



SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT INDEPENDENT OFFICE OF THE INSPECTOR GENERAL

WHISTLEBLOWER RETALIATION INVESTIGATION RESULTS & IMPORTANCE

INVESTIGATION RESULTS



The BART Office of the Inspector General (OIG) completed an investigation into eight allegations of retaliation reported by two individuals who assisted in an OIG fraud investigation. We are providing this report to comply with California Public Utilities Code § 28841, which requires that we keep BART administration, the Board of Directors, and the public informed of our findings and recommendations.

Due to the sensitive nature of the allegations combined with our concern that our professional relationships within the District could appear as conflicts of interest, we obtained the services of an external investigator to preserve independence and integrity of the investigation.

After interviewing 17 individuals, reviewing two subject statements, making observations, evaluating records, and assessing interviewee credibility, the investigator did not substantiate the allegations of retaliation.

The conclusions address only whether the whistleblowers faced retaliation for assisting the OIG investigation. Broader workplace, management, interpersonal, and personnel matters were outside the investigation's scope and not assessed.

RELEVANT LAWS & POLICY



Individuals who participate in an OIG investigation are protected from retaliation under CA Labor Code § 1102.5 and under the District's Whistleblower and Anti-Retaliation Policy. OIG authority is established by CA Public Utilities Code §§ 28840 and 28841.

LIMITATION & JURISDICTION CHALLENGE



Two BART executives with authority over personnel matters and central to the investigation declined to participate in interviews and instead provided written responses. This limited the investigator's ability to assess credibility, ask follow-up questions, and conduct the complete fact-finding process. BART declined to compel the executives to meet with our investigator.

Further, OIG authority to conduct retaliation investigations and investigate executives was challenged. Our credibility and standard practices were also called into question, as was the need to investigate retaliation.

On April 16, 2026, we discussed these matters with the BART Audit Committee as required by their charter, which states that the Committee shall, *"discuss the OIG's access to information, records, and personnel and advise the Board on recommended solutions."* Attached is the memo presented to the Audit Committee for discussion.

During the Audit Committee meeting, it was confirmed that our authority to investigate executive leadership and retaliation is established in California Law. Consistent with that authority, we gather information, assess it objectively, and reach reasonable findings based on the evidence available.

RECOMMENDATION



To promote clarity and prevent ambiguity of our authority, we requested that the BART Audit Committee recommend that the Board of Directors adopt and formalize a District policy affirming that OIG authority applies to all levels of executive leadership, without exception, and that the OIG is authorized to investigate allegations of retaliation arising from its investigations.

To achieve the intent of our request, the Audit Committee approved a motion to update the District's Whistleblower and Anti-Retaliation Policy to explicitly support the OIG's authority to investigate BART executive leadership without General Manager approval and to conduct retaliation investigations related to OIG whistleblower complaints. The District is currently amending the policy.

INDEPENDENT RETALIATION INVESTIGATIONS ARE CRITICAL



The effectiveness of a whistleblower program depends on whether employees trust that they will be protected after reporting misconduct. Independent investigations into claims of retaliation are critical to ensuring that the investigatory process is credible and can be trusted. When employees trust that allegations will be evaluated fairly, it improves the likelihood that they will report misconduct before it grows into larger failures. Likewise, when allegations of retaliation are unfounded, an independent investigation provides governance confidence that the outcome rests on evidence, not organizational bias.

We were questioned on our decision to independently investigate claims of retaliation. This included confusion as to why the investigation was necessary since management had followed its disciplinary processes and procedures to make determinations regarding the complainants' performance and employment. We explained that adherence to procedures does not mean retaliation did not occur. Courts acknowledge that even if management follows established procedures, a retaliatory motive can still exist.

Further, we are committed to protecting those who bring forward their concerns. We recognize that employees serve as an essential line of defense against the misuse of public resources, violations of law, and threats to public safety. Promoting a credible process for investigating retaliation reinforces that commitment and demonstrates our integrity.

OIG DISCLOSURE PRACTICES

We identify those involved in our investigations in only limited circumstances. This avoids violating privacy and confidentiality rights granted by law and creating unwarranted actions against those involved with our investigation. The decision to provide names is made on a case-by-case basis and considers all elements of an investigation. This practice does not prevent individuals from requesting documents under the California Public Records Act (CPRA). However, such disclosures may be restricted or limited by law. This investigation is associated with OIG case number 272.

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