

Statement to BART Board – April 9th, 2009

I want to address my initial comments to the full Board, BART staff present today, BART police present, every community member in attendance, and every single living, breathing human being who might hear this.

I want to speak to the lack of basic humanity shown AFTER Oscar Grant was shot in the back on January 1st. Not a single police officer on the platform bothered to offer Oscar Grant medical assistance as he lay there bleeding. Not a single officer bothered to call an ambulance so that Oscar could be taken to a hospital. Not a single officer bothered to notify supervisors that an officer-involved shooting had even taken place.

It was BART passengers -- witnesses to the shooting who had been deliberately sent away from the scene -- it was those passengers, two stations down the line in San Leandro, who notified BART police supervisors that a shooting had taken place, which unnecessarily delayed critical medical care. In fact, a KTVU camera crew arrived at the Fruitvale station before the first paramedics did.

In short, officers on the platform that night showed absolutely no regard whatsoever for the life of Oscar Grant, which brings me to the question I want everyone to ask themselves. Is that what you would do if you saw someone bleeding to death right in front of you? It's a basic question of humanity. Seriously, what would you do? Is that normal or decent behavior to ignore a dying person? Is that what each one of us should expect from BART police, that if we are found bleeding to death on a train or in a station that we have a better chance of a passenger calling for medical help than a BART police officer? Think about it. Do we really have a better chance of a passenger calling for medical help than a BART police officer?

And yet at a press conference on January 12th, BART Police Chief Gary Gee said -- and I quote -- "All of the other officers who responded to the incident at around 2am at the Fruitvale station followed protocol and they performed their duties in a professional manner." He stated unequivocally that they followed protocol and performed in a professional manner.

And now I ask BART General Manager Dorothy Dugger, and the BART Board, was that Chief Gee's opinion or was he truly speaking of police protocol when passengers are shot? If it's protocol to not call for medical help or to notify supervisors, if that's what BART considers professional conduct on the part of its sworn officers, then every last person who ever dares ride BART should be very concerned. And if that's just his personal opinion that it's professional to completely ignore the welfare of passengers who are bleeding to death in front of BART police, that regardless of anything else happening after the shooting of Oscar Grant, that it is acceptable for police to not call for medical help or to even notify a supervisor, then Chief Gee deserves to be fired immediately for his callous disregard for human life. He simply cannot be trusted with public safety. Furthermore, if Chief Gee was not speaking to official BART policies regarding the protocol and professionalism of BART police under his charge, yet he speaks to the media as such, then he deserves to be fired immediately for misrepresenting said policies.

But the buck does not stop with Chief Gee. BART's first investigation into the shooting of Oscar Grant, the reason for the press conference on January 12th, did exonerate all of the officers on the platform that night. Not only did Chief Gee sign off on that internal investigation but so did his boss, General Manager Dorothy Dugger. Despite the fact that BART was in possession of video showing Tony Pirone striking Oscar Grant and his friends before the shooting, it was not until after similar footage was broadcast on TV in late January that any investigation into the actions of Tony Pirone or other officers even began. And at that time, Dorothy Dugger declared that the video broadcast on television represented -- and I quote -- a "new allegation of unreasonable force." If Dorothy Dugger is unclear on what is reasonable and what is unreasonable force for BART police to use, until it is pointed out to her by the media, then she too should be fired immediately. If she concurs with her subordinate Chief Gee that all of the officers on the platform acted professionally and according to protocol in their complete disregard for human life, then she deserves to be fired immediately.

Neither Dorothy Dugger nor Chief Gee have seen fit to recommend any sort of discipline for any of the officers on the platform. Indeed, like the officers themselves, as well as Dugger and Gee, BART itself has seemed more interested in covering up, minimizing, and deflecting responsibility for the murder of Oscar Grant since the very beginning than it has been in holding anyone accountable or truly making amends. As early as January 1st, BART spokesperson Jim Allison was telling the media that Oscar Grant was not restrained when he was shot, despite numerous eyewitness accounts to the contrary. Then video from the scene became public and we all saw what a huge lie that statement from BART was.

And now, while a new internal investigation is currently underway, BART is choosing to pre-empt it and call the shooting of Oscar Grant a quote "**tragic accident**." A tragic accident. Tragic, yes, as Oscar Grant died. But not an accident. Even putting aside the fact that Tony Pirone was unnecessarily brutal with Oscar and his friends, striking them, grabbing them by the hair, pulling and pushing them to the ground; putting aside that fellow officer Marysol Domenici threatened to tase Oscar and his friends in the face; and even putting aside that Johannes Mehserle chose to use a weapon against Oscar Grant as he lay face down on the platform and then shot him -- putting all that aside, it was no accident when Tony Pirone gave the order to send hundreds of witnesses away from the scene, denying investigators key testimony into what happened on the platform that night. It was no accident when not a single police officer called for help or bothered to notify a supervisor, very well contributing to the death of Oscar Grant by denying urgently needed medical care. Those were, beyond doubt, no accidents. Every officer on the platform that night is an accessory in the death of Oscar Grant, either by physically escalating the situation before the shooting or by doing nothing after the shooting. Marysol Domenici was more interested in illegally confiscating passengers' cell phones and video cameras than she was in assisting Oscar Grant as he bled to death. In no way did they respond to the shooting as if it were an accident. In an accident, people respond by seeking aid for the injured. These BART police officers did everything but. And then how can BART claim that the murder of Oscar Grant was some sort of random accident while also saying that the well-armed officers were acting aggressively because they were afraid of being "beaten and bruised" by Oscar Grant?

It all reeks of defensive posturing by the BART police, of attempts to cover up the shooting. Chief Gee and Dorothy Dugger likewise

have not acted as if it were a tragic accident, as they have clearly been more interested in feigning ignorance of atrocious behavior by BART police and unreasonably attempting to justify and vindicate every last officer, showing zero interest in faulting any action that night in any way.

I'd like to conclude by reading a passage from "Our Enemies in Blue" by Kristian Williams:

Policing, it seems, is the only industry that both exaggerates and advertises its dangers. It has done so at a high cost, and to great advantage, though the costs are not borne by the same people who reap the benefits. The overblown image of police heroism, and the obsession with officer safety, do not only serve to justify police violence after the fact; by providing such justification, they legitimize violence, and thus make it more likely in the future. The exaggerated sense of danger has helped re-order police priorities, to the detriment of public interest.

The police ought to understand clearly that they are being paid to take a certain degree of risk and that their safety does not come before public safety or the common good. Unfortunately, the police typically place their safety first and in recent years we have come to accept this priority.

By way of counterpoint, consider the performance of the U.S. Marshals deployed to protect James Merideth during his September 1962 entrance into the University of Mississippi. Two hundred Marshals faced off with 2,000 White people determined to prevent the school's integration. The Marshals stood for hours, while the crowd attacked them with bricks and sporadic sniper fire. Twenty-nine Marshals were injured, but they never broke ranks or fired their weapons. Recalling this episode, consider how little we have come to expect of the police and how greatly we have come to share their obsession with their own safety.

Until the BART Board begins to take affirmative actions to hold bad actors accountable in real ways, to show more respect for the communities it serves by welcoming public input on all important decisions, rather than throwing up defensive wall after defensive wall, we will continue to see more Jerrold Halls. We'll continue to see more Bruce Edward Sowards. And we'll continue to see more Oscar Grants. Now is the time for the BART Board to stand up and show more humanity than the police officers on the platform did on January 1st.