and reduce agency liability. He also assists municipalities in police chief searches, advising and participating in the selection process.

In 2009, Chief Dekmar received the Georgia Governor's Award for Life-Time Achievement and Contribution to the Law Enforcement Profession; 2004, LaGrange College Servant Leadership Award; 1997, Georgia Police Chief of the Year; 1988, Officer of the Year; and 1978, Medal of Valor for Bravery displayed in the Line of Duty.

Chief Dekmar has appeared or been retained as an expert witness in legal controversies involving police management related *to use of force, internal investigation, supervision, early warning system, emergency vehicle operations, criminal investigation, less lethal weapon alternatives, reporting and analysis of use of force incidents, police vehicle pursuit and employee discipline.*

Authored Article:

Louis M. Dekmar, "Handling Citizen Complaints through Proactive Methodology," *The Police Chief* 77 (April 2010): 50–52.

Acknowledgements

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The Audit Team would like to acknowledge the following members of the BART District, the BART Police Department, and the BART community partners and stakeholders who made it possible to conduct this Performance Management Audit. Their input and feedback on the quality and scope of police services made it possible to produce this report. We appreciate each employee and community member who provided input and feedback through their respective interviews. Thank you.

Mr. Tom Radulovich - BART Board President
Mr. Joel Keller – BART Board Vice President
Ms. Grace Crunican - BART Board General Manager
Chief Kenton Rainey – BART PD
Deputy Chief Ben Fairow – BART PD
Deputy Chief Janeith Glenn-Davis – BART PD
Deputy Chief Jeffrey Jennings – BART PD
Lieutenant Edgardo Alvarez – BART PD
Lieutenant Lance Haight – BART PD
Sergeant Carolyn Perea – BART PD
Mr. Mark Smith – Office of the Independent Police Auditor
BART Citizens’ Review Board Members:
Ms. Sharon Kidd – Chairperson
Mr. William White – Vice Chairperson
Mr. Peter Barnett
Ms. Sukari Breshears
Mr. Benjamin Douglas
Mr. Cydia Garrett
Mr. Douglas Hamilton
Mr. Ken Jones
Mr. Les Mensinger
Mr. George Perezvelez
Mr. John Burris, Esq. – Civil Rights Attorney
Mr. George Holland, Esq. – National Association for the Advancement of Colored People (NAACP)
Mr. Cephus Johnson – Oscar Grant Foundation
Mr. Luis Ortega – Oakland Neighborhood Crime Prevention Council
Mr. Roy Wilson – Martin Luther King, Jr. Freedom Center
Beatrice Johnson – Oscar Grant Foundation

Introduction

INTRODUCTION

The **BART Police Department Management Audit** was conducted July - September, 2013. This audit reviews specific areas of the administration and operation of the BART Police Department and compared it with original recommendations made in the NOBLE BART Management Audit from 2009. Therefore, the agency is measured in this report based on the quality of the implementations of the recommendations made in the original report.

Each of the recommendations made in this audit were justified based on an established object measures of performance in the law enforcement profession. Therefore, each recommendation is justified based on one of the following four factors:

1. It is an international law enforcement standard;
2. It is an established recognized current best practice of the profession;
3. It is required to meet a legal mandate;
4. It is recommended based on a body of research; and/or
5. Agency-specific analysis (justification is based on agency analysis conducted during this study).

The justifications provide the validation for why a recommendation is submitted to the agency for consideration. It is important to have an objective and factual justification as the basis for all operational and administrative recommendations.

In addition to each recommendation contained in this report, the agency is provided with the following additional information:

1. A brief overview of the current practice in the Department regarding this issue; and
2. Some guidelines on how the strategy might be implemented.

Therefore, each recommendation in the report contains the following format:

1. The previous recommendation;
2. The Implementation relative to the recommendation;
3. The commendation or the recommendation on the implementation;
4. The measureable results or outcomes to be achieved for effectiveness.

HOW TO USE THE BART POLICE MANAGEMENT AUDIT

It is recommended that BART Police Department develop a plan or matrix specific to the recommendations made in **this** audit report. Each recommendation should be placed in one of following four categories:

1. High priority;
2. Medium priority;
3. Low priority; or
4. Unable or not interested in implementing.

A stakeholders group of individuals from the BART district community, BART administration, police managers, line personnel, and civilian employees should be convened to rate each of the recommendations into one of the four categories. The agency should then develop its plan or matrix to accomplish the high, medium, and low priorities based on their order of importance within 3 years.

- STEP 1 Identify a diverse management audit review stakeholders group.
- STEP 2 Have the management audit stakeholders group review the management audit.
- STEP 3 Rate each recommendation in the management audit and place in one of the four categories.
- STEP 4 Develop a work plan to implement recommendations based on established priorities.
- STEP 5 Develop a follow-up feedback system to ensure accountability for staff responsible with timelines.

Agency Profile

BART Police Department Public Safety Mission and Role

BART POLICE DEPARTMENT OVERVIEW

The BART Police Department's 206 sworn peace officers have full police powers within the State of California and have the primary jurisdiction for responding to, and investigating, all criminal incidents occurring at facilities owned or operated by the BART District. The Police Department's sworn staff is supported by a professional staff consisting of Community Service Officers (CSOs), communications/9-1-1 Dispatchers, Revenue Protection Guards (RPGs), Police Administrative Specialists (PASs), and civilian supervisors and managers. The District currently travels through four counties and 26 cities; approximately 400,000 commuters use the system each weekday.

The BART Police Department's vision is "... to be the leader in innovative policing, and to establish BART as the safest transit system in the nation."

The BART Police Department has five core values:

- ◆ Integrity: We inspire trust and carry ourselves in a manner that demonstrates the highest levels of honesty, ethics, and moral conduct.
- ◆ Service: Placing service above self, we work in partnership with the community serving with pride, courage, and compassion.
- ◆ Accountability: We take ownership of our duties, remaining answerable to the public and accountable to the laws, rules, policies, and procedures that govern and guide us.
- ◆ Professionalism: We are committed to conduct and performance reflective of the highest standard of personal and organizational excellence.
- ◆ Diversity: We acknowledge and embrace the diversity in the communities we serve and strive to ensure diversity is reflected in all levels of our organization.

The mission of the BART Police Department is "... to ensure a safe environment within our transit system, reduce crime through a highly visible police presence, and proactive enforcement of the law, and to promote public confidence by working in partnership with our stakeholders and the communities we serve."

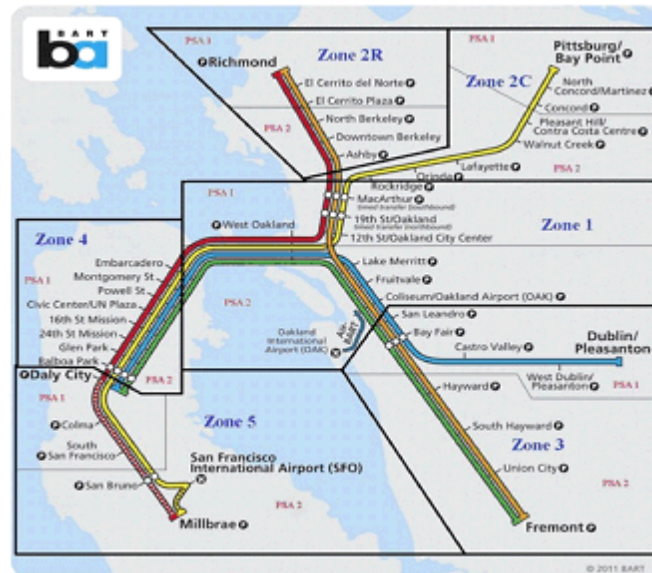
COMMUNITY ORIENTED POLICING PHILOSOPHY (COPPS)

To achieve the mission of the BART Police Department, an organization-wide policing philosophy and management approach that promotes community, government, police partnerships and proactive problem solving to reduce crime and social disorder has been adopted and implemented. Community Oriented Policing Problem Solving (COPPS) is a policing philosophy based on two core beliefs:

- ◆ A law enforcement agency requires the cooperation of, and a partnership with, the community it serves.
- ◆ A continuum exists between low-level crime and/or social disorder and serious crime.

A key element to the successful implementation of COPPS is the establishment, nurturing, and growth of the partnership between the BART Police Department and the community. The current policing structure divides the BART District into six Patrol Zones, each under the command of a police lieutenant. Depending on the need, the Patrol Zones are divided into two or more Public Service Areas (PSAs). Each PSA is assigned to a police sergeant and a team of officers who are responsible for providing “24-7” service to their service area. The Zone/PSA team policing structure allows officers to develop distinct familiarity with the safety and security issues within their areas of assignment and provide real time input and feedback from our communities regarding public safety problems and policing priorities.

COMMUNITY ORIENTED POLICING ZONE MAP



To facilitate the COPPS philosophy, officers should engage the BART community in a positive and interactive manner, letting them know that officers are available and should be contacted to

report suspicious activity, whether criminal in nature or not. The BART Police Department is committed to increasing uniformed police officer presence on board trains and in stations.

OFFICER PATROLS

It is a priority for the BART Police Department to establish a highly visible presence in stations, trains, and high use areas. To accomplish this, and ensure patrol frequencies are aligned with current security conditions, the BART Police Department uses crime reports and multi-agency intelligence to establish and adjust patrol assignments. The BART Police Department publishes a bulletin to communicate the frequency of patrol assignments to BART Police units.

TRANSITION STRUCTURE PATROLS

Officers assigned to patrol transition structures are required to patrol each structure a minimum of once per shift. The transition structures are subject to more frequent patrols consistent with Department of Homeland Security Advisory System threat level changes, but shall not fall below the minimum requirement of once per shift.

SPECIALIZED ASSIGNMENTS

The BART Police Department offers specialized assignments, including: Detectives, Background Investigations, Personnel & Training, Internal Affairs, SWAT, Critical Asset Patrol Team, Tactical Team, canine (K-9) teams, FBI Joint Terrorism Task Force investigator, Traffic Officer and other special-enforcement teams.

For more information on the BART Police Department visit BART.GOV
(<http://bart.gov/about/police/index.aspx>)

Chapter 1

Organizational Statements

Topical Area: Organizational Statements

Issue: Mission Statement

Previous recommendation:

BART PD currently does have a Mission Statement, but it needs to be updated.

Actual Implementation relative to the recommendation:

The police department currently has an updated mission statement indicating who they are, what they do, and who they do it for.

Commendation based on the effectiveness of the implementation:

The department has conducted their implementation consistent with the original recommendation.

Measurable results to be achieved or outcomes for effectiveness:

It is a law enforcement best practice to have an organization Mission Statement to use to evaluate organizational goals and practices.

Topical Area: Organizational Statements

Issue: Vision Statement

Previous recommendation:

The Chief of the BART PD should develop a Vision Statement that describes where the department is headed within the next three to five year period. A Vision Statement establishes a foundation for the organization's Mission Statement and major goals.

Actual Implementation relative to the recommendation:

The BART police department has developed and implemented a vision statement that has been communicated to all employees and published publically. The vision statement is consistent with the original recommendation; it is clear, expressed in present tense, and uses visionary terms to spawn excitement.

Commendation based on the effectiveness of the implementation:

The department has conducted their implementation consistent with the original recommendation.

Measurable results to be achieved or outcomes for effectiveness:

The agency should maintain and revise a Vision Statement approximately every five years. The mission statement flows from the vision statement and therefore must also be revisited when whenever the vision statement is revised.

Topical Area: Organizational Statements

Issue: Core Values

Previous recommendation:

The BART PD should revise their Core Values which identify the conduct and the character exhibited at every member of the organization while achieving the Mission.

Actual Implementation relative to the recommendation:

The BART police department has developed new Core Values that are in alignment with the organizational mission statement.

Commendation based on the effectiveness of the implementation:

The department has conducted their implementation consistent with the original recommendation.

Measurable results to be achieved or outcomes for effectiveness:

The agency maintains written Core Values that indicate the conduct and character expected of every member of the organization while achieving the Mission. Ideally these core values are evaluated to determine the degree of integration in police practices.

Chapter 2

Community Engagement

Topical Area: Community Engagement
Issue: Community Outreach and Involvement

Previous recommendation:

The BART PD should develop and implement a Police Advisory Board. The Police Advisory Board will be a proactive group which provides input and feedback to the agency on the quality and scope of police services. This group of volunteers will provide non-binding input and feedback on all proposed significant initiatives of the police department. This will ensure that the police department has input, feedback, and public support for any significant initiative before it is established as an organizational policy, procedure, or practice.

Actual Implementation relative to the recommendation:

The department currently has a Citizen Review Board (CRB) that is part of the community outreach connected with the BART Police Independent Auditor and citizen oversight process. This is a diverse group of community members from the BART policing district that provides input and feedback regarding the quality and scope of police services. These monthly meetings are attended by the BART police chief and other members of the executive staff. Additionally, other BART police employees attend and other members of the community are invited. The Citizen Review Board has a vote regarding the outcome of discipline based on the result of independent investigation by the BART Independent Auditor.

Since the original 2009 NOBLE management audit the BART Police has engaged in on-going relationships with a minimum of the following community organizations:

- The American Civil Liberties Union
- The National Association for the Advancement of Colored People (NAACP)
- The Fruitvale Neighborhood Crime Prevention Council
- The Martin Luther King Freedom Center
- The Oscar Grant Foundation
- California National Alliance for the Mentally Ill (NAMI)
- **National Night Out (NNO):** Six locations changes each year; 2012- Civic Center/UN Plaza, 12th Street/Oakland City Center, Concord, Hayward, North Berkeley and Millbrae. 2013 - Coliseum, Richmond, Pittsburg, and Bay Fair)
- Police Departments: Oakland, Hayward, Berkeley, Richmond, El Cerrito, San Francisco PD/ and Sheriff's Office, San Leandro PD, Union City PD, Fremont PD, Alameda County Sheriff Department, and San Bruno PD are a sampling of their on-going engagement of the law enforcement community.

Their involvement with these organizations is for the primary purpose of the establishment of effective community relations between these organizations located within the BART policing district and the BART Police Department.

Commendation based on the effectiveness of the implementation:

The department has conducted their implementation consistent with the original recommendation and exceeded the scope of the original recommendation.

Measurable results to be achieved or outcomes for effectiveness:

The purpose of this standard is to document annually the occurrence of at least quarterly meetings with members of the community within the BART policing district. The objective is to obtain input and feedback regarding the quality and scope of police services.

Chapter 3

Training

Topical Area: Training
Issue: Training Committee

Previous recommendation:

The agency does not have a representative group looking at the department's "big picture" as it relates to training and career development.

The department should establish a Training Committee and develop a written policy to outline the composition of the committee, the duties and responsibilities of the committee and its members, the meeting schedule for the committee and designate the chairperson of the committee.

Actual Implementation relative to the recommendation:

The department currently has a training committee that meets three times a year. A written directive establishes a training committee and the agency provides for the composition of the committee, the process for selection of policing committee members the relationship of the training function to the committee. This committee is overseen by the Deputy Chief of Professional Standards and Training.

Commendation based on the effectiveness of the implementation:

The department has conducted their implementation consistent with the original recommendation.

Measurable results to be achieved or outcomes for effectiveness:

An annual training committee report should be issued which indicates the training needed and desired to achieve the mission and goals of the BART department.

Topical Area: Training

Issue: Training Attendance Requirements

Previous recommendation:

The department should establish a written directive that governs training attendance requirements.

Actual Implementation relative to the recommendation:

The department has developed a directive which contains a comprehensive set of guidelines for employees to follow when attending authorized agency training for both internal and external training.

Commendation based on the effectiveness of the implementation:

The department has conducted their implementation consistent with the original recommendation.

Measurable results to be achieved or outcomes for effectiveness:

An annual training committee report should be issued which indicates that all BART employees have completed all of the required training.

Topical Area: Training
Issue: Training Reimbursements

Previous recommendation:

The department should establish a written directive that governs reimbursement to employees attending applicable training programs.

Actual Implementation relative to the recommendation:

The department has developed a written directive that includes provisions for reimbursements to employees attending applicable training programs.

Commendation based on the effectiveness of the implementation:

The department has conducted their implementation consistent with the original recommendation.

Measurable results to be achieved or outcomes for effectiveness:

All BART police employees should receive reimbursement for completing approved applicable training programs.

Topical Area: Training

Issue: Lesson Plans

Previous recommendation:

Courses that are developed within the BART Police Department should routinely be sent to California POST for certification.

Actual Implementation relative to the recommendation:

The department has 15 different training courses that have now been approved by the California Peace Officers Standards and Training Board.

Commendation based on the effectiveness of the implementation:

The department has conducted their implementation consistent with the original recommendation.

Measurable results to be achieved or outcomes for effectiveness:

All BART police training programs should be approved by the California Peace Officers Standards and Training (POST). The development of lesson plans should ensure that the subject to be covered in training is addressed completely and accurately and is properly sequenced with other training materials. Lesson plans establish the purpose of the instruction, set forth the performance objectives, relate the training to critical job tasks, and identify ethical considerations related to the topic.

Topical Area: Training
Issue: Remedial training

Previous recommendation:

Develop and publish a directive establishing agency policy concerning remedial training for officers.

Actual Implementation relative to the recommendation:

The department has developed and implemented a written directive establishing agency policy concerning the documentation of remedial training of personnel.

Commendation based on the effectiveness of the implementation:

The department has conducted their implementation consistent with the original recommendation.

Measurable results to be achieved or outcomes for effectiveness:

As personnel complete training programs, the date of the training, the training received, any certificates received, attendance, and test scores should be recorded for each trainee.

Topical Area: Training
Issue: Updating Training Records

Previous recommendation:

The agency needs to undertake an evaluation and analysis of the Training Record system.

Every instructor/monitor should complete a roster of attendees and have each participant sign the roster which will certify completion of the instruction. The form should be sent to Training where the information should be entered into each participant's training record and the sign-in sheet stored in accordance with records retention standards.

Actual Implementation relative to the recommendation:

The Department has acquired an electronic system, the Training Management System (TMS), which allows for the retention and documentation of training records for Department personnel.

Commendation based on the effectiveness of the implementation:

The department has conducted their implementation consistent with the original recommendation.

Measurable results to be achieved or outcomes for effectiveness:

The intent of the standard is to ensure that the agency annually documents and updates the nature of the instruction, the identity of those attending the sessions, and the performance of the attendees. The standard is satisfied by having a computerized training system.

Topical Area: Training
Issue: Field Training

Previous recommendation:

The BART Police Department requires that every new officer successfully complete their Field Training Program (this was being done in the original audit).

Actual Implementation relative to the recommendation:

The department has since added a four-week, in-house training program (FOCUS – Field Operations Concentrated uniform Session) for new department personnel.

Commendation based on the effectiveness of the implementation:

The department has conducted their implementation of the recommendation consistent with the original recommendation and enhanced it.

Measurable results to be achieved or outcomes for effectiveness:

The intent of the standard is to document that every new officer successfully completes their Field Training Program.

Topical Area: Training
Issue: Annual In-service Training

Previous recommendation:

Expand the list of courses in the Training Plan to include more courses in communication, verbal judo, human diversity, handling emotionally disturbed persons, community policing, etc.

Actual Implementation relative to the recommendation:

The department has since added a forty hour in-service training program for all officers. Courses in human diversity, handling emotionally disturbed persons, and community policing have received special emphasis by the agency.

Commendation based on the effectiveness of the implementation:

The department has conducted their implementation consistent with the original recommendation.

Measurable results to be achieved or outcomes for effectiveness:

The department should have an annual in-service training program with a minimum of 40 hours for every officer. The primary focus of the annual in-service training program should be use of force, community policing, and customer service.

Topical Area: Training

Issue: Shift Briefing and Advanced Training

Previous recommendation:

Develop and publish a written directive that outlines the policy and procedures concerning in-service, shift briefing and advanced training.

Actual Implementation relative to the recommendation:

The department has since developed Standardized- Reliable- On-going- Verifiable Training (SROVT) along with a written directive. Additionally, it has a policy on it and can verify completed training by officers during shift briefing and advanced training.

Commendation based on the effectiveness of the implementation:

The department has conducted their implementation consistent with the original recommendation and enhanced it.

Measurable results to be achieved or outcomes for effectiveness:

The department should be able to document all training received by officers during shift briefings and advanced training.

Topical Area: Training
Issue: Specialized Training

Previous recommendation:

Develop and publish a written directive describing the policies, procedures relating to specialized assignments and any pre- or post-training required for the position.

Actual Implementation relative to the recommendation:

The department has since developed a written training request directive describing the policies, procedures relating to specialized assignments and any pre- or post-training required for the position.

Commendation based on the effectiveness of the implementation:

The department has conducted their implementation consistent with the original recommendation.

Measurable results to be achieved or outcomes for effectiveness:

The department should identify all of the functions for which both pre- and post-assignment specialized training is required. Specialized training includes supervised on-the-job training provided by the agency, training mandated by governmental authority such as training for certification as a breathalyzer operator, and training deemed necessary by the agency for the development and enhancement of the skills, knowledge, and abilities particular to the specialization of officers.

Topical Area: Training
Issue: SWAT Team Training

Previous recommendation:

Develop and publish a written directive that documents the training requirements for all SWAT Team units.

Actual Implementation relative to the recommendation:

The department has since developed a written directive describing the training requirements for all SWAT Team units. This information is included within the department training plan.

Commendation based on the effectiveness of the implementation:

The department has conducted their implementation consistent with the original recommendation.

Measurable results to be achieved or outcomes for effectiveness:

The purpose of this standard is to ensure that SWAT Team members have ample opportunity to practice their special skills and develop their abilities to function effectively as a team. This is necessary because many skills are perishable and should be exercised to build and maintain proficiency. Operational simulations should be included in the training program, and if the agency also has a separate hostage negotiation team, its personnel should be required to train periodically with the tactical team. All SWAT Team training must be documented and the records retained.

Topical Area: Training
Issue: Non-sworn Employee Training

Previous recommendation:

Develop and publish a written directive that documents the training requirements for all non-sworn employee training.

Actual Implementation relative to the recommendation:

The department has developed a written directive describing the training requirements for all non-sworn personnel units. This information is included within the department training plan.

Recommendation based on the effectiveness of the implementation:

The agency personnel should receive initial and on-going training commensurate with their responsibilities. Such training should stress not only the skills necessary to perform technical aspects of their jobs but also the importance of the link they provide between citizen and agency, which often shapes a citizen's opinion of the agency.

Measurable results to be achieved or outcomes for effectiveness:

The department should establish a written directive which outlines the department policies and procedures concerning non-sworn employee pre-hire and post-hire training requirements and the annual documentation of that training.

Topical Area: Training
Issue: Career Development

Previous recommendation:

Using the Training Plan as a foundation, establish a career development plan and publish a written directive outlining the policies and procedures associated with the plan. This plan should help employees of the BART PD in either their vertical or horizontal career plan development aspiration goals.

Actual Implementation relative to the recommendation:

The department is in the process of developing a written directive describing career development plan and a written directive outlining the policies, procedures, and goals associated with the plan.

Recommendation based on the effectiveness of the implementation:

Succession planning is important to the long-term viability of the BART Police Department. Continue the current work on the career development plan for all personnel. The plan should address, at a minimum, the following areas: techniques for assessing skills, knowledge, and abilities; knowledge of educational opportunities and incentive programs; external career development programs; and availability of outside resources.

Measurable results to be achieved or outcomes for effectiveness:

The department should establish a written career development plan as an important building block of a sustained effort to modernize a progressive police department. The focused development of personnel to help prepared them to assume positions of responsible leadership. For this effort to be successful, the management of the organization must make it an important part of the performance evaluation and training programs.

Chapter 4

Patrol Priorities

**BART Police Management Audit
Issue: Patrol Priorities****Previous recommendation:**

Patrol visibility on the BART trains and the stations is a major concern to your constituency and to the crime control strategy of BART. Officers must ride the trains throughout the district to achieve maximum visibility and access to BART customers. Officer presence at the stations and in the parking lots is also important. The recommend order of priority for officers is: A. visibility on trains; B. visibility at stations; and, C. visibility in parking lots.

Actual Implementation relative to the recommendation:

BART allocates its patrol resources based on crime analysis information and their CompStat program. Consistent with the priorities identified through the community survey, BART has intentionally emphasized high visibility in the trains and on the platform. Each BART officer is required to ride four trains per shift. “Fixed post” platform assignments are made daily, during commute hours, at high traffic stations for increased visibility, additional fixed post assignments are made in high crime areas. A Critical Asset Team is employed between Oakland and San Francisco to provide high visibility on the trains for crime prevention and anti-terrorism deterrence.

In the parking lots, crime reports and crime analysis dictate the agency’s use of resources. BART Police respond with motorized patrol, special details, bike patrols, and employ Community Service Officers in the BART parking lots to address crime and public safety concerns.

Commendation based on the effectiveness of the implementation:

The agency has generated policies, processes, protocols, benchmarks, managerial oversight, and auditing procedures that have significantly increased visibility within the BART system. The policies and procedures are clear, concise, and provide clear guidance and accountability to supervisors.

Measurable results to be achieved or outcomes for effectiveness:

Increased visibility fosters public confidence on the BART system. It also provides officers the opportunity to engage members of the community in a positive manner. Agency members commented that the public has responded favorably to the increased visibility. The use of crime analysis aids significantly in deploying personnel effectively, whether on the trains, platforms, or parking lots.

Chapter 5

Personnel Selection

BART Police Management Audit

Issue: Build Strong Community Partnerships for Personnel Selection

Previous recommendation:

Work to build strong partnerships with the community. Identify key community and business leaders to develop relationships that will provide a potential pipeline of the most qualified candidates. Suggested partnerships include the military, college and high school counselors, community-based organizations, student associations, public and private customer service organizations and other departments internal to the agency's jurisdiction. Build formal relationships between leaders in each organization and members of your recruitment team. Additionally, refer candidates that are not a good match for your agency to a more compatible organization, ideally a liaison agency for possible employment.

Actual implementation relative to the recommendation:

Through the multitude of community engagement activities with the various committee organizations and individuals BART police is working to build a strong relationship that will provide a potential pipeline of the most qualified candidates for police officer.

Commendation based on the effectiveness of the implementation:

We recommend that the police department continue efforts to network with these organizations and community leaders for the purpose of effective police recruitment.

Measurable results to be achieved or outcomes for effectiveness:

Develop and implement an annual report which identifies the source of the recommendations of potential law enforcement candidates while noting those that are actually hired.

BART Police Management Audit
Issue: Flexible Police Officer Profile

Previous recommendation:

Develop a flexible profile of an effective police officer by identifying the “most viable candidates.” BART PD should identify the knowledge, skills, abilities, education, training, behaviors, and traits that make an effective officer. This identifies a target upon which selection is based.

Actual implementation relative to the recommendation:

Through work of BART Police with the Human Resources Department they have developed a profile of the knowledge, skills, abilities, education, training, behaviors, and traits that make a potential qualified candidate for police officer.

Commendation based on the effectiveness of the implementation:

BART Police Department should continue these efforts to identify and select qualified police officers. It should be noted that BART PD has particularly done an outstanding job of identifying highly qualified lateral entry police officer hires.

Measurable results to be achieved or outcomes for effectiveness:

Police officer recruit candidates are successfully able to complete the selection process, basic police academy, field training officer program, and the post training academy.

BART Police Management Audit
Issue: On-going Recruitment Study

Previous recommendation:

Conduct on-going studies on where police recruit candidates come from and why they want to work for BART PD.

Actual implementation relative to the recommendation:

The BART Police Department has implemented a questionnaire to determine where police recruit candidates come from and why they want to work for BART PD and reports this information on an annual basis.

Commendation based on the effectiveness of the implementation:

BART Police Department should continue to develop an annual report which identifies where successful police recruit candidates come from and why they want to work for BART PD.

Measurable results to be achieved or outcomes for effectiveness:

The goal is to create an annual report to determine the geographic radius in which you are most likely to select law enforcement candidates. It is important to understand those organizational strengths which draw recruits to your law enforcement agency. This information is also important for the marketing plan and establishing the brand of your law enforcement agency.

BART Police Management Audit
Issue: Develop and Implement a Recruitment Plan**Previous recommendation:**

Develop and implement a recruitment plan. The purpose of a recruitment plan is to capitalize on the strengths of an agency, identify potential opportunities, and identify and mitigate the weaknesses and threats, where possible, in order to position the agency to accomplish its recruitment goals. The recruitment plan should address the questions of who, what qualities, where, why and how your agency will achieve its recruitment goals. An agency should have recruitment goals and plans for a three to five year period. The question must be critically asked how important is recruitment, particularly in relation to identifying minority candidates? If important and a priority, then sufficient resources should be allocated. How many candidates will be hired? What diversity needs exist? How many recruiters will be needed to reach these goals? How much money will be allocated? Where are the use of resources most effective? How and to whom should you market? What local agencies and leaders can be partnered with to identify qualified candidates? An effective strategic recruitment plan will require the involvement of the entire agency and a thorough comprehensive analysis. Find ways to speed up the recruitment and testing process because the best candidates left in the hiring process too long will be hired elsewhere.

Secure the right screening tools to help identify the best candidates. Consider employing a “Pre-Qualifying Questionnaire” that will provide an opportunity for people to withdraw if they have disqualifiers in their background. Train evaluators in candidate selection. The selection process should be geared toward assessing candidate’s suitability for the agency if not for the position for which they have applied, then for referral elsewhere.

Actual implementation relative to the recommendation:

BART Police Department, the Human Resources Department, and the Recruitment/Retention Committee are developing a recruitment plan which will be incorporated as part of their strategic plan. The recruitment and retention committee’s goal is the completion of this plan prior to the end of 2013.

Recommendation/Commendation based on the effectiveness of the implementation:

BART Police Department should continue their efforts to develop a recruitment plan to identify the needs of the agency while capitalizing on the strengths of the agency.

Measurable results to be achieved or outcomes for effectiveness:

The goal is create an annual report that indicates how applicants are informed about the hiring. It is a law enforcement best practice to analyze recruitment efforts to determine both the success of past recruitment efforts and identify effective contemporary methods.

It is a law enforcement best practice for an agency to have a recruitment plan. This plan answers the following questions at a minimum:

1. What is the identification of recruitment goals and within what time span?
2. How important is recruitment?
3. How many people need to be hired annually?
4. What diversity needs exist?
5. How many recruiters will be needed to reach these goals?
6. What strategies will be used to effectively recruit candidates?

BART Police Management Audit
Issue: Contact Maintained with Applicants

Previous recommendation:

Contact is maintained with applicants for all positions from initial application to final employment disposition.

Actual implementation relative to the recommendation:

BART Police with the Human Resources Department currently maintains contact with applicants for all positions from initial application to final employment disposition. In addition, personal contact is maintained with applicants in the background phase on a weekly basis to update them of their status. The agency is in the process of developing a policy with current protocols for applicant notification.

Commendation based on the effectiveness of the implementation:

BART Police Department should continue these efforts to maintain contact with applicants from initial application to final employment disposition.

Measurable results to be achieved or outcomes for effectiveness:

The standard is the development of a plan that maintains contact with applicants for all positions from initial application to final employment disposition.

BART Police Management Audit
Issue: Customer-Focused Hiring Philosophy

Previous recommendation:

Adopting a customer-focused hiring philosophy through personalizing the recruitment process by:

- Developing a database to facilitate tracking candidates through the process
- Assigning a recruiter to each candidate through the process and have the recruiter make regular contact by phone or email with the candidate
- Providing candidates access to the recruitment team
- Scheduling meetings when appropriate
- Mentoring candidates
- Surveying recruits after the process to obtain feedback to improve the process
- Ideally complete the entire selection process within 90 - 120 days

Actual implementation relative to the recommendation:

The BART Police Department utilizes several external training academies. Each academy has a “family orientation” program designed to inform/educate attendees about the law enforcement profession. The BART Police Department is currently developing a “family orientation night”, designed to inform and educate attendees about BART PD and law enforcement. Applicants in the background process are also provided the department newsletter to maintain a connection with the Police Department.

Recommendation/Commendation based on the effectiveness of the implementation:

BART Police Department should continue these efforts to adopting a customer-focused hiring philosophy through personalizing the recruitment process. The department should also develop a written plan that identifies how the entire selection process will be completed within 90 - 120 days for distribution to applicants.

Measurable results to be achieved or outcomes for effectiveness:

A key intent of the standard is the development of written a plan that identifies how the entire selection process will be completed within 90 - 120 days for distribution to applicants while indicating how a customer-focused hiring philosophy should be implemented.

BART Police Management Audit
Issue: Conducting Behavioral-based Interviews

Previous recommendation:

Conduct a Behavioral-based Job Interview

Behavioral-based oral interviews are recommended. Interview questions must be based on job-related knowledge, skills, abilities, behaviors, and traits. The following principles should be followed when conducting behavioral-based interviews.

1. Behavioral-based interviews function on the understanding that past performance is the best indicator of future performance.
2. The behavioral-based interview will compare the candidate's past performance with the criteria identified for job success, and assist in determining if a candidate has the requisite skills and abilities.
3. All interview questions must be job-related and valid.
4. Training is required for the individual developing job-related questions and participating in an oral interview board.
5. All persons evaluating the interviewee should be provided with information on properly evaluating the candidate's responses in comparison to effective job-related behaviors.
6. Behavioral-based interview questions should be modified or updated as knowledge, skills, abilities behaviors and traits for the job changes.
7. Prior to conducting an interview questions should be developed based on a job analysis and must be standardized for all candidates.

An essential purpose of any oral interview is to evaluate the candidate's suitability for the target job. This can only be done effectively if the interview questions are both job-related and reliable.

Actual implementation relative to the recommendation:

The BART Police Department currently is using behavioral-based interview questions for police applicants.

Commendation based on the effectiveness of the implementation:

BART Police Department should continue to use behavioral-based interview questions for police applicants.

Measurable results to be achieved or outcomes for effectiveness:

A key intent of the standard is to utilize behavioral-based interview questions because they are considered to be the most valid and reliable method for conducting job interviews. Due to the high degree of validity, these questions are able to withstand a potential challenge by a candidate.

**BART Police Management Audit
Issue: Writing Component**

Previous recommendation:

Develop a writing exercise component as part of the application process to assess written communication skills. A written communication standard should be set.

Actual implementation relative to the recommendation:

The BART Police Department currently is using a written communication exercise for all law enforcement officer candidates as part of the selection process.

Commendation based on the effectiveness of the implementation:

The BART Police Department should continue to use a written communication exercise for all law enforcement officer candidates as part of the selection process.

Measurable results to be achieved or outcomes for effectiveness:

A key intent of the standard is to utilize a written communication exercise for all law enforcement officer candidates and make it part of the selection process.

BART Police Management Audit
Issue: Orientation for Recruit's Family

Previous recommendation:

Expose recruit's family to law enforcement culture/family orientation. Exposing candidates and family members to the agency can provide a sense of the agency's culture and family orientation. There are a variety of ways to do this, such as:

- Invite families to "Know Your BART Police" at neighborhood meetings
- Develop printed recruitment materials for distribution in various languages
- Stage an Open House for candidates and family members
- Allow family ride-a-long opportunities
- Allow job shadowing (such as watching dispatchers) for family members
- Have family attend an academy orientation
- Schedule department family-oriented meetings where officers, their spouses, and other family members share their experience and answer questions
- Include family in Swearing-In Ceremony (if not doing so already)
- Provide interpretive services at meetings where the candidate's family members do not speak English

These steps demonstrate the agency's interest in both the candidate and family members.

Actual implementation relative to the recommendation:

The BART Police Department currently uses police academies that have family Center events which expose the candidate's families to the law enforcement culture during the basic academy, and at the graduation ceremony. The Department also has an annual family-oriented Holiday celebration; a bring your children to work day; and a family oriented swearing-in/promotion ceremony designed to enhance family/Department orientation. The Department also encourages family participation in the District's family picnic day.

This is a good start; however, the department should continue to add to the recruit's family to law enforcement culture/family orientation by implementing as many of the above recommendations as feasible.

Commendation based on the effectiveness of the implementation:

The BART Police Department has made a good start in this area; however, the department should continue to add to the recruit's family to law enforcement culture/family orientation by implementing as many of the above recommendations as feasible.

Measurable results to be achieved or outcomes for effectiveness:

A key intent of the standard is to involve family members of the police candidates into the process. This allows for a more personalized and, therefore, more effective recruitment and retention of candidates that are hired.

Chapter 6

Employee Performance Standards

BART Police Management Audit
Issue: Staffing Requirements

Previous recommendation:

BART Police Department should require that 80% of its staffing work during special events or occasions when there will be heavy usage of the transit systems, train stations, or parking lots. Occasions such as New Year's Eve and Halloween are examples of when the maximum amount of staffing should be required to work in order that there is a sufficient staffing level to prevent and reduce crime and maintain social order.

Actual implementation relative to the recommendation:

A review of the BART Police Department's roster for New Year's Eve 2012 reflects that more than 80% of its staff worked during that special event. The agency ensured there were adequate and sufficient staffing levels to prevent and reduce crime and maintain social order by cancelling days off and re-deploying special assignment personnel to uniform patrol during special events.

Commendation based on the effectiveness of the implementation:

The agency has a comprehensive process for ensuring adequate staffing during special events that meet or exceed the 80% goal.

Measurable results to be achieved or outcomes for effectiveness:

It is a law enforcement best practice to dictate a high staffing level by law enforcement agencies during special days or events to prevent crime and ensure social order.

Chapter 7

Use of Force

BART Police Management Audit**Issue: Legal Requirements for the Use of Force****Previous recommendation:**

There are several separate “use of force” policies and written directives addressing the various weapons authorized by the agency. The policies should be captured in a single use of force directive to avoid confusion and to ensure a consistent response by agency members when a use of force event occurs. The agency’s use of force policy training process should ensure that all sworn members receive annual training addressing the legal justification for the use of force. There also should be a provision for tracking and mandating attendance at make-up training for those that do not attend regularly scheduled training. The agency should develop a written use of force testing instrument and ensure that all covered personnel perform satisfactorily on the examination as a part of their annual use of force training. Further, the agency should modify all of its policies regarding the application of force and capture the elements of reasonableness detailed by the US Supreme Court in the case of *Graham v. Connor*.

Actual implementation relative to the recommendation:

All issues involving use of force and weapons authorization are contained within one chapter in the policy manual. The agency’s use of force policy training process ensures that all sworn members receive annual training addressing the legal justification for the use of force. There is also a provision for tracking and mandating attendance at make-up training for those that do not attend regularly scheduled training. The agency policies regarding the application of force details numerous factors to consider and includes all elements of “reasonableness” detailed by the US Supreme Court in the case of *Graham v. Connor*.

Recommendation to enhance the effectiveness of the implementation:

We recommend the agency develop a written use of force testing instrument and ensure that all covered personnel perform satisfactorily on the examination as a part of their annual use of force training.

Measurable results to be achieved or outcomes for effectiveness:

The policy and training provide agency personnel with clear guidance on the legal requirements for the application of lawful force, which can reduce injuries to officers and citizens and assisting the agency in avoiding costly liability claims.

BART Police Management Audit

Issue: Legal Definitions for the Use of Force

Previous recommendation:

Complete a comprehensive use of force policy review and identify all definitions and conditional terms for weaponless and less-lethal force. Generate a single policy describing those terms. The agency's use of force training process does not ensure that all sworn members receive annual firearms training or a review of the use of force policy. Although required by the agency, a review of firearms training records reveal that some sworn personnel, particularly the firearms records of ranking members do not reflect or document their annual firearms qualification training or policy review. Additionally, for those officers that do attend firearms training, the agency does not require an annual written test covering the legal justification for the use of force. The agency should develop a written use of force testing instrument and ensure that all covered personnel perform satisfactorily on the examination as a part of the annual firearms training.

Actual implementation relative to the recommendation:

The agency completed a comprehensive "use of force" policy review and identified definitions and conditional terms for weaponless and less-lethal force. A single chapter in the policy manual contains all "use of force" topics and weapons. The agency's use of force training process ensures that all sworn members receive annual firearms training and a review of the use of force policy. The policy also requires an officer failing to shoot a qualifying score be reassigned immediately to a non-armed administrative position, until a qualifying score is achieved.

Recommendation to enhance the effectiveness of the implementation:

We recommend the agency develop a written use of force testing instrument and ensure that all covered personnel perform satisfactorily on the written examination as a part of their annual use of force training.

Measurable results to be achieved or outcomes for effectiveness:

The policy and training provide agency personnel with clear guidance on the legal requirements for the application of lawful force, which can reduce injuries to officers and citizens and assisting the agency in avoiding costly liability claims.

BART Police Management Audit**Issue: Authorization of Less Lethal Weapons****Previous recommendation:**

The agency should incorporate the various policies governing use of force into a single comprehensive policy to both reduce confusion and provide easy to find guidance in this critical area. The agency's less-lethal weapons' directives, except for the TASER policy, do not reflect an update or a review or revise date that demonstrates the policies have been critically evaluated in some time, in the case of the Carotid Control Hold the policy had not been reviewed in over two decades and it had been almost nine years for Arrest Control Devices. The agency should conduct a documented and comprehensive review of policies surrounding this high liability area and ensure the policy comports with the agency's current practice. An analysis of use of force incidents should be undertaken; the findings could prove beneficial and instructive during a policy review of less-lethal weapons.

Actual implementation relative to the recommendation:

The agency incorporated the various policies governing use of force into a single comprehensive chapter that reduces confusion and provides easy to find guidance in this critical area. The agency's less-lethal weapons' directives are current and the adopted date demonstrates the policies have been evaluated and modified recently (July 2, 2013). The agency has conducted a review of policies surrounding this high liability area and evidence of compliance demonstrates the use of force policies comport with the agency's current practice. An annual report is generated that documents the number and type of use of force events experienced by the BART Police Department.

Commendation to enhance the effectiveness of the implementation:

The Department completes an annual public report on the type and number of use of force events involving the agency. This information is included in annually in the Civilian Review Board and Internal Affairs reports.

Measurable results to be achieved or outcomes for effectiveness:

The harmony between policy and practice ensures personnel are conducting use of force applications in a manner consistent with the expectations of the agency, ensuring the application of less lethal force meets legal requirements, resulting in reduced injuries to officers and citizens and assisting the agency in avoiding costly liability claims.

BART Police Management Audit**Issue: Authority to Secure Prompt Medical Aid for Affected Subjects Involved in a Use of Force Incident.****Previous recommendation:**

The intent of this standard is to minimize the severity of obvious injuries and non-visible trauma commonly associated with weapons or hand-to-hand tactics. Such tactics may include neck holds, hard punches to the head, heart, or other vital organs, or restricting respiratory function. The agency's practice is consistent with accepted practice as it relates to the medical requirement when less-lethal and lethal force is employed. The medical treatment requirements relating to weaponless tactics are less consistent. The agency should combine its use of force policies into a single policy and require a single uniform police report documenting medical treatment. Additionally, supervisors should be held accountable for ensuring policy compliance relating to the medical treatment documentation in a use of force event.

Actual implementation relative to the recommendation:

The agency dictates by policy the medical requirements to be utilized after a "use of force" event. The agency policy is consistent with accepted practice as it relates to the medical requirement when less-lethal and lethal force is employed. The medical treatment requirements relating to weaponless tactics are also detailed in policy. The agency combined its use of force policies into a single chapter and requires a single uniform use of force report which documents medical treatment.

Fifteen police use of force reports were requested and reviewed for compliance with the agency's medical aid requirement when the Taser or OC spray was employed:

OC Spray:

BART Police Department Report #1301-0027

BART Police Department Report #1205-3376

BART Police Department Report #1209-2086

BART Police Department Report #1101-0159

BART Police Department Report #1110-3005

Taser:

BART Police Department Report #1204-2779

BART Police Department Report #1205-3632

BART Police Department Report #1206-0335

BART Police Department Report #1208-2522

BART Police Department Report #1209-1953

BART Police Department Report #1209-3996

BART Police Department Report #1210-0737

BART Police Department Report #1210-1495

BART Police Department Report #1107-2879

BART Police Department Report #1107-3629

The assessment of the selected reports where OC spray or a Taser was employed demonstrated that in all 15 incidents medical assistance was documented in the police report.

Measurable results to be achieved or outcomes for effectiveness:

The agency should identify the potential medical issues related to the application of force and request that the appropriate medical response to be summoned.

BART Police Management Audit**Issue: Requirement for Use of Force Reporting****Previous recommendation:**

The agency should develop a reporting system that ensures all incidents involving the application of force, including leg sweeps, elbow jabs, punches, kicks or other weaponless force, are well documented and the salient facts surrounding the event noted. Serious consideration should be given to developing a separate use of force report that is completed when an incident involves the application of force; training in the proper documentation of use of force events is paramount. Sound and consistent reporting of use of force incidents will help identify trends, improve training and employee safety, and provide timely information for the agency when addressing use of force issues with the public. Early and accurate reporting helps establish and maintain agency credibility.

The use of force report should detail the necessary reporting elements to document use of force or response to resistance incidents, based on severity or other established criteria. A use of force report ensures information is captured consistently in a manner that lends itself to review and analysis. Elements of a use of force report should include:

1. Reporting officer
2. Date, Time, Location
3. Type of call
4. Number and names of all involved officers
5. Charge
6. Officer injury and suspect injury
7. Type and nature of force
8. Medical treatment and names of treating personnel
9. Drug and alcohol involvement
10. Photographs
11. Names of witnesses
12. Video or audio evidence

In deciding the threshold of when to generate a use of force or response to resistance report and how extensive the report needs to be, the agency should conduct a needs assessment. The assessment should examine all incidents involving employees who have caused, or are alleged to have caused death or injury to another, have accidentally or intentionally discharged a firearm, or have applied weaponless force upon another to the extent it is likely to cause or lead to unforeseen injury, claim of injury, or allegations of excessive force, e.g., the use of neck holds, four point restraints (commonly referred to as the “hog-tie” restraint), punches, or kicks. The agency should also require that each officer involved or witnessing a use of force event generate a supplemental report detailing their involvement and observations.

If physically able, the primary employee involved should always be required to write a report detailing his/her involvement before the conclusion of the tour of duty on which the incident occurs. If physically unable, then a verbal report should be obtained and committed to writing as soon as practical. Written procedures should state by whom, when, and how the report will be submitted.

The agency should consider modifying its policy to provide for an “outside” agency to conduct the criminal investigation anytime an application of force by an officer results in death or serious bodily injury. Additionally, all officers and supervisory personnel should be trained on the importance of immediately notifying the communications center when a use of force incident occurs and the necessity of identifying and securing witnesses.

A part of the use of force policy should include a response to the scene of any incident by a supervisor requiring that the supervisor conduct a documented review of the incident, including by:

1. Interviewing the officer applying force
2. Interviewing other involved officers
3. Interviewing any third party witnesses
4. Interviewing the suspect
5. Photographing the suspect
6. Photographing any injuries to the officer(s)
7. Photographing any damage to the involved officers’ uniforms
8. Ensuring appropriate evidence is secured and documented, i.e., Taser cartridge, firearm, spent rounds
9. Determining if any video or audio tape recording of the incident is available and making arrangements to secure it as evidence
10. Making an independent determination as to whether the use of force was within policy

In requiring a supervisor’s response to all use of force incidents, the agency creates a culture of accountability and communicates that these events are taken seriously by the agency, which will reduce the likelihood of the improper application of force by its members.

Remarkably, for at least a decade the agency has required personnel to document in a report the pointing of a firearm at a subject. The 9th Circuit (Robinson) decided in 2002 that the pointing of a firearm was a seizure and hence a use of force. This is sound policy and the agency should be recognized for requiring this use of force reporting requirement.

Actual implementation relative to the recommendation:

The agency developed a separate and specific report that ensures all incidents involving the application of force, including other weaponless force, are well documented and the facts surrounding the event noted. The use of force report details the necessary reporting elements to

document a use of force incident. The reporting elements required in the use of force report include:

1. Reporting officer
2. Date, Time, Location
3. Type of call
4. Number and names of all involved officers
5. Charge
6. Officer injury and suspect injury
7. Type and nature of force
8. Medical treatment and names of treating personnel
9. Drug and alcohol involvement
10. Photographs
11. Names of witnesses
12. Video or audio evidence

The agency requires that each officer involved in or witnessing a use of force event generates a supplemental report detailing their involvement and observations.

In the case of an officer involved shooting, BART Police policy provides for an “outside” agency to conduct the criminal investigation, or the BART Police Department jointly with the District Attorney’s Office and the jurisdiction in which the shooting incident occurred.

The use of force policy and practice requires a response to the scene of any use of force incident by a supervisor and requires that supervisor to conduct a documented review of the incident, including by:

1. Interviewing the officer applying force
2. Interviewing other involved officers
3. Interviewing any third party witnesses
4. Interviewing the suspect
5. Photographing the suspect
6. Photographing any injuries to the officer
7. Photographing any damage to the involved officers’ uniform
8. Ensuring appropriate evidence is secured and documented, i.e., Taser cartridge, firearm, spent rounds
9. Determining if any video or audio tape recording of the incident is available and making arrangements to secure it as evidence
10. Making an independent determination as to whether the use of force was within policy

Recommendation/ Commendation to enhance the effectiveness of the implementation:

We recommend the policy be modified to require any officer involved in the application of force to immediately contact the communication center via police radio or a recorded landline and

advise them of the incident, in addition to requesting supervisory personnel. This will allow the agency to record the transmission, as opposed to the officer making contact with the supervisor by cellphone.

We recommend a policy modification which incorporates the policy 3.10 (officer involved shooting policy which provides for an “outside” agency to conduct the criminal investigation, or the BART Police Department jointly with the District Attorney’s Office and the jurisdiction in which the shooting incident occurred.) into a broader policy covering any situation, where the application of force by an officer, results in death or serious bodily injury to a citizen.

The department currently has Memorandums of Understanding with all four counties which mandate that the investigations be conducted jointly with the respective District Attorney’s offices when the Use of Force results in serious bodily injury or death.

Measurable results to be achieved or outcomes for effectiveness:

The policy and process ensures an objective review of all use of force applications and ensures accountability to the various constituencies served by BART.

BART Police Management Audit

Issue: Requirement for Administrative Review of Use of Force Reporting

Previous recommendation:

A single use of force policy, including a standard reporting and review process for each incident involving a use of less-lethal and weaponless force should be employed by the agency. The review should consist of an articulation of the facts as understood by the reviewing authority and a finding that is significantly detailed.

The process should include a charge requiring Internal Affairs to conduct an independent review of the use of force reports and to make a separate finding in addition to tracking and recording use of force events. Additionally, the Training function should receive a copy of reviews or analysis so they are in a position to identify training needs or policy issues.

Weaponless use of force reporting and review should include instances where the application of leg sweeps, elbow jabs, punches, kicks or other weaponless force, are well documented and the salient facts surrounding the event noted and reviewed as in any other use of force event.

The agency should critically review, adapt, and assign staff to implement all policies received from Lexipol and ensure each written directive contain the necessary agency policy requirements, particularly in high liability areas such as use of force.

Actual implementation relative to the recommendation:

The agency has consolidated all use of force related policies into one chapter. The agency has a standardized reporting and review process for each incident involving a use of force. The BART Police review process consists of an articulation of the facts as gathered by the supervising official with a detailed finding and reviews through the chain of command to the chief of police. As a matter of policy, Internal Affairs does not conduct an independent review of a use of force incident unless specifically directed by a reviewing authority.

Supervisors receive training from Internal Affairs regarding the proper process and content of a use of force supervisor review report. Additional training is received by supervisors regarding the investigative protocol in conducting a use of force investigation.

An audit of randomly selected use of force reports revealed an agency practice that demonstrated a consistent review of the use of force reports throughout the chain of command.

The following reports were assessed for policy compliance:

BART Police Department Report #1301-4815

BART Police Department Report #1301-0724

BART Police Department Report #1301-1011
BART Police Department Report #1301-2362
BART Police Department Report #1301-3536
BART Police Department Report #1301-4158
BART Police Department Report #1202-3132
BART Police Department Report #1207-4185
BART Police Department Report #1105-3474
BART Police Department Report #1103-0648

A review of the following eight randomly selected reports was conducted to ascertain the disposition of Taser cartridges after their application in a use of force event:

BART Police Department Report #1204-2779
BART Police Department Report #1205-3632
BART Police Department Report #1206-0335
BART Police Department Report #1208-2522
BART Police Department Report #1209-1953
BART Police Department Report #1209-3996
BART Police Department Report #1210-0737
BART Police Department Report #1210-1495
BART Police Department Report #1107-2879
BART Police Department Report #1107-3629

The written directive requires an officer upon discharging a Taser and its probes to receipt the cartridge into evidence. The review revealed that three of the ten reports did not document that the cartridges were placed into evidence. A check with the Evidence Custodian confirmed that the cartridges had been submitted to the Evidence Unit; however, that information had been omitted from the report.

A review of the evidence forms, submitted for each of the three cartridges were not documented in the separate police reports, noted the absence of the cartridge identification number on one (case#1205-3632) of the evidence submittal forms. This would make chain of custody for a particular Taser cartridge disputable, if the application of the Taser resulted in litigation.

Agency members assigned to the Training Unit advised they do receive a copy of each use of force report, and do not conduct a training review of each use of force incident. Training Unit reviews are only conducted if other reviewers discover a training deficiency and then refer the matter to the Training Unit. The agency does not conduct an annual use of force analysis.

IA Pro is the software data-base that all use of force events are reported and tracked, providing immediate records to the Internal Affairs Unit of any incident involving a use of force.

Recommendation to enhance the effectiveness of the implementation:

We recommend the agency review of the use of force process include Internal Affairs conducting an independent examination of each use of force report and make a separate finding as to the reasonableness of the force applied.

We recommend the Training function receive a copy of each use of force incident and the agency should complete an analysis to determine if there are any training needs or policy issues.

We recommend a system of accountability be created to ensure evidence or property (Taser cartridges) submitted to the Evidence Unit be included in the police report.

We recommend a system of accountability be created to ensure that evidence or property submitted to the Evidence Unit includes information on the appropriate identification numbers (such as Taser cartridge).

Measurable results to be achieved or outcomes for effectiveness:

The reporting systems should help identify trends, improve training and employee safety, and provide timely information for the agency addressing use of force issues with the public. Early and accurate reporting helps establish agency credibility.

BART Police Management Audit**Issue: Use of Force Training****Previous recommendation:**

The agency has several separate “use of force” policies and individual written directives for the various weapons authorized by the department. Combine the various policies into a single use force directive detailing the agency’s training requirement for each authorized force mechanism. The agency’s use of deadly force policy training process should ensure that all sworn members receive annual training addressing the legal justification for the use of deadly force, with a provision for tracking and mandating attendance for those that do not attend regularly scheduled training. Remove personnel from any position requiring a firearm when they fail to attend and achieve firearms qualification, until the member satisfies the agency qualification requirements. The agency should develop a written use of force testing instrument and ensure that all covered personnel perform satisfactorily on the examination as a part of the annual use of force training. Further, the agency should modify all policies regarding the application of force and capture the elements of reasonableness detailed by the US Supreme Court in the case of *Graham v. Connor*. The agency makes sound use of remedial training for firearms training.

Establish biennial, in-service use of force refresher training. It need not be as formal as entry-level or recruit training. Accomplish less-lethal use of force retraining through a combination of methods. For example, conduct training during shift briefing sessions, which include reviewing legal updates on use of force issues, or conducting written or skills based tests on use of force and less-lethal weapons during annual firearms qualifications courses. Establish proficiency levels with input from certified weapons instructors or others in the agency that can validate the criteria. Demonstrated proficiency with less-lethal weapons may consist of the same criteria used at entry level, or abbreviate or extend the training, based on the agency’s experience with the weapon or technique in the field. Requiring a written test on the salient points of less-lethal force will further ensure and demonstrate a comprehensive understanding of the agency’s policies.

Unless applied properly, Carotid Control Hold and other similar compliance techniques that rely on cutting off the flow of oxygen to the brain have the potential to cause serious injury or death. Therefore, the agency, when authorizing the use of such techniques must make certain that its personnel properly receive in-service training in the use of these techniques to minimize the possibility of injury. In addition to the initial training, the agency must require biennial refresher training to maintain the skills required for proper application of these tactics (training and retraining).

“Department policies are ineffective unless they are intellectually and practically processed by the field supervisors who communicate them to the police officers and enforce them. Training is paramount to our mission of accountability” (Gruber).

Actual implementation relative to the recommendation:

The agency developed and implemented a single policy with various chapters that describe the training requirements of all weapons and tactics authorized by the BART Police Department. Supervisor training is provided in the documentation of use of force events with an emphasis on the elements contained in *Graham v. Connor*. There is a sound process for reviewing and identifying personnel that are absent from high liability training, particularly firearms qualification and less-lethal weapons training and the agency takes appropriate disciplinary or corrective action as needed.

The agency's use of deadly force policy training process ensures that all sworn members receive annual training addressing the legal justification for the use of deadly force, with a provision for tracking and mandating attendance for those who do not attend regularly scheduled training. Personnel are removed from any position requiring a firearm when they fail to attend and achieve firearms qualification, until the member satisfies the agency qualification requirements. The agency makes sound use of remedial training for firearms training.

Demonstrated proficiency with less-lethal weapons is a policy requirement. However, no written test on the salient points of less-lethal force or deadly force is required by the agency, except for the Taser.

The agency no longer authorizes the Carotid Control Hold.

Recommendation to enhance the effectiveness of the implementation:

We recommend the agency develop and require a written test addressing the legal justification for the use of force for both deadly and less-lethal encounters.

Measurable results to be achieved or outcomes for effectiveness:

Ensuring agency members are proficient with deadly and less-lethal weapons is critical. Sound use of force policies and demonstrated scheduled proficiency testing ensures officer safety, citizen safety, and provides for reduced civil liability.

BART Police Management Audit
Issue: Analysis of Use of Force Reports

Previous recommendation:

The agency should conduct an annual analysis of all use of force events. Few issues outweigh the concern raised in a community when it is perceived that members of a law enforcement agency use inappropriate levels of force. A community rightfully expects that its law enforcement agency will apply weapons and tactics that are only utilized in conformance with sound policies, procedures, and training. An analysis of use of force events will aid in ensuring these community expectations are met. Annually, the analysis should be reviewed with the Training Section and supervisors. A review of incidents of force may reveal patterns or trends that could indicate training needs, equipment upgrades, and/or policy modifications.

Actual implementation relative to the recommendation:

The agency issued a written directive that requires all use of force events to be reported on a specific use of force report form, which ensures consistency and includes functional information that is useful and effective for analysis.

The agency has no policy or practice requiring an analysis of use of force reports. Raw data of the incidents involving use of force events is gathered and distributed annually for review, but an analysis is not completed. The Training Section does not receive any of the raw data for their review unless a training deficiency is identified by some other reviewing authority, as opposed to the Training Section making an independent review of each incident.

Recommendation to enhance the effectiveness of the implementation:

We recommend the agency conduct an annual analysis of all use of force events. An analysis of incidents of police applied force may reveal patterns or trends that could indicate training needs, equipment upgrades, and/or policy modifications.

We recommend the Training Section receive a copy of the analysis to provide them guidance and assist them in identifying any needs that may appropriately be addressed through training.

Measurable results to be achieved or outcomes for effectiveness:

The courts expect agencies to address deficiencies through training. Generally, police departments are responsible for training personnel on critical policies and reviewing critical tasks in a manner that identify any trends or patterns that may be problematic. An analysis of use of

force events is paramount to avoid litigation, identify officer safety issues, and determine if additional technology or training is indicated.

BART Police Management Audit

Issue: Authorization of Restraining Devices (Handcuffing and Leg Restraints)

Previous recommendation:

The agency's restraint directives were unknown to the majority of the members interviewed, supervisors and officers alike. It is necessary for officers to know when and how detainees are to be restrained and when, where, and how particular restraining devices are to be employed, including special and prohibited methods such as hog-tying. Members should be aware that some techniques have been found to contribute to serious physical injury or death, e.g., "positional asphyxia" and should be prohibited. Most members knew the custom of documenting the use of the handcuffs, and checking and noting for tightness and ensuring the handcuffs were double-locked noting those processes in the arrest report. Many had little operational knowledge regarding the use of leg restraints. The agency had a compliance level of 40%, as it related to noting the required policy elements of handcuffing in the arrest report. Further, there is an absence of active supervision as it relates to reporting and documenting specific handcuffing policy elements, indicating a significant training or discipline need by the agency for this high liability area.

Restraining devices also may be harmful to sick, injured, or elderly detainees, depending upon the nature of the sickness or injury. The written directive should be specific in defining circumstances when restraining devices would and would not be necessary and the extent of the officer's discretion in their application. The present policy requires handcuffing in every arrest situation. Consideration should be given to modifying the policy and provide for instances where handcuffing would not be warranted, requiring the arresting officer in those circumstances to document the basis for not handcuffing an arrestee or detainee.

Insofar as members acknowledge the use of handcuffs during investigative detention, the agency's restraint policy addressing that police action should be included. The 9th Circuit Court of Appeals discussed the legal implications of that issue in *Ward v. Darryl Gates* and provides policy guidance.

Actual implementation relative to the recommendation:

The current handcuffing policy states, *"Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety. Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Department. Officers should consider handcuffing any person they reasonably believe warrants*

that degree of restraint. However, officers should not conclude that in order to avoid risk every person should be handcuffed, regardless of the circumstances.

In most situations handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists. In situations where one pair of handcuffs does not appear sufficient to restrain the individual or may cause unreasonable discomfort due to the person's size, officers should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs. Handcuffs should be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility.”

The policy further states, “If an individual is restrained and released without an arrest, the officer shall document the details of the detention and the need for handcuffs or other restraints. If an individual is arrested, the use of restraints other than handcuffs shall be documented in the related report. The officer should include, as appropriate:

- (a) The amount of time the suspect was restrained.*
- (b) How the suspect was transported and the position of the suspect.*
- (c) Observations of the suspect's behavior and any signs of physiological problems.*
- (d) Any known or suspected drug use or other medical problems.”*

In another chapter of the manual (page 207), the report policy requires:

“3. The following items must be addressed in the narrative:

- (a) Use of force*
- (b) Application of handcuffs and leg restraints (officers should note that the restraints were checked for proper fit and double locked)”*

The policy is clear and provides discretion, it also covers other restraining devices, including leg restraints, and is easily located as part of the Use of Force chapter. Interviews with agency personnel reveal that the agency practice is for officers in custody situation involving handcuffs, are to document in the report that the handcuffs were checked for tightness and double-locked.

The following custodial reports were requested and reviewed with the agency's restraint policy and the reporting policy which requires the practice of documenting the checking of the handcuffs for tightness and double-locked:

BART Police Department Report #1301-0027
 BART Police Department Report #1205-3376
 BART Police Department Report #1209-2086
 BART Police Department Report #1101-0159
 BART Police Department Report #1110-3005
 BART Police Department Report #1204-2779
 BART Police Department Report #1205-3632
 BART Police Department Report #1206-0335
 BART Police Department Report #1208-2522
 BART Police Department Report #1209-1953
 BART Police Department Report #1209-3996

BART Police Department Report #1210-0737

BART Police Department Report #1210-1495

BART Police Department Report #1107-2879

BART Police Department Report #1107-3629

The audit reflected that nine of the 15 incident reports documenting a custodial arrest did not note in the report that the officer checked the handcuffs for tightness and double-locking, despite the fact that all the reports had been approved by a supervisor.

Recommendation to enhance the effectiveness of the implementation:

We recommend the policy be modified to require the handcuffing officer to detail why it was not “feasible” to double-lock the handcuffs to prevent tightening. Additionally, the policy should be modified in Chapter 306.4, requiring documentation in each instance that handcuffs were checked for tightness and double-locked. The failure to include the documentation requirement in Policy 306.8, as opposed to Policy 344 may explain the high incidences of non-compliance.

Measurable results to be achieved or outcomes for effectiveness:

Consistent and clear policy related to a high liability task that provides guidance to personnel handling a variety of situations.

Chapter 8

Biased Based Policing

Topical Area: Biased-based Policing

Issue: Lesson Plans

Previous recommendation:

Establish and implement a racial profiling policy that is known and adhered to by all members of the police department. A mere understanding of culture differences is not enough to prevent the practice of racial profiling. There must be specific guidelines in writing and applicable to the organization and communities they serve. The BPD should continue to utilize “Lexipol” guidelines for policy development however, command staff should implement hard timelines to ensure the development and implementation of the policy is completed.

Actual Implementation relative to the recommendation:

The department has developed and implemented a policy on preventing “racial profiling” that provides guidelines on standards to prevent biased-based policing by officers.

Commendation based on the effectiveness of the implementation:

The department implementation is consistent with the original recommendation.

Measurable results to be achieved or outcomes for effectiveness:

The intent of the standard is that the agency has a policy that mandates all law enforcement personnel should focus a person's conduct or other specific information for law enforcement intervention. Reasonable suspicion or probable cause is the standard for all law enforcement intervention in accordance with the fourth amendment to the United States Constitution. Annually the agency should conduct biased-base police prevention training for all law enforcement officers.

Topical Area: Biased-based Policing

Issue: Annual Biased-based Policing Prevention Training

Previous recommendation:

All officers of the BART Police Department should receive training on racial profiling. They should continue to adhere to P.O.S.T. requirements by ensuring all sworn personnel receive racial profiling training. They should also commit to additional related training, remembering P.O.S.T. mandated training is a starting point, not the end state. The training should be inclusive of field contacts, traffic stops, search issues, asset seizure and forfeiture, interview techniques, discrimination and community support. The training must be clear in what constitutes probable cause to stop and detain individuals, so there is no question in the officers mind as to what tactics used are acceptable or not.

Actual Implementation relative to the recommendation:

The department has developed and implemented annual training on preventing “racial profiling”. It should be noted that the training conducted through “Lexipol” has a focus on the legal requirements of law enforcement intervention.

Commendation based on the effectiveness of the implementation:

The department implementation is consistent with the original recommendation.

Measurable results to be achieved or outcomes for effectiveness:

The intent of the standard is that the agency mandates training for all law enforcement personnel that is instructor led training and is documented on an annual basis.

Topical Area: Biased-based Policing
Issue: P.O.S.T. DVD Training

Previous recommendation:

The BART Police Department should stop conducting racial profiling training in DVD format and initiate instructor led training.

Actual Implementation relative to the recommendation:

The department uses has racial profiling training in DVD format on an intermittent basis. The department is using POST on-line training to supplement racial profiling training. The agency has developed and implemented training on preventing “racial profiling” with a focus on the legal requirements of law enforcement intervention annually through “Lexipol”. The vast majority of command officers, sergeants, and field training officers, and newly promoted sergeants have received the newly developed, “Fair and Impartial Policing Training”. Additionally, patrol personnel have received racial profiling training from the Center for Policing Equity.

Commendation based on the effectiveness of the implementation:

The department implementation is consistent with the original recommendation.

Measurable results to be achieved or outcomes for effectiveness:

The intent of the standard is that the agency mandates annual training for all law enforcement personnel that documents their understanding of both the agency policy and legal requirements for law enforcement intervention. The training should also indicate why biased-based policing is illegal.

Topical Area: Biased-based Policing

Issue: In-Service Training to Prevent Biased-based Policing

Previous recommendation:

The BART Police Department should develop a written directive governing shift briefing training to keep officers up-to-date on current policies and law enforcement strategies to prevent racial profiling. Annually, the agency should include racial profiling related training that should include field contacts, traffic stops, search issues, asset seizure and forfeiture, interview techniques cultural diversity, discrimination, and community support. They should also initiate additional shift briefing training on subject matters relating to cultural diversity, interview techniques, proper filed contacts, asset seizure, and forfeiture.

Actual Implementation relative to the recommendation:

The department has covered the intent of this recommendation based on the training received through Fair and Impartial, Consortium for Police Equity; and POST-certified Prevention of Racial Profiling training. This training also has a focus on the legal requirements of law enforcement intervention to prevent biased-based policing.

Commendation based on the effectiveness of the implementation:

The department implementation is consistent with the original recommendation.

Measurable results to be achieved or outcomes for effectiveness:

The intent of the standard is that the agency uses multiple training mediums to with personnel regarding the prevention of biased-based policing.

Topical Area: Biased-based Policing

Issue: Early Intervention System to Prevent Biased-based Policing

Previous recommendation:

The BART Police Department should develop and implement an Early Intervention (EI) management system to obtain information of potential patterns of at-risk conduct involving all sworn officers. The system will allow supervisors to monitor and determine information relating to the actions of individual officers, supervisors, and specific units or divisions of the department such as:

- High number of citizen complaints
- High number of use of force incidents
- High number of resisting an officer arrest
- Large number of arrests that are not filed with the appropriate District Attorney as a result of improper detention and/or searches

Actual Implementation relative to the recommendation:

The department has developed an Early Intervention (EI) management system to obtain information of potential patterns of at-risk sworn officers including activities that might lead to biased-based policing. To implement the EI management system, “meet and confer” with police unions is required contractually. The department is currently working with the unions to implement the EI system.

Commendation/ Recommendation based on the effectiveness of the implementation:

The department’s progress on the Early Intervention Management system is consistent with the original recommendation. We recommend the department continues to pursue an agreement with the unions to implement the Early Intervention management system.

Measurable results to be achieved or outcomes for effectiveness:

The intent of the standard is to develop and implement a computerized Early Intervention management system to obtain information of potential patterns of sworn officers likely to commit acts of biased-based policing.

Topical Area: Biased-based Policing

Issue: Data Collection to Prevent Biased-based Policing

Previous recommendation:

The BART Police Department should expand their current data collection method to record the following types of contacts:

- Traffic Stops
- Pedestrian stops
- Consensual Stops
- Non Consensual Stops

Data from that contact should include the following:

- Race, Age, & Gender
- Date, Time and Location
- If there was a search, whether it was a consent search or a probable cause
- Whether a custody arrest took place
- If traffic related, was a citation issued

The initiation of a more detailed data collection method would allow the BART Police Department to more accurately assess the use of available resources as well as respond to the concerns of bias-based policing in a more intelligence-led method. The statistical data gathered would also provide BART Police Department with more comparative data on officer contacts against ethnicity and gender of offenders. This information allows for an administrative review and is the first step toward effective management.

Actual Implementation relative to the recommendation:

The department is currently working with Center for Policing Equity (at UCLA) to develop a comprehensive field interview form and related data collection set to analyze whether biased-based policing might be occurring based on the field contacts of officers.

Recommendation based on the effectiveness of the implementation:

We recommend the department should continue to develop the data collection methodology to analyze whether biased-based policing might be occurring based on the field contacts of officers.

Measurable results to be achieved or outcomes for effectiveness:

The intent of the standard is the annual analysis of a detailed data collection method that would allow the BART Police Department to more accurately assess the use of available resources as well as respond to the concerns of bias-based policing in a more intelligence-led method. The statistical data gathered would also provide BART Police Department with more comparative data on officer contacts against ethnicity and gender of offenders. This information allows for an administrative review and is the first step toward effective management.

Topical Area: Biased-based Policing

Issue: Community Outreach to Prevent Biased-based Policing

Previous recommendation:

The Chief of Police should develop a directive regarding the development of community outreach programs. Programs the Chief of Police should consider:

- **Community Liaison Group** -- A group of 10-15 community members that meet monthly with the Chief of Police and command staff to offer advice on policy development and implementation.
- **Focus Group** -- A group of citizens who work together to discuss specific community concerns such as barriers to the citizen complaint process and police accountability.
- **Community Forum** -- A meeting that is open to the public where citizens can voice and hear concerns relating to matters of public safety. These can be held on a quarterly basis and should involve a wide-range of community stakeholders, such as faith-based organizations, concerned citizens, the District Attorney's Office and BART Police Department Command Staff.
- **Task Force** -- A group of citizens selected to develop action plans that can strengthen the relationship between the public and the police.
- **Community Policing Programs** -- On-going programs available to that public that promote a sense of ownership and mutual accountability.

Actual Implementation relative to the recommendation:

The department has done extensive community outreach with individuals and organizations to ensure the prevention of biased-based policing since the original management audit. It is important to report that their involvement with the Oscar Grant foundation has contributed to the spirit of diversity in developing community relationships.

Commendation/ Recommendation based on the effectiveness of the implementation:

We recommend the department should continue to develop community outreach programs. The use of focus groups and community forums in particular might be enhanced to measure the input and feedback of the BART policing district.

Measurable results to be achieved or outcomes for effectiveness:

The intent of the standard is to identify multiple ways to measure and document input and feedback the community has regarding the performance of the BART Police Department. This information should be documented in an annual report and analyzed to determine what modifications might be made regarding BART police policies, procedures, practices, and tactics.

Chapter 9

Internal Affairs

Topical Area: Internal Affairs

Issue: Public Trust - Citizen Complaints

Previous recommendation:

BART Police reported 13 internal affairs cases were received and investigated for 2008. The department's authorized number of sworn personnel was 206. Considering the total population on both sides of the San Francisco Bay served by BART, the number of sworn police officers and the number of calls for service, 13 is a questionably small number of complaints. Although there is no empirical data available, information obtained from members of the department through interviews suggests that complaints against police officers are discouraged and not documented. Strict guidelines should be developed and all personnel should be held accountable for receiving any complaints against police officers, documenting the complaint, and notifying a supervisor.

Actual implementation relative to the recommendation:

The agency developed a comprehensive Internal Affairs policy resulting in all complaints being received, documented, reviewed, and tracked by internal affairs. Executive oversight of the internal affairs function within BART Police now rests with a deputy chief. In addition, the Office of the Independent Police Auditor has unfettered access to the data base of all logged complaints, including those investigated and those in the process of being investigated. That information is also reported monthly to the Citizen Review Board. Under the present system, certain categories of civil rights complaints are not only investigated by BART Police, but those complaints result in the Independent Auditor conducting a separate, parallel investigation. The Internal Affairs Unit publishes an annual internal affairs report which details the statistical data of the Unit's complaint and investigative activity, the report is linked on the BART website. The Office of the Independent Auditor also generates a public report of the BART Police Department's data. Complainants are notified by mail to acknowledge receipt of their complaint, and when the investigation is completed; notification of the findings also occurs in writing.

The commitment to build public confidence is reinforced by the Oath of Honor that was adopted by the agency and all sworn personnel are required to sign it in the presence of a notary public. The agency has three categories of complaints: citizen complaints, administrative investigations, and supervisory referrals.

The BART Police Department documented the following complaints since 2010:

	<i>Citizen Complaints</i>	<i>Administrative Investigations</i>	<i>Supervisory Referral</i>	<i>Total</i>
2010	41	15	25	81
2011	48	7	27	81
2012	63	16	40	120

Commendation based on the effectiveness of the implementation:

The agency’s policy and practices demonstrate compliance with all aspects of the recommendations. The accountability of agency personnel is established through the engagement of police leadership as reflected in the Internal Affairs policy.

Recommendation to enhance the effectiveness of the implementation:

We recommend the agency consider conducting a monthly review of use of force compared to arrests for a ratio, i.e. 100 arrests result in 3 use of force, or one use of force for every 33 arrests. The same should be done as it relates to calls for service or citizen contacts, 1000 calls or citizen contacts resulting in three use of force or one use of force for every 333 enforcement or citizen contacts. This will enable the agency to further demonstrate to the public the number of instances that police use of force is limited when compared statistically to the thousands of citizen contacts and enforcement actions.

Measurable results to be achieved or outcomes for effectiveness:

The results of the implementation of the NOBLE recommendations are demonstrated, in part, by the number of complaints documented by the agency. In 2008, 13 internal investigations were documented by the Internal Affairs Unit, last year 120 complaints were recorded. An effective measurement of any internal affairs unit is whether the public has confidence in the process and utilizes it, and whether the agency investigates each complaint it receives. The internal affairs records measure those outcomes effectively. Internal Affairs also generates and publishes a public annual report. The annual report offers transparency to citizens, detailing the activity of the Unit and providing information to the public regarding citizen complaints. Use of force data is also a part of that annual disclosure.

Topical Area: Internal Affairs

Issue: Trust and Accountability

Previous recommendation:

The executive leadership of the police department must be held to a higher standard. The Office of Police Chief should have strict accountability to the General Manager and the communities served by BART through regular interaction with community leaders, civic groups, business associations, faith based organizations and other viable groups.

According to policy, BART Police is required to accept and investigate all citizens' complaints. Some officers stated certain cases were investigated and others were disregarded. Some indicated that complaints in certain instances were discouraged.

Performance evaluations are intended to assess the behavior and activities of employees. Supervisors are responsible for observing employees and recording their performance during a given rating cycle. Many officers were interviewed and none acknowledged receiving performance evaluations in recent memory. Two supervisors stated they have not been evaluated for more than 4 years and have not evaluated their subordinates for extended periods. BART Police should contact the Human Resources Department and establish a viable employee performance evaluation system that supervisors will be required to use. BART Police should conduct employee evaluations at least once annually.

Supervisors should use performance evaluations to encourage positive behavior and to correct unacceptable behavior by ensuring that appropriate actions are taken.

Actual implementation relative to the recommendation:

The executive leadership of the Police department is held to a higher standard. The Office of the Police Chief has developed strict accountability to the General Manager and the communities served by BART through regular interaction with community leaders, civic groups, business associations, faith based organizations and other viable groups, which are all detailed on a "Matrix" created by the agency. The "Matrix" comports to all aspects of the recommendations and ensures sufficient "checks and balances" through the tracking system to preclude a failure of process.

Pursuant to written policy, all citizen complaints are accepted by the agency, whether investigated by Internal Affairs or referred to a supervisor for action. The citizen complaint is documented, tracked, and dispositions made, through the Internal Affairs Unit. If the complaint

is received during normal business hours the complaint is routed through Internal Affairs and assigned a case number, after hours the on-duty supervisor obtains the information and forwards it to Internal Affairs. An internal affairs investigation is opened on each complaint. Pursuant to a request made by a complainant, a determination is made in consultation with the assigned deputy chief as to whether or not to refer it to supervisor for investigation, or have the Internal Affairs Unit conduct the investigation. All agency personnel have been trained on the complaint process.

A written directive defines the agency's performance evaluation system and includes procedures for use of forms; rater responsibilities; and rater training. A document review of employee evaluations found them consistent with contemporary law enforcement standards, and evaluations routinely documented competent and superior performance, as well as identifying performance that needed improvement. Agency personnel are evaluated every six months. Agency supervisors receive specific training on their evaluation process during the new in-house supervisor training course, as well as general performance evaluation training at an 80-hour POST supervisor course.

Recommendation to enhance the effectiveness of the implementation:

We recommend the agency establish in policy specific guidance related to thresholds for initiating an internal investigation through Internal Affairs and those that are routinely submitted to supervisors for investigation. Presently, each case is reviewed by the Internal Affairs Unit and a deputy chief, and then a decision is made as to whether the internal investigation will be conducted by a supervisor or the Internal Affairs Unit. Policy should dictate for example, any complaint that rises to the level of an alleged civil rights violation is to be investigated by the Internal Affairs Unit, whereas those complaints involving rudeness or unsatisfactory performance may be referred to supervisors for investigation.

Measurable results to be achieved or outcomes for effectiveness:

The tracking system accurately details the number of complaints the agency receives, including anonymous complaints and ensures all citizen complaints are processed and concluded in a manner consistent with agency standards. The agency can also assess the performance of agency members based on the nature of the citizen complaints and the subsequent findings.

BART Police Management Audit

Topical Area: Internal Affairs

Issue: Community Access to the Complaint Process

Previous recommendation:

1. Internal Affairs has a 24-hour toll-free telephone number; continue to market this number.
2. The BART Police mailing address, internet address, and toll-free telephone number should be visible and available at all train stations, police facilities, public libraries and other locations around BART properties.
3. Forms for citizens to compliment police officers for positive performance of duty should be developed and made available to the public.
4. Other informational materials and posters describing the complaint process should be developed and made available in English and Spanish.
5. On duty officers should be required to carry complaint forms in their vehicles and make the forms available to citizens who wish to file complaints immediately.
6. BART Police should develop a community outreach program to inform the public about the BART Police Department and internal affairs functions and procedures, including the methods for reporting citizen complaints and complimenting officers.
7. BART Police should develop a procedure to monitor telephone lines, including regular reviews of recorded telephone lines to ensure that callers are being treated with courtesy and respect, all necessary information about each complaint is being obtained, and that complainants are not being discouraged from making complaints against police officers.
8. An effective tool for supervisors to monitor officers' performance is to conduct audit trails. This can be accomplished through random sample mailings of questionnaires and telephonic follow-ups to persons who requested assistance from BART Police officers.

Actual implementation relative to the recommendation:

Internal Affairs has a 24-hour toll-free telephone number; and continues to publish it at a variety of locations. The BART Police mailing address, internet address, and toll-free telephone number should be visible and available at all train stations, police facilities, and other locations around BART properties.

The agency has developed Citizen Complaint and Commendation forms for citizens to compliment police officers for positive performance of duty and these are made available to the public. On-duty officers are required to carry complaint/compliment forms in their vehicles and make the forms immediately available to any citizens who want to file a complaint.

Other informational materials describing the complaint process are available in English, Spanish, Chinese, Korean, and Vietnamese.

The BART Police are currently developing a procedure as part of a staff inspections process to review the recorded telephone calls to ensure that callers are being treated with courtesy and respect, ensuring all necessary information about complaints is being obtained, and that complainants are not being discouraged from making complaints against police personnel. Staff will also monitor officers' performance by conducting audit trails. This will be accomplished through the random selection of incidents and telephonic follow-up with persons who requested assistance from BART Police officers. The audit will also require review of the report and evidence; it will also require a comparison of the officers' actions to the agency policy to determine compliance.

Commendation based on the effectiveness of the implementation:

The agency's policy and practice has improved significantly relevant to the citizen complaint and compliment process. The internal affairs investigation procedure is known and understood by agency members and the process facilitates the reporting of alleged misconduct.

Recommendation to enhance the effectiveness of the implementation:

We recommend the agency institute quality control audit processes as a part of their staff inspection protocol as soon as possible, to further aid in assuring quality control as it relates to officer performance and citizen interaction.

Measurable results to be achieved or outcomes for effectiveness:

The significant increase in the documented citizen complaints verifies that the internal affairs outreach program and complaint in-take procedure is operationally sound and consistent with accepted law enforcement standards.

BART Police Management Audit

Topical Area: Internal Affairs

Issue: General Order/Operational Directive (Policy and Procedures)

Previous recommendation:

1. Several jurisdictions in the State of California have chosen to employ a private company to update and rewrite their police policy and procedures. BART has chosen this process as well. The agency should continue this effort, understanding that the success of this project will depend largely upon the knowledge and dedication of BART personnel assigned to the internal committee which provides input and coordinates the updates.
2. Upon completion of the development of the policy and procedures manual, BART should maintain a sufficient supply of policy manuals to distribute to each employee whose duties are affected by the policy and procedures document. Each employee who receives a copy should be required to sign a statement acknowledging receipt of the document and the time and date received. The statement should also include language which states, "I understand that I am responsible for reading and understanding the contents of this manual within 30 days after I receive it."
3. In-service classes should be conducted by supervisors to review and reinforce the contents of the policy manual.
4. BART should consider immediate enrollment in the Commission on Accreditation for Law Enforcement Agencies (CALEA) accreditation process to ensure that the department operates in conformance with national law enforcement standards and restore the public trust in the agency.

Actual implementation relative to the recommendation:

The agency has continued its relationship with Lexipol and has made significant and substantial progress in developing a contemporary agency policy manual. Personnel assigned to the policy function provide appropriate input and guidance, and coordinate policy updates and modifications.

BART's policy manual is distributed to each employee through the internet; additionally each direct report location has a hard copy available. Employees receive an electronic copy and have to log in acknowledging receipt of the document and the time and date received is recorded. A monthly policy training order is generated by the Training Unit and provides guidelines and discussion questions with the answers to all supervisors. A roster is submitted to the Training Unit verifying that all officers received the training. The BART Police Department chose not to enroll with the Commission on Accreditation for Law Enforcement Agencies (CALEA) and pursue accreditation citing a lack of resources.

Commendation based on the effectiveness of the implementation:

The agency has generated numerous policies. Generally, the policies are clear, concise, and meet or exceed accepted law enforcement standards.

Recommendation to enhance the effectiveness of the implementation:

We recommend that CALEA accreditation be pursued by the agency. Many of the policies meet the CALEA standards and many of the mechanisms are in place for the agency to achieve this worthy goal, without a significant addition of personnel. Further, the Bay Area has several agencies that are CALEA accredited and would be an excellent resource for the BART Police Department.

Measurable results to be achieved or outcomes for effectiveness:

The agency's policies are current and reflect accepted law enforcement standards. Discussion with key personnel confirms the agency's expectations are clear and policy is unambiguous.

BART Police Management Audit

Topical Area: Internal Affairs

Issue: Investigative Procedures

Previous recommendation:

1. Citizens must be permitted to initiate complaints or provide feedback on an officer's performance of duty. The information, including anonymous complaints, should be received in person, by telephone, mail, email, fax, or any other medium. Each complaint should be thoroughly investigated. The practice of not giving some complaints a formal investigation and classifying them as "inquiries" has become formalized within the BART Police Department. This practice should be discontinued. A policy mandate should require that these complaints are documented and investigated.
2. Confidentiality is crucial to the success of the internal affairs function. All allegations of misconduct should be documented and the files should be maintained in a secure area. The BART Internal Affairs office is located on the hallway near the police roll call room. Officers performing routine administrative tasks in the station are in a position to observe persons who enter the office. The office that houses the Internal Affairs Unit is also occupied by two other persons who perform duties not related to internal affairs and three field training officer's work stations. The confidentiality of the office is, therefore, breached in many ways. The internal affairs function should be relocated to a site away from police headquarters to allow citizens who want to remain anonymous the ability to come to the office and discuss their concerns without fear of retaliation. Officers who enter the Internal Affairs office should be able to enter without being concerned about being ostracized by other officers.
3. Independent interviews with at least three sources indicate BART Police is in compliance with the records retention schedule required by California law for internal affairs investigations.
4. BART Police developed a brochure containing the procedures for citizens to file complaints against police officers. The brochure is posted on the BART Police website and contains a 1-877 toll free telephone number. However, the form is not easily accessible. To find it, a person would have to navigate three computer screens by going to the BART Police home page, then to "frequently asked questions", and a small "download" icon contained in a sentence. During interviews, several police supervisors and officers were asked about the brochure. Only one person acknowledged ever seeing the brochure. The brochures should be maintained at all police facilities, train stations, at public libraries, in all patrol cars, and other places immediately accessible to the public. The procedures and 1-877 toll free number should be publicized in area newspapers, radio, television and other appropriate media.
5. BART Police compiles limited statistical data regarding the internal affairs function. Elaborate tracking systems should be designed to track investigations by category, date, disposition, officer's name, and complainant's name. Appropriate summaries of statistical data should be kept and made available to the public using local media, the website and upon request.

by any citizen. During one interview, an officer was able to relate the number of internal affairs cases investigated in 2008. When asked how he obtained the information he stated he filed a request under the provisions of the Freedom of Information Act. He further stated he did not attempt to obtain the information directly from the department by simply asking.

6. BART Police policy provides that citizen's complaints may be investigated by Internal Affairs or a supervisor in the chain of command. However, it is not clear as to which cases should be assigned to whom. An effective internal affairs policy should make that distinction.

7. The current practice is to notify the executive leadership of the department on some internal affairs investigations. It is not clear as to which cases are sent to that level and when. The policy should be clear by listing procedures to notify the executive leadership of the department of complaints against officers or the department.

8. A 30-day period is set for the completion of internal affairs investigations. However, if the case is not completed during the required time, the investigator must notify the complainant and may continue the investigation. The complainant should receive verification, in writing, that his/her complaint has been received for investigation and should be provided periodic status updates. The complainant also should be notified, in writing, of the results upon conclusion of the investigation. California law does not permit publicizing specific details regarding disciplinary actions against an employee.

9. Police officers are entitled to certain rights and responsibilities when they become the subject of an internal affairs investigation. In addition to observing these rights, the Internal Affairs Office should issue the officer a written notice that he/she is the subject of an investigation. If notifying the officer would likely jeopardize the investigation, the investigator is not obligated to make the notification.

10. A specific policy should be developed listing the procedures or prohibition for obtaining medical or laboratory examinations, photographs, participation in a line up, financial disclosure statements and polygraph examinations.

11. At the conclusion of internal affairs investigations, BART uses one of the following dispositions to close the investigation:

- Exonerated - Action complained about did occur but was lawful, justified and proper.
- Not Sustained - There is insufficient information/evidence to prove or disprove the allegation.
- Sustained - The allegation is supported by sufficient information/evidence.
- Unfounded - The allegation is false; alleged act did not occur; employee or BART Police Department was not involved.
- No Finding - The complaining party or witness fails to cooperate after the investigation has commenced; the complainant withdraws the complaint; or the complainant is no longer available.

1. BART Police Department uses a finding of “Policy Complaint,” if the complaint pertains to an established policy which was properly handled or performed by an employee. “Policy Complaint” should be eliminated, as the definition is essentially the same as “Exonerated”.
2. “No Finding” should be eliminated as a disposition, as it does not comport with national standards. Moreover, it creates opportunities for the improper dismissal of investigations.
3. When the complainant or victim in an alleged misconduct investigation withdraws the complaint or becomes unavailable, for whatever reason, to give a statement or provide additional information regarding the investigation, the investigator should not be permitted to close the case without further investigation. The investigation should continue to determine whether or not the allegation can be proved or disproved.
4. When the complaint is exonerated or unfounded, and the current policy or practice is not completely effective, a recommendation of policy and training should be made to the Personnel and Training Unit.

Actual implementation relative to the recommendation:

Citizens are permitted to initiate complaints or provide feedback on an officer’s performance of duty. The citizen complaint information, including anonymous complaints, can be received in person, by telephone, mail, email, fax, or any other medium. Each complaint is thoroughly investigated and logged and tracked by Internal Affairs. The practice of not giving some complaints a formal investigation tracking number and classifying them as “inquiries” has been eliminated. Policy mandates that all complaints are documented and investigated. The current practice allows citizens to have input on the type and nature of the investigation that will proceed, as long as the complaint does not trigger an issue that requires an internal investigation as a matter of policy.

The internal affairs function was relocated to a site away from police headquarters to allow citizens who wish to remain anonymous to come to the office and discuss their concerns without fear of retaliation. However, the lease for that property was not renewed and Internal Affairs was moved to BART Administrative Headquarters but there were confidentiality issues at that venue and eventually the Internal Affairs Unit was returned to its original location. Steps have been taken to heighten confidentiality for citizens and officers alike.

The citizen complaint and officer commendation brochures are now at all BART station agent booths, direct report facilities, patrol cars and online. The brochure is posted on the BART Police website and contains a 1-877 toll free telephone number. There are two locations on the website where the complaint brochure can be located; plans are to add an additional access point for the brochure on the “Citizen Review Board” website. During interviews, several police supervisors and officers were asked about the brochure. Only one person acknowledged ever seeing the brochure. The brochures are located at or in all police facilities, train stations, and patrol cars.

BART Police compiles comprehensive categories of statistical data regarding the internal affairs function. They have developed an elaborate tracking system designed to track investigations by category, type, date, time, and zone-location, day of week, ethnicity and gender of complainant, disposition, officer's name, and complainant's name. Appropriate summaries of statistical data are kept and made available to the public using local media, the website and upon request by any citizen. During interviews, the Internal Affairs Unit was able to relate the number of internal affairs cases investigated for the past several years, with significant detail.

BART Police policy provides that citizen's complaints may be investigated by Internal Affairs or a supervisor in the chain of command. The Internal Affairs Unit assesses each case in consultation with a deputy chief and assigns the complaints for investigation based on that review.

The present agency practice is to notify the assigned deputy chief of each complaint and a decision regarding the nature and type of internal investigation to be initiated is determined, using policy as a guide. The deputy chief meetings are scheduled weekly, monthly internal affairs meetings occur with the chief of police.

Agency policy provides for a one year period for the completion of internal affairs investigations. Complainants receive verification, in writing, that their complaint has been received and are notified by mail when the investigation is completed, there are no periodic updates regarding the status of the investigation to the complainant. The complainant is notified, in writing, of the results upon conclusion of the investigation.

The policy details certain rights and responsibilities of an employee when they become the subject of an internal affairs investigation and these rights are completed in a written notification. There is permissible deviation from this policy if notification of the officer jeopardizes the investigation.

A written policy lists the procedures or prohibition for obtaining medical or laboratory examinations for blood, urine, and breath, and financial disclosure statements.

At the conclusion of internal affairs investigations, BART uses accepted internal affairs investigation dispositions to close the investigation. The agency practice is to continue the investigation or refer for a supervisor referral and attempt to make a finding regardless if the complaint is withdrawn. If a training issue is determined by Internal Affairs, that matter is submitted to the Personnel and Training Unit for review and action.

The Internal Affairs Unit's written directive and function has undergone significant changes. Reports are detailed and evidence documented in the investigation supports the findings. Agency data related to those investigations are tracked and published.

Recommendation to enhance the effectiveness of the implementation:

We recommend the agency practice of continuing an internal investigation or referring it for a supervisor referral and attempting to determine a finding, regardless if the complaint is withdrawn, should be included in the Internal Affairs Policy.

We recommend that the Internal Affairs policy be more fully developed so that it is clear in the written directive which complaints are assigned for an internal investigation and which complaints are submitted as a supervisor referral. The present agency practice is to notify the assigned deputy chief of each complaint and a decision regarding the nature and type of internal investigation to be initiated is determined at that time.

We recommend that a 30-day period for completing an internal investigation be the goal, with extensions permitted and granted by the chief of police in those exceptional circumstances. Agency policy currently provides for a one year period for the completion of internal affairs investigation. Though this length of time is permissible by state law, it is contrary to "best" law enforcement practice.

Along with the agency's current practice of citizen complainants receiving verification, in writing, that their complaint has been received for investigation, we recommend the agency should also provide periodic status updates during the course of the investigation, so the complainant is aware of the case status.

We recommend the Internal Affairs procedures and the 1-877 toll free number is publicized in signage in the BART trains and buses.

Measurable results to be achieved or outcomes for effectiveness:

BART Police Internal Affairs Unit can demonstrate through their investigations and findings that citizen complaints are handled in a serious and objective manner. Data is collected, reviewed, and published monthly and then shared with numerous agency partners. The executive leadership of the department assumes responsibility for ensuring policy compliance.

BART Police Management Audit**Topical Area: Internal Affairs****Issue: Early Warning and Intervention Applicable to Internal Affairs****Previous recommendation:**

BART Police Department should develop and implement a computerized early intervention system. Early intervention is an effective strategy for preventing mitigating or solving potential employee problems. The concept is for management to identify, manage, or resolve employee problems in their early stages.

1. Internal affairs case management software is available and should be employed to categorize investigations, officer behavior, discipline, developing trends and many others. In addition to serving as a repository for statistical data, periodic analysis can provide indicators that written policies may be deficient, deviant behavior may be prevalent, the number and kinds of disciplinary actions taken against an individual officer may be inordinate, or officers on the same shift or in the same unit may have developed a subculture contrary to the values of the department.
2. The purpose of an early warning and intervention system is to track indicators that will identify patterns of officer conduct that fall outside of the norm. The indicators may show positive performance by an officer or it may show unsatisfactory behavior.
3. This program will assist BART by identifying problem employees, identifying training needs, indicating the type of intervention required, and ultimately reducing misconduct.
4. BART would benefit by employing an early warning and intervention system which is a data-based police management tool designed to identify police officers who exhibit problem behavior, as indicated by high rates of citizen complaints, use of force incidents, and other evidence.
5. An essential part of this system is the maintenance of complete and accurate training records including the name of the course attended by officers, the beginning and completion dates, and the location where each member was trained.
6. The early warning and intervention system should also assist in identifying members of the department who are performing at an exemplary level but have gone unnoticed. Through documentation of citizens' commendations and departmental citation, these members can be observed and considered for awards, monetary incentives or promotion for sustained superior performance.
7. A critical component of early warning and intervention systems is to identify police officers who may be having problems on the job or personal problems and make appropriate counseling or training available to them.
8. Supervisors should rely on timely and accurate data to maintain a proper perspective on the talents available within the BART Police Department. A mandate for regular review of information on individuals by supervisors is necessary for accountability and the identification of members or units that require intervention to prevent misconduct.

9. These systems are also used to identify and correct inappropriate behavior through individualized strategies that may include additional training, re-assignment to another division or shift, or some other action to ensure that the officer's actions do not become a liability for the department.

10. Early warning and intervention systems also monitor officers who have been the subject of interventions to determine whether the intervention was successful.

Actual implementation relative to the recommendation:

An agency policy is in place and a computer program that is data driven with numerous elements and established thresholds is online. However, the Early Warning System has been suspended. The program generated alerts based on accepted thresholds and a state law interpretation classified the "alerts" as an "adverse comment" requiring employee notification. The BART Police Department is in the "meet and confer" process with the employee's labor union bargaining team regarding the issue and the early system is suspended pending the outcome of those meetings.

Recommendation to enhance the effectiveness of the implementation:

We recommend the agency expedite the "meet and confer" process so the Early Warning System can be fully re-implemented.

Measurable results to be achieved or outcomes for effectiveness:

The Early Warning System (EWS) identified potential problem behaviors, resulting in "alerts." A review of those alerts found them consistent with contemporary law enforcement standards. Once the issues regarding the alerts are addressed with the union, the EWS will identify potential problematic behavior in BART employees and allow early intervention by the agency.

BART Police Management Audit

Topical Area: Internal Affairs

Issue: Training

Previous recommendation:

1. Employees receive basic internal affairs training and attend officer-involved shooting training when they are promoted to rank of sergeant or are assigned as a detective. Additional training for anyone who conducts administrative investigations should include the following: misconduct investigation techniques; interviewing skills; observation skills; report writing; criminal law and procedure; court procedures; rules of evidence; and disciplinary and administrative procedures.
2. To reduce violations of administrative policies and internal affairs investigations, BART Police should train all recruits in professionalism communications, customer service, cultural diversity; integrity and ethics; civilian complaint procedures; and to cooperate in administrative investigations. Mandatory in-service training on these topics should be conducted annually.
3. The Internal Affairs Office should also provide training on internal affairs to recruits at the police academy and to others at in-service training. The Internal Affairs Office should also establish a system to share generic information regarding officer misconduct to the Training Coordinator to assist in evaluating written policies and the effectiveness of training.
4. All supervisors should receive mandatory leadership training that will address effective supervisory techniques to detect misconduct and problem employees.
5. BART Police should track all training information, including course title, dates of attendance, and location. All training records should be up-to-date at all times and maintained electronically.
6. Training is the foundation for sound police practices and should be evaluated and tracked in the field. Community policing should be a high priority training program for BART Police. Officers should receive the highest caliber of community policing training from outside experts.
7. Field supervisors should spend most of their time in the field responding to calls, assisting officers, and providing training on-scene. They should meet with members of the various communities, along with patrol officers, at least once each quarter.
8. Training officers should be among the best trained officers in the department. Additional training should be identified and compared with national standards.

Actual implementation relative to the recommendation:

Apparently some employees receive basic internal affairs training; others attend internal affairs and officer-involved shooting training when they are promoted to rank of sergeant. Specialized training is provided to anyone assigned to conduct administrative investigations.

To reduce violations of administrative policies and internal affairs investigations, BART Police do train all recruits in professionalism communications, customer service, cultural diversity;

integrity and ethics; civilian complaint procedures; and to cooperate in administrative investigations. Mandatory in-service training on these topics is done annually on a rotating basis.

The police academy training personnel also provide internal affairs training to recruits at the police academy; it is also provided to others at in-service training. The Internal Affairs Office does share information regarding officer misconduct with the Training Unit to assist in evaluating written policies and the effectiveness of training from time to time when a training issue is identified by Internal Affairs. All supervisors receive mandatory leadership training addressing effective supervisory techniques to detect misconduct and problem employees.

All supervisors receive mandatory leadership training addressing effective supervisory techniques to detect misconduct and problem employees.

Community policing is alluded to in other training programs for BART officers. The agency did conduct Community Oriented Policy training for all agency members. The FTO program also has a significant Community Oriented Policy component.

Field supervisors have the responsibility to conduct training as they identify deficits in performance. From time to time the Training Unit receives training requests based on supervisor referrals, after a use of force investigation and review.

Training officers are selected based on a comprehensive process that is detailed in policy. The agency's selection process that commences with Memorandums of Interest which outlines the requirements, a supervisor recommendation. The agency then identifies subject matter experts via an identified testing process. Testing could include a panel review, an oral assessment, and/or a teaching demonstration. An eligibility list is then established and a selection is ultimately made by the police chief based on selected staff recommendations and candidate performance information.

Employees receive basic internal affairs investigations training and attend officer-involved shooting investigations training when they are promoted to the rank of sergeant. New hires recently began receiving Internal Affairs training from the agency Internal Affairs Unit. The Internal Affairs investigators attend internal affairs investigations interview and interrogation, Public Safety Officers Procedural Bill of Rights Act, and Pitches Motion training.

The BART Police Department trains all recruits in professionalism communications, customer service, cultural diversity; integrity and ethics; civilian complaint procedures; and to cooperate in administrative investigations. Mandatory in-service training on these topics is conducted on a rotating basis.

Recommendation to enhance the effectiveness of the implementation:

We recommend the agency establish a dedicated contemporary training facility that would increase the effectiveness of the training experience and enhance professionalism.

Measurable results to be achieved or outcomes for effectiveness:

Training is fundamental for policy compliance and to ensure a consistent and professional service delivery system. Contemporary changes in case law, evolving technology, enhancements in accepted police practices, change in personnel and policy, are all areas that a Training function in an agency is responsible for. The liability that attaches to an agency's action involving a critical task will be scrutinized, in part, based on the agency's training history and records.

BART Police Management Audit

Topical Area: Discipline

Issue: Disciplinary Procedures

Previous recommendation:

BART Police adopt a traditional discipline approach which supports the concept of progressive discipline and contain the required elements of basic law enforcement disciplinary procedures. The policy is linked to Employee Relations Guidelines #21 and the Labor Agreement. Progressive discipline should be used except when exceptions based on the seriousness of the offense justify it.

The agency should develop a written directive which establishes:

- a. procedures and criteria for using training as a function of discipline;
- b. procedures and criteria for using counseling as a function of discipline; and
- c. procedures and criteria for taking punitive actions in the interest of discipline.

Actual implementation relative to the recommendation:

BART Police Department has a discipline policy which supports the concept of progressive discipline and contains the required elements of basic law enforcement disciplinary procedures. The policy is linked to Employee Relations Guidelines #21 and the Labor Agreement. Progressive discipline is used except when exceptions, based on the seriousness of the offense, justify otherwise. The agency's written directive establishes procedures and criteria for using training as a function of discipline; procedures and criteria for using counseling as a function of discipline; and, procedures and criteria for taking punitive actions in the interest of discipline.

Commendation based on the effectiveness of the implementation:

The agency has generated policies and processes consistent with the union contract and established practices. Generally, the policies are clear, concise, and meet accepted law enforcement standards.

Measurable results to be achieved or outcomes for effectiveness:

The elements of the disciplinary system should include training, rewarding, counseling, and punitive actions in the interest of discipline. Effective discipline is a positive process when its perceived purpose is to train or develop by instruction. Among the programs having an impact on discipline in a law enforcement agency are selection, training, direction, supervision, and accountability. These elements are interdependent, and a weakness in any one is damaging to effective discipline.

BART Police Management Audit
Topical Area: Inspectional Services

Issue: According to information obtained during interviews and from a review of department documents, BART Police does not have a unit or person dedicated to staff inspections. The function appears to be non-existent in the department.

Previous recommendation:

Develop a written directive that establishes the staff inspection function. Limited line inspections are occurring. However, all BART supervisors should routinely inspect uniforms, equipment, and facilities and initiate the appropriate actions for proper maintenance, upkeep, repairs, and replacement.

1. The department's efficiency and effectiveness should be assessed through the inspections process and the results should be used to improve the department.
2. A formalized system should be implemented to evaluate the quality of BART Police operations by ensuring that departmental goals are established, pursued, and achieved.
3. BART Police can evaluate and improve its performance by comparing the current level with previously established goals, objectives, policies procedures, and rules and regulations.
4. The department should establish a process to effectively compare what is required by BART Police to what is actually being done.
5. BART Police staff inspections should be used to monitor the effectiveness of specialized units such as Investigations, S.W.A.T., Special Investigations, Internal Affairs, Communications, etc.
6. The data derived from staff inspections can be analyzed and used to make decisions regarding allocation of resources, deployment of personnel, training needs, and modifications to departmental and individual unit goals and objectives. Develop a written directive requiring line inspections within the agency and address the following:
 - a. procedures to be used in conducting line inspections;
 - b. frequency of inspection;
 - c. responsibilities of the supervisor in each organizational component for both the conduct of inspections and correction of conditions discovered by the inspection;
 - d. criteria to identify those inspections that require a written report; and
 - e. follow-up procedures to ensure corrective action have been taken.

A written directive requires a staff inspection function, and includes provisions for:

- a. identity of the persons conducting the staff inspection;
- b. procedures to be used in conducting staff inspections;
- c. submission of a written report that identifies deficiencies and makes recommendations for their improvement and/or correction, and identifies positive aspects of the area being inspected;

- d. follow-up written report for noted deficiencies that cannot be immediately corrected; and
- e. a staff-inspection to be conducted within all organizational components at least once every three years.

Actual implementation relative to the recommendation:

There are requirements in the BART Police policy manual for various inspections as it relates to line inspections, dress inspections, facility inspections, and other inspections related to specific tasks or functions. The agency does not presently have a policy on staff inspections that review the agency's performance in handling incidents or calls for service. The police chief has ordered and conducted ad hoc staff inspection reviews based on complaints or performance concerns and is in the process of developing a policy and protocol for a comprehensive staff inspection model.

Recommendation to enhance the effectiveness of the implementation:

We recommend the agency continue to develop a written directive that establishes the staff inspection function. BART police department's efficiency and effectiveness can be assessed through the inspections process and the results used to improve the department. The agency's ad hoc process, which is the basis of the policy being developed, can effectively compare what is required by BART Police to what is actually being done.

Measurable results to be achieved or outcomes for effectiveness:

A staff inspection, whether conducted by inspectors internal or external to the agency, is an in-depth review of all components of the agency. This management tool is used to assure the agency head that administrative procedures are being adhered to that are consistent with agency policy and accepted practice. The role of staff inspections is to promote an objective review of agency administrative and operational activities, facilities, property, equipment, and personnel outside the normal supervisory and/or line inspections. A completed report on the numerous areas inspected documents the agencies compliance with its written directives and recommendations to improve performance.

Chapter 10

Discipline

**BART Police Management Audit
Issue: Employee Accountability****Previous recommendation:**

The agency should consolidate the various discipline process general orders, directives, policies, and guidelines into a single agency discipline policy to avoid confusion in applying and interpreting the disciplinary system. An example is the paragraph in the Police Managers Procedure NO. 3 (p.1), which lists seven entry designations for discipline, but Operational Directive NO. 77 (p.3) list five.

The agency should adopt a more traditional police discipline system, and centralize the EDR files. This would simplify discipline records review by supervisors, managers, and Internal Affairs. Numerous affordable computer software programs are available that can simplify this process.

Purging disciplinary matters in 90-days to a year does not provide for the proper and deliberate monitoring of problem employee behaviors or performance. The agency should consider significant modifications to the agency disciplinary system as the current disciplinary process does not provide for an effective Early Warning or Early Intervention program.

A comprehensive Personnel Early Warning System is an essential component of good discipline in a well-managed law enforcement agency. The early identification of potential problem employees and a menu of remedial actions can increase agency accountability and offer employees a better opportunity to meet the agency's values and mission statement.

The lack of an early warning system and the failure to hold supervisors accountable for policy violations creates a custom and practice that predictably will permit or encourage an environment for inappropriate behavior to exist. An EWS is a data-based management tool designed to identify officers whose performance is problematic and to provide those officers counseling or training designed to help improve their performance. Officers are identified on the basis of official performance data such as citizen complaints, use of force reports, and involvement in civil litigation, and other indicators. Early Warning Systems are recommended by a wide range of organizations. A January 2001 report by the U.S. Justice Department on Principles for Promoting Police Integrity included Early Warning Systems among its recommended "best practices." The Commission on Accreditation for Law Enforcement Agencies (CALEA)...adopted a new standard (35.1.15) mandating Early Warning Systems for...agencies. The International Association of Chiefs of Police (IACP) recommended EW systems in a report on controlling corruption.

The report pointed out that an Early Warning System is not just a system to focus on problem officers but as a "proactive management tool useful for identifying a wide range of problems," including for example, "... inappropriate supervisory instructions to officers," and other

management issues. In 1981 the U.S. Civil Rights Commission was the first official body to recommend EW systems as a response to the phenomenon of the problem officer.” (Cultural Diversity and the Police: Samuel Walker)

A Personnel EWS includes options and reviews available through use of force reporting, the disciplinary system, employee assistance program, and Internal Affairs. The first and second levels of supervision are crucial elements to a successful Personnel EWS and their responsibilities are emphasized in the agency’s procedures.

Actual implementation relative to the recommendation:

The agency consolidated the various discipline process general orders, directives, policies, and guidelines into a single “Conduct” written directive (Policy 340). A separate written directive (Policy 1019) details the Early Warning System.

The agency conducts training for all personnel on the policy and the proper assessment of elements in the EWS, as well as, the options for addressing behavior or performance related issues identified through the EWS. Internal Affairs personnel are trained in the computer software that identifies threshold behaviors or performance indicators and ensures that the agency initiates the intervention processes.

Commendation based on the effectiveness of the implementation:

The agency has a policy and a contemporary computer program that is data driven with numerous elements and established thresholds for identifying at risk employees. The BART Police Department is in the “meet and confer” process with the employees’ labor union regarding the issue of “alerts.” A state law has been interpreted to mean that an EWS generated “alert” constitutes an “adverse comment” and requires employee notification. Consequently, the Early Warning System has been suspended and BART police officials are in the “meet and confer” process with one of the police unions to address employee concerns and resolve the EWS issues.

Recommendation to enhance the effectiveness of the implementation:

We recommend the agency expedite union negotiations to provide for the reinstating of the Early Warning System.

Measurable results to be achieved or outcomes for effectiveness:

A clear disciplinary process, detailed in a written policy, ensures fundamental fairness and provides employees with a clear understanding of their rights and obligations. An effective EWS assists an agency in identifying potential personnel issues before there is a problem that results in an employee discipline or behavior performance with agency litigation as a consequence.

Chapter 11

Executive Summary and Conclusion

Chapter 1: Organizational Statements

Since the previous audit by NOBLE was completed in 2009, the BART Police Department has developed a complete set of organizational statements that help define the future strategic direction of the agency. These statements are important because they are foundational to all current and future police services provided to the Bay Area Rapid Transit District. The challenge will be for the police department to comprehensively integrate these organizational statements into the fabric of the agency. Therefore, both line and staff inspections within the police department should be used to evaluate the degree to which organizational statements are integrated into the operations and administration of the agency.

Chapter 2: Community Engagement

The previous audit by NOBLE indicated that communication engagement was an area that needed significant improvement by the BART Police Department. The agency has made significant improvement in this area and it appears to be an organizational strength. The BART Police Department has engaged a multitude of organizations, police departments, nonprofits, and community leaders for the purpose of having input and feedback regarding the quality and scope of BART police services. Interviews and meetings with these groups and individuals provided substantial evidence that the agency is adopting a community-based policing philosophy. These efforts should continue, along with considering a customer service survey of the ridership every two years.

Chapter 3: Training

The previous audit indicated that pre-service, specialized, and advanced training of BART Police employees was generally lacking. Additionally, management of the training function and documentation of employee training needed significant improvement. Beginning in 2010, the BART Police Department has provided an extensive amount of training opportunities for its employees. The department has now acquired an electronic system, the Training Management System (TMS). It allows for the retention and documentation of training records for department personnel. The agency has established robust training for its All Hazard Plan that involves numerous agencies and meets or exceeds contemporary police standards.

Chapter 4: Patrol Priorities

The Police Department has generated policies, processes, protocols, benchmarks, managerial oversight, and auditing procedures that have significantly increased patrol visibility within the BART system. The policies procedures are clear, concise, and provide clear guidance and accountability to supervisors. The department needs to continue to evaluate its prioritization of the patrol assignments on the trains, at the stations, and in the BART parking lots. We recommend the agency monitor closely the implementation of the new Records Management System to ensure that all components necessary for effective implementation complement the current methodology used in the department's CompStat process.

We recommend the BART Police Department develop a specific Police Pursuit Report and eliminate the confusing requirement of completing a “Use of Force” report for police pursuits. The agency should ensure that the “CHP 187A” form is completed as required by state law as a part of that reporting process.

There is outstanding evidence that in addition to having a policy, the agency takes seriously its responsibility to provide training to officers on the policy and contemporary practices in handling the mentally ill. Of the 206 sworn officers that make up the BART Police Department, 124 officers are Crisis Intervention Team (CIT) certified; the agency intends to CIT certify all officers. Those that are not CIT trained have received related training from the agency. In the last year, the agency has provided a block of instruction to all sworn officers in identifying resources and the process of referral for those suffering from mental illness.

Chapter 5: Personnel Selection

BART Police, with the assistance of the Human Resources Department, have developed a profile of the knowledge, skills, abilities, education, training, behaviors, and traits that make for a potentially qualified candidate for police officer. The department should continue efforts to identify and select qualified police officers.

During the last three years BART PD has particularly done an outstanding job of identifying highly qualified lateral entry police officer candidates. The department should continue their on-going efforts to adopting a customer-focused hiring philosophy through personalizing the recruitment process. We recommend the department also develop and implement a plan to conduct the entire police officer selection process within 90 - 120 days, and distribute this information to applicants in the selection process.

Chapter 6: Employee Performance Standards

The agency has a comprehensive process for ensuring adequate staffing during special events that meets or exceeds the 80% goal.

The re-organization has served the agency well. Strict lines of accountability are established resulting in numerous policy and practice changes consistent with the NOBLE recommendations. Numerous accountability systems have been created to facilitate monitoring and assessment of the employee workload and performance.

The agency has generated a comprehensive written directive system that is clear, concise, and relevant, frequently revised and updated, and meets or exceeds accepted law enforcement standards.

We recommend the agency become internationally accredited through CALEA, as doing so will provide an important element of quality control for the BART Board of Directors. If the agency achieves accreditation and maintains accreditation every three years, the BART Administration can have confidence that its police department is maintaining performance standards in a manner consistent with contemporary police practices. Insofar as the NOBLE audit was conducted utilizing CALEA standards, it appears the agency is in a sound position to execute CALEA accreditation. Many of the policies meet the CALEA standards, and many of the mechanisms are in place for the agency to achieve this worthy goal without a significant addition of personnel. Further, the Bay Area has several agencies that are CALEA accredited and would be an excellent resource for the BART Police Department.

Chapter 7: Use of Force

The agency developed a separate and specific report that ensures all incidents involving the application of force, including other weaponless force, are well documented and the facts surrounding the event are noted. The agency's Use of Deadly Force Policy training process ensures that all sworn members receive annual training addressing the legal justification for the use of deadly force, with a provision for tracking and mandating attendance for those who do not attend regularly scheduled training. Personnel are removed from any position requiring a firearm when they fail to attend and achieve firearms qualification, until the member satisfies the agency qualification requirements. The agency makes sound use of remedial training for firearms training.

Supervisors receive training from Internal Affairs regarding the proper process, content, and completion of a Supervisor Use of Force Review report. Additional training is received by supervisors regarding the investigative protocol in conducting a use of force investigation.

An audit of randomly selected Use of Force reports revealed an agency practice that demonstrated a consistent review of the Use of Force reports throughout the chain of command.

In requiring a supervisor's response to all use of force incidents, the agency creates a culture of accountability and communicates that these events are taken seriously by the agency; this practice will reduce the likelihood of the improper application of force by its members.

We recommend the agency's review of the use of force process include Internal Affairs conducting an independent examination of each Use of Force report and make a separate finding as to the reasonableness of the force applied. We recommend the agency publicly report, annually, on the type and number of use of force events involving the agency.

Chapter 8: Biased-based Policing

The department has developed and implemented a policy on preventing “racial profiling” that provides guidelines on standards to prevent biased-based policing by officers. The department has developed and implemented annual training on preventing “racial profiling”. The department also has training conducted through “Lexipol” that has a focus on the legal requirements of law enforcement intervention.

The department is currently working with the Center for Policing Equity (at UCLA) to develop a comprehensive field interview form and related data collection set to analyze whether biased-based policing might be occurring based on field contacts made by officers. We recommend the department continue to develop this data collection methodology to analyze whether biased-based policing might be occurring based on the field contacts made by officers.

Chapter 9: Internal Affairs

The agency’s policy and practices relating to the handling of citizen complaints demonstrate compliance with all aspects of the recommendations in the previous audit. The accountability of agency personnel is established through the engagement of police leadership as reflected in the Internal Affairs Policy.

The agency’s policy and practice has improved significantly in the citizen complaint and compliment process. The internal affairs investigation procedure is known and understood by agency members and the process facilitates the reporting of alleged misconduct.

The agency has generated effective policies, provided all affected personnel with training, and demonstrate engaged supervision in the implementation of their internal affairs function. The written directives are clear, concise, and meet or exceed accepted law enforcement standards.

We recommend the agency establish, in policy, specific guidance related to thresholds for initiating an investigation through Internal Affairs and those that are referred to supervisors for handling. Presently, if a request for a supervisory referral is requested by the complainant, the case is reviewed by the Internal Affairs Unit and a deputy chief, and then a decision is made as to whether the complaint will be handled by a supervisor or the Internal Affairs Unit. Policy should dictate for example, any complaint that rises to the level of an alleged civil rights violation is to be investigated by the Internal Affairs Unit, whereas those complaints involving rudeness or unsatisfactory performance may be referred to supervisors for investigation.

We recommend the agency institute quality control audit processes as a part of their staff inspection protocol as soon as possible, to further aid in assuring quality control as it relates to officer performance and citizen interaction.

We recommend that a 30-day period for completing an internal investigation be the goal, with extensions permitted and granted by the chief of police in those exceptional circumstances. Agency policy currently provides for a one year period for the completion of internal affairs investigation. Though this length of time is permissible by state law, it is contrary to accepted law enforcement practice.

Chapter 10: Discipline

The agency has consolidated the various discipline process general orders, directives, policies, and guidelines into a single “Conduct” written directive (Policy 340) consistent with the recommendation of the previous audit. A separate written directive (Policy 1019) details the Early Warning System.

The department has developed an Early Intervention (EI) management system to obtain information of potential patterns of at-risk sworn officers including activities that might lead to biased-based policing. To implement the EI management system, “meet and confer” with police unions is required contractually. We recommend the department continue to pursue an agreement with the unions to implement the EI management system.

Conclusion:

The BART Police Department Performance Management Audit was conducted from July - September, 2013. This audit reviewed ten key specific areas of the administration and operation of the BART Police Department and compared it with original recommendations made in the National Organization of Black Law Enforcement Executives (NOBLE) BART Management Audit from 2009. Therefore, the purpose of this audit was to measure the performance of BART PD with regards to the quality of its implementation of the previous recommendations, not to conduct another management audit. Both consultants conducting this performance audit were members of the 2009 NOBLE Management Audit team.

The BART Police Department has made significant and substantial progress since the original 2009 NOBLE Management Audit. The agency has established new organizational statements to provide its staff with strategic direction, hired three Deputy Chiefs for fresh and greater accountability, developed and implemented a significant number of key policies and procedures, instituted comprehensive training, and are engaging the community to ensure quality and responsive policing services. There is still work to be done on the department’s journey to professional excellence; however it has provided extensive evidence that is a good agency working toward becoming a great one.