

REVISED HYBRID DISCIPLINARY PROCESS

1. The Police Auditor shall investigate all complaints of allegations of police officer misconduct regarding abuse of power, racial profiling, sexual orientation bias, sexual harassment, and the use of deadly force, suspicious and wrongful deaths. Independent investigative findings made by the Office of the Police Auditor shall include recommendations for corrective action, up to and including termination where warranted and when the evidence does not support the allegations of misconduct; the Auditor shall recommend that the matter be dismissed. In a confidential personnel meeting, the Auditor shall submit his/her investigative findings and recommendations to the Citizen Board for review. Should the Citizen Board agree with the findings and recommendations, the report will be submitted to the Chief of Police for appropriate action. The Chief of Police shall implement the recommended action.
2. Should the Chief of Police disagree with the findings and recommendation of the Auditor and Citizen Board, the Chief of Police, in a confidential personnel meeting, may appeal to the General Manager. The Chief of Police will submit his/her disagreements and recommendations to the General Manager. In a confidential personnel meeting, the General Manager shall make a decision and make his/her decision known to the Chief of Police, Citizen Board and the Auditor. The Chief of Police shall implement the General Manager's decision.
3. Should the Citizen Board disagree with the Auditor's findings, by simple majority, in a confidential personnel meeting, the Auditor and the Citizen Board shall attempt to come to a consensus. If the Citizen Board and the Auditor fail to come to a consensus, by simple majority, the Citizen Board may appeal. The efforts made to achieve consensus shall be documented by the Citizen Board and shall be forwarded to the Chief of Police as a part of the appeal. All appeals regarding findings and recommendations for corrective action or dismissal, between the Citizen Board and the Auditor will be initially appealed to the Chief of Police, in a confidential personnel meeting. The Citizen Board will submit their disagreements and recommendations to the Chief of Police, in a confidential personnel meeting. The Auditor will submit his/her recommendation to the Chief of Police, in a confidential personnel meeting. The Chief of Police shall make a decision on the matter and make his/her decision known to the Citizen Board and the Auditor, in a confidential personnel meeting. The Chief of Police shall implement discipline or dismissal.
4. If the Citizen Board disagrees with the Chief of Police's decision and it is reflected by simple majority of its members, they may appeal to the General Manager, in a confidential personnel meeting. The Citizen Board and the Auditor's recommendations will be submitted to the General Manager, in a confidential personnel meeting. The General Manager will render a finding and report it to the Chief of Police and Citizen Board, in a confidential personnel meeting. The Chief of Police shall implement the General Manager's decision.

5. If the Citizen Board disagrees with the General Manager with a super (2/3) majority, they may appeal to the BART Board of Directors. All reports will be submitted to the BART Board of Directors, who will render a decision in a closed session. All of the BART Board of Director's decisions will require a super (2/3) majority of the BART Board of Directors for approval. In a confidential personnel session, the BART Board will notify the Citizen Board, General Manager and Chief of Police. The Chief of Police will implement the decision of the Board of Directors, which will be final.
6. At least monthly, the Citizen Board shall receive reports from the Police Auditor on the number and types of cases filed, number of open cases, the disposition of and any action taken on cases, recommendations for corrective action, including discipline and dismissals; the number of independent investigations concluded by the Office of the Independent Auditor; and, the number of cases being appealed either to the Office of Police Auditor by citizens or in the case of disagreements between the Chief of Police and the Auditor, Citizen Board to the General Manager or Citizen Board to the BART Board of Directors. For tracking purposes and to insure timeliness, this report shall include the number of days that have elapsed between the date of the complaint and the report to the Citizens Board.
7. The Auditor shall have unfettered access to police reports and personnel records and shall comply with all confidentiality requirements of the Department, the District and State law.
8. During an investigation all involved sworn personnel shall be compelled to meet and cooperate with the Auditor in accordance with the Government Code 3300 - 3313.
9. The Auditor shall be notified immediately by the officer in charge at the scene to respond to the investigative scene regarding an officer involved shooting, resulting in the death or injury to a citizen or a police officer.

TIMELINESS

Nothing in this section is intended to delay or interfere with the timely investigation and disposition of internal affairs investigations of alleged police misconduct. Should the Internal/Auditor or Citizens Board fail to conclude their citizen oversight responsibilities within 120 days, the matter will be turned over to the Chief of Police for an expeditious resolution of the disciplinary process.