

ACTIVITIES REPORT

January 2021 – March 2021

Office of the Inspector General

Fraud, Waste, and Abuse Investigations

The OIG investigates indications of fraud, waste, or abuse regarding BART’s programs, operations, and suppliers. Employees, contractors, and citizens are encouraged to report their observations.

Every individual, regardless of religion, race, immigration or documentation status, or national origin, is safe to obtain assistance from the OIG.

Audits

The OIG conducts performance audits that contribute to public accountability and transparency by providing independent and objective analysis of the efficiency and effectiveness of BART programs, operations, and activities.



Message from the Inspector General

I was optimistic in my December 2020 message believing that my office had overcome obstacles and was making progress on achieving its goals. I regret to share that progress is at a standstill. Demands are still being made of us that would restrict who we can speak to, when, and under what circumstances. Further, our integrity has been called into question.

Some members of the BART Board of Directors, at the request of union leaders, are requesting that we add language to our charter that would remove our ability to conduct our work without undue influence. This action creates a culture of suppression that is not unlike the dismissal in 2020 of five federal inspectors general by the White House Administration for the direct interest of that administration.

Despite our commitment to the truth and adhering to professional standards that require we conduct our work ethically; some Board members would like us to include the BART Employee Code of Conduct in our charter. This is because that code says that employees “shall not commit any act which may bring reproach or discredit upon the District.” The purpose of this addition is to claim that we are in violation of BART policy when, as required by California statute, we publicly issue audits or investigations that could potentially shed unfavorable light on the District. The very nature of our work means that we will sometimes bring forward bad news. Those who embrace public transparency and accountability understand that to be true and accept, without reservation, the work done by oversight bodies such as the independent Office of the BART Inspector General.

In our profession, we expect to sometimes be disliked and unwelcome. What we do not expect is for those in public service to actively work against our goals for transparency rather than for the public who fund the services that they are entrusted to protect. Nevertheless, we will persevere and move ever forward, while continuing to follow our professional standards, which include a fundamental responsibility to serve the public interest with integrity and objectivity.

Harriet Richardson

Accomplishments & Efforts



We continued with our commitment to the public by moving our work forward as best as we were able given some of the opposition to our office. Although we were forced to put some work on hold, we still accomplished quite a bit. This last quarter, we:



- Had numerous meetings with BART General Counsel, BART Board of Directors, Labor Relations, and union leadership regarding union demands to make revisions to our charter that would severely restrict the authority granted to us by statute and, thus, remove our ability to conduct audits and investigations without undue influence, as well as significantly delay our work.



- Completed a detailed review of our fraud, waste, or abuse complaint case backlog. We prioritized the cases by identifying what we can and should move forward now and identified those that will require additional resources to complete. We also identified cases that we have to put on hold due to opposition regarding our rights to conduct investigations without interference.



- Launched six investigations addressing allegations of fraud and noncompliance. Five of these cases were in our backlog and one came in as a new allegation in January 2021.



- Completed one of the investigations we launched. The investigation addressed an allegation of noncompliance with CalPERS reporting requirements for special compensation. Our report is scheduled to go to the Audit Committee in April 2021.



- Began preliminary work on 14 fraud, waste, or abuse complaints to determine whether there is sufficient information to move an investigation forward and identify what resources we need to complete the work.



- Wrapped up the risk assessment meetings and met with our consultant, TAP International, to review the results and discuss report preparation.

- Presented at the Inspectors General Summit via Teams. We shared with our peers our experience establishing a new Office of the Inspector General and the effort it takes to build an office from the ground up on a limited budget.



- Hired, oriented, and began onboarding our new Principal Investigative Auditor. We had our new hire review our investigation case management system and take the lead on four investigations to help with successful acclimation and integration into our office.



- Evaluated our fiscal year 2020 and 2021 expenditures and estimated our fiscal year 2022 budget with a fully staffed office. This allowed us to see the funding we will have available for our office to contract for services to assist in conducting audits and investigations.

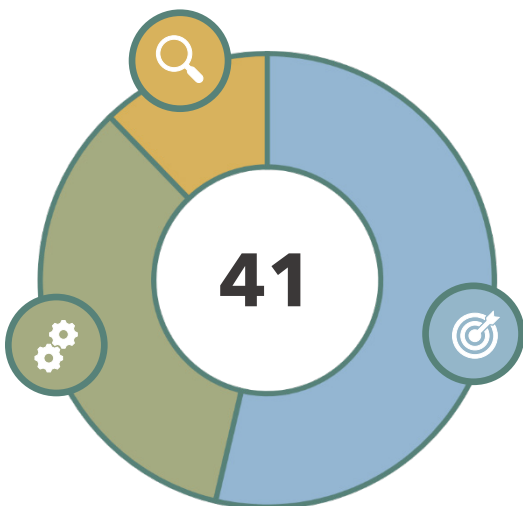


- Received or input and evaluated twelve complaints:

- Four new cases accepted as investigations: one completed and three under review
- Three new cases forwarded to other departments: two to the Ethics Officer and one to the Office of the Chief Information Officer
- Two new cases declined: one for insufficient information and one unrelated to BART activities
- Three cases previously received transferred from paper files in backlog to CaseTrac



Investigations at a Glance



41 Complaints Received Since OIG Inception

5
Under active investigation

14
Under preliminary review

22
Resolved

22 Cases Resolved

7
Investigated

7
Declined: insufficient information or out of scope

8
Forwarded to another department



Fraud

We received **11** complaints alleging fraud. Time sheet and contracting fraud are the most common suballegations.

Compliance

We received **12** complaints alleging noncompliance. Policy and procedural noncompliance are the most common suballegations.

OIG Charter Not Approved – Opposition Continues



We presented our OIG charter to the Board of Directors on [January 14, 2021](#). The Board continued our item to a future meeting, requesting that we have more discussions with union leaders regarding our interaction with their members. We met with union leaders and their attorneys to further explain that we will adhere to the law that allows represented employees to have union representation when they have a reasonable belief that meeting with us may result in disciplinary action for them. In the meeting, the unions presented us with revisions to our own charter that place restrictions on our work and weaken the authority provided to us in the law governing our office. We met with each Board Director to explain that accepting many of the unions' proposed revisions would compromise our integrity and undermine our responsibility. However, on [March 25, 2021](#), an RCI was introduced and supported by other Board Directors that requested the General Manager to "facilitate engagement" between the OIG and unions to develop "mutually agreed-upon procedures." Our charter, as we wrote it, outlines the roles and responsibilities typical of Offices of Inspector General throughout the nation. Our position to not accept some of the unions' proposed revisions is simply an adherence to those norms and, most important, the professional standards we adhere to in our work. It does not imply that we will not uphold the rights of represented employees, or that we will not work with union leaders in a manner that allows for their feedback and input when appropriate. We have done and always will do that when it is appropriate to do so. However, we cannot accept changes that compromise our compliance with the ethical principles of our professional standards and diminish our state-mandated responsibilities by weakening our ability to conduct our work unimpeded. We ask that the Board of Directors collectively and openly support our office so that we may conduct our work in accordance with our legal mandate, as well as our professional standards, which include principles for performing our work ethically, independently, and without undue influence.

We are not alone in facing political opposition. In January 2021, the Public Sector Audit Center of The Institute of Internal Auditors published an article, [Public Sector Auditors Under Attack](#). They reported that the political pressure for auditors to act in a manner counter to their principles and standards is stronger than ever. While the article acknowledges that it is important for public sector auditors to establish relationships, it also acknowledges the importance of following their professional standards and showing their department's independence. The following excerpts exemplify why we must hold strong to our principles and stand up against those who would have us put their preferences ahead of the public interest.

"Trying to reach a compromise is preferred in order to preserve long-term relationships with auditees. However, attempts at compromise stop when internal audit's authority is being questioned."

- **Kip Memmott, Audit Director for the Oregon Secretary of State's Office**

"The overall message from the standards is that we have our marching orders, and we know what we need to do."

- **Glenda Ostrander Director of Internal Audit, Gwinnett County Public Schools**

"[Auditors] must consider the public sector mandate to serve the public good while maintaining their independence and upholding the principles of good governance."

- **Public Sector Audit Center**

Major Activities & Next Steps

Tackled the Investigation Backlog

We launched six investigations, completing one, and prioritized our entire backlog of 41 cases to best employ our resources. Our newly hired Principal Investigative Auditor was a true asset in that effort and is currently leading four investigations, as well as doing preliminary work on several others. We are releasing our completed investigation in April and expect to release at least four more before fiscal year end. Barring further interference in our work, we hope to keep up this level of productivity on our investigations into allegations of possible fraud, waste, or abuse. In order to get that important work done, we need everyone at BART and BART’s stakeholders to cooperate with us by providing us information when we ask for it and allowing us to meet with employees without delay or permission.



Risk Assessment Nearing Completion

Our consultant, TAP International, presented to us their draft risk assessment report. We reviewed the draft with TAP and provided them with feedback to clarify and organize the content in a way that will best help all report users understand the risk assessment results. TAP did excellent work in synthesizing the tremendous amount of information they evaluated during this project. Our role now is to help shape that content in a way that will allow us to present a risk assessment that paints a clear picture for everyone on where our audits will best add value. Prior to presenting the results to the Audit Committee later this year, we will meet with each department to go over their risk assessment results. We expect to also provide management with information on potential process improvements that came to our attention during the risk assessment meetings.



Education Efforts

More often than not, the complaints we decline either lack enough information for us to do an investigation or relate to issues outside the scope of our office. To address that, we will be focusing on developing educational materials that help people understand our work and what information we need to be able to launch an investigation. We will also be looking to coordinate with Human Resources to see if we may present to new employees during the BART orientation process. In time, we hope to develop on-demand videos that further inform others of our work.



Welcome Jeffrey Dubsick!
Principal Investigative Auditor
Pronouns: he, his, him

Meet Our New Principal Investigative Auditor

Our new Principal Investigative Auditor, Jeffrey Dubsick, officially joined our team on March 1st. His experience working as an investigator, including as a Special Agent In-Charge for the Department of Transportation Office of the Inspector General, makes him just the addition that we needed. He has been instrumental in addressing our case backlog and is already hard at work leading multiple investigations. We are glad he is here. You will see reports from him soon.

**Office of the
Inspector General**



**Harriet Richardson
Inspector General**



510-464-6132



hrichar@bart.gov

**Providing Independent
Oversight of the District's
Use of Revenue**

**Stop Fraud, Waste, and Abuse
Report What You See to the OIG**



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