

Harriet Richardson, Inspector General
2150 Webster Street, 4th Floor
Oakland, CA 94612
T: 510-464-6132
E: inspectorgeneral@bart.gov



Board of Directors

Mark Foley,
President

Rebecca Saltzman
Vice President

Debora Allen
District 1

Mark Foley
District 2

Rebecca Saltzman
District 3

Robert Raburn
District 4

John McPartland
District 5

Liz Ames
District 6

Lateefah Simon
District 7

Janice Li, Director
District 8

Bevan Dufty
District 9

July 16, 2021

Secretary of the Senate
State Capitol, Room 3044
Sacramento, CA 95814

Office of Legislative Counsel
Indexing Unit
agency.reports@lc.ca.gov

BART Board of Directors
2150 Webster Street
Oakland, CA 94612

Chief Clerk of the Assembly
Attn: Sue Parker
Sue.Parker@asm.ca.gov

Minute Clerk
Attn: Amy Leach
Amy.Leach@asm.ca.gov

I am pleased to present the Fiscal Year 2021 Annual Report of the Independent Office of the Inspector General. My staff and I spent the year continuing to develop our foundation and integrating ourselves into BART's operations. We did so while working remotely, as so many did, to protect those who did not have that advantage and to help public health officials in getting the COVID-19 pandemic under control. Despite the turbulent year we all experienced, my team and I pushed forward to achieve our objectives. We accomplished quite a bit and I am proud of all we accomplished.

This fiscal year, we focused our time on our districtwide risk assessment, discussing the language we need in our charter to remain compliant with the law and our professional standards, and completing fraud, waste, or abuse investigations. We also launched our new whistleblower hotline and implemented an investigation case management system. Our new Principal Investigative Auditor came onboard in March 2021 and did a phenomenal job of tackling our case backlog. As a team, we completed seven investigations and launched 18 others, four of which were near completion at the end of the fiscal year. We also developed marketing material to help employees understand who we are, what we do, and how to reach us. This included posters, stickers, and magnets with our whistleblower hotline information. We are excited to put those to use in the next fiscal year.

I look forward to continuing our work to meet the expectations of California voters and legislators who desired independent oversight of taxpayer and ridership money that funds BART's operations and capital projects.

The attached report provides more details regarding our accomplishments for FY 2021.

Respectfully,

Harriet Richardson, CPA, CIA, CGAP, CRMA
Inspector General

Office of the Inspector General



Fiscal Year 2021 Annual Report

A: 2150 Webster Street, 4th Floor
Oakland, CA 94612

P: 510-464-6132

E: inspectorgeneral@bart.gov

W: bart.gov/oig

T: [@oigsfbart](https://twitter.com/oigsfbart)



MESSAGE FROM THE INSPECTOR GENERAL



It was an incredible year. My team and I spent the entirety of it working from home as so many people did. We continued to take health and safety seriously and followed public health directives to work remotely to protect those who did not have that advantage and to help in getting the pandemic under control. This created a few challenges, but we made do and got the job done and done well. I am proud of the work we did and what we accomplished amid the chaos caused by COVID-19.

The pandemic was not the only challenge my office faced. We continued to have difficulty with the acceptance of our processes that uphold our independence standards, which require that we remain free from external impairments that adversely affect us by removing our freedom to make independent and objective decisions. I stood firm in my position because, as I have for three decades, I will not waiver from the ethical principles required of our professional standards and that I have committed to in my professional career. Even when I was told I was being difficult because I would not compromise my integrity by agreeing to processes that would remove my office's independence, I remained true to the guiding principles of my profession.

The most difficult times allow us to learn and to turn setbacks into opportunities. The many conversations that I have had with BART leadership and stakeholders have taught me that my biggest hurdle is the lack of understanding regarding the function of an Office of the Inspector General. This has led me to gear my team up to work on our educational outreach goals so that we can help people learn about the work we do and the professional standards that guide our work.

This year was filled with many successes and moments of gratitude. My team completed a tremendous amount of work, including seven investigations, and my peers stood by me and guided me with their support and words of wisdom. The launch of our hotline and investigation case management system made a big difference in how we receive and manage fraud, waste, or abuse complaints, and the work we put into the risk assessment provided us insight into BART programs, activities, and functions that otherwise would have taken years to learn.

I am endlessly grateful to those at BART who have welcomed me and my team. We appreciate the employees who have thanked us for our work and embraced the positive changes that come out of our investigations. That is a great sign.

[I am not the first Inspector General to have her integrity challenged](#) and will not be the last. Many thanks to all who have continued to support me and my office and for being champions of accountability and transparency. Here is to another year of great work!

Harriet Richardson

WHAT WE DO



We investigate indications of fraud, waste, or abuse regarding BART's programs, operations, and suppliers; and conduct 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. All our work supports those two objectives, either directly or indirectly.

VALUE ADDED













We play a key role in providing oversight of BART programs, activities, and operations so that the public can feel assured that their tax dollars and ridership fees are used in the manner intended. We add leverage to BART's limited resources by investing our time into finding ways to make the District more effective, efficient, and equitable.

Core Values

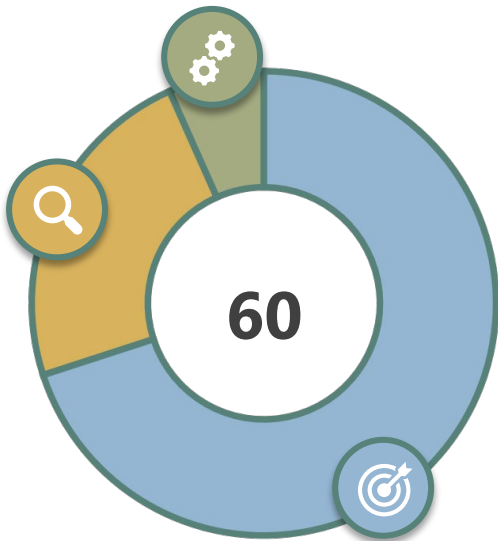
Honesty
Integrity
Accountability
Transparency

YEAR IN REVIEW

 Over the year, we shared the work we have done to build the foundation of our office, complete investigations, and develop our audit plan. The following items are a recap of our major events and the major accomplishments that took place since our last activities report. This year, we:

-  • Launched our whistleblower hotline so that employees may easily report their fraud, waste, or abuse concerns to our office confidentially and anonymously either online or by phone any time day or night from any location on any device.
-  • Completed seven fraud, waste, or abuse investigations and worked on four others that were well underway or near completion by the end of the fiscal year. We investigated a wide range of allegations with most uncovering a need for process improvements that will help BART in achieving its commitment to supporting its employees and serving the public.
-  • Conducted a districtwide risk assessment to understand the areas of BART that are vulnerable to fraud, waste, or abuse, and to identify opportunities for using resources more efficiently and effectively so that BART may improve its efforts to meet objectives.
-  • Drafted our charter to clarify how we will comply with our statutory mandate in [Public Utility Code Section 28841](#) and the [Government Auditing Standards](#) requirements in [Government Code Section 1236](#). The BART Board of Directors did not adopt our charter, asking that we have discussions with labor unions. We held those discussions, and the unions presented changes to our charter. We continued to work with the unions to help them understand why we cannot accept some of their revisions because they create independence impairments that would make us noncompliant with the law and mean we are unable to do our work in the manner required of our office.
-  • Drafted a [BART Audit Committee Charter](#) through a productive working partnership with the Office of Performance and Budget and the Office of the Controller-Treasurer. The BART Board of Directors adopted the charter on January 14, 2021.
-  • Updated the District's Whistleblower Policy with input from the Office of the Independent Police Auditor, Office of Civil Rights, and Office of Performance and Budget. The update helps BART employees better understand their obligation to report suspected or known instances of fraud to our office and that they are protected from retaliation when doing so. We added "antiretaliation" to the policy title to make this distinction clear. The BART Board of Directors adopted the [Whistleblower and Antiretaliation](#) policy on June 10, 2021.
-  • Evaluated 54 allegations of fraud, waste, or abuse and either moved them forward for investigation, declined them for a lack of sufficient information or for being out of our scope of work, or forwarded them to the appropriate oversight body within BART.
-  • Achieved compliance with our continuing professional education requirements and invested in our knowledge base by attending training events that helped us improve our skills for conducting fraud, waste, or abuse investigations and audits, and that allowed us to build our peer relationships with other Offices of Inspector General, particularly those in transit.
-  • Developed the Principal Investigative Auditor position description, then recruited, hired, and onboarded our new employee to fill our third, and final, staff position. Our new employee has been instrumental in moving our investigations forward.

FRAUD, WASTE, & ABUSE INVESTIGATIONS AT A GLANCE



60 Complaints Received Since OIG Inception



14

Under active investigation



4

Pending Resolution



42

Resolved

42 Cases Resolved Since OIG Inception



11

Investigated



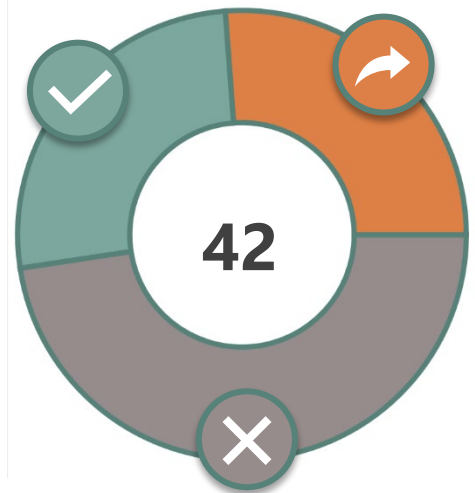
20

Declined for insufficient information or out of scope



11

Forwarded to another department



Most Common Allegations

Fraud

We received **16** complaints alleging fraud. Theft of time and contracting fraud are the most common suballegations.

Compliance

We received **15** complaints alleging noncompliance. Policy and procedural noncompliance are the most common suballegations.

YEAR'S BIGGEST ACCOMPLISHMENTS & CHALLENGES

Charter Approval



One of our goals this year was to have the BART Board of Directors adopt a charter for our office that clarifies our roles and responsibilities. We invested our time in reviewing legislation that sets the requirements and authority of other Offices of Inspector General (OIG) and drafted our charter to align with that legislation. Our charter is a major accomplishment for us as it ensures we can do our work unimpeded and with the full support of the BART Board of Directors (Board). We presented our charter to the Board on [January 14, 2021](#) knowing that it appropriately reflects the roles and responsibilities typical of OIGs in California and throughout the nation. The Board discussed our charter but continued it to a future meeting asking that we have discussions with labor unions before returning to the Board to adopt it. At the time, we understood the Board's request to be that we meet with union leaders to explain what our work entails and the standards that guide it, and for us to address the unions' concerns about how we would engage with represented employees who are under investigation. We were surprised, then, when the labor unions presented us with revisions to our charter, including major changes that would alter the intent of the legislation that created our office and create independence impairments.

We discussed the unions' proposed revisions in detail and accepted changes they proposed that allowed us to stay within the confines of the law and our professional standards. However, accepting some of their revisions would mean that we would be noncompliant with the ethical principles and independence standard that the Government Code requires we follow, as well as our statutory mandates in the Public Utilities Code, and would remove the authority traditional and required of an OIG such that we cannot work independently. We, therefore, declined to accept some of the changes. Our position does not imply that we will fail to uphold the rights of union 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, but our required professional standards, including the ethical principles and independence requirements within them, must prevail. Therefore, we have invested a significant amount of our time this year on explaining our position and why the unions' revisions would erode our authority and purpose.

Our goal for the upcoming year is to help those unfamiliar with the role of an OIG and the standards applicable to the profession better understand that our charter is meant to ensure that we comply with the law and our professional standards. The ethical principles in our professional standards are important to our integrity, and we must uphold them. Fortunately for us, we have champions in our corner who are standing by us as we continue forward with having the BART Board of Directors adopt our charter.



Districtwide Risk Assessment




Our districtwide risk assessment was another major accomplishment for us. An incredible amount of work went into the project so that we could develop our audit plan by understanding areas vulnerable to fraud, waste, or abuse, and identifying opportunities to improve efficiency and effectiveness in the use of resources. This major undertaking required our consultant, TAP International, to review volumes of documentation provided by BART staff and conduct 24 meetings, in which we also participated, with personnel from 12 departments. We offered to meet with each of those departments to discuss their results and clarify any misunderstandings. Three departments did reach out to us, and we held productive meetings with them to update our assessment. Unfortunately, the General Manager did not want us to reach out on our own to set up meetings with all the departments; therefore, we met with only those that reached out to us.

However, we did meet with the General Manager and Deputy General Manger to discuss our results. We had a productive meeting with them that helped clarify some points and correct misunderstandings. However, their position is that some of our conclusions are inaccurate. This is not uncommon in our line of work. We quite often find that what management believes is true does not align with the perceptions and experiences of the staff who do the work. This elevated the risks that our assessment uncovered as it shows a disconnect in what management believes is happening and what staff are doing and confirmed that we selected the right areas to audit. Management’s position also does not reflect that the purpose of our risk assessment is to inform our audit plan by identifying areas where a performance audit can identify opportunities to improve the efficiency and effectiveness of how BART performs its work. Our risk assessment is scheduled to go the Audit Committee on August 17, 2021.



Funding Constraints

 Our annual budget is limited to \$1 million. That is not a significant amount of money to do the work expected of our office, particularly when compared to BART’s combined operating and capital budget of \$2.4 billion. Our budget limits us to three employees with little money left for office needs, continuing professional education requirements, and contracted specialized services. By comparison, our budget is significantly smaller than those of other transit OIGs.

Up until now, we have been able to make our funding work, but just barely. Since our inception, we have been mostly understaffed, which has allowed us to contract for specialized services to assist us in conducting our work. Although we hired our third employee, it is still not enough to do all that is required of us in our statutory mandate, and we will continue to need to contract for specialized services to assist us in conducting our work. While our new position is critical to our operations and has been instrumental in moving investigations forward, it means our purchasing power for goods and services is now lower and will continue to dwindle as the Consumer Price Index increases as inflation rises. This will make it more costly to contract for specialized services to leverage our expertise in conducting audits and investigations and will make it difficult to meet the continuing professional education requirements in our standards. With the nation experiencing high levels of inflation and expected to do so for the next few years, our funding constraints will soon have a detrimental impact on our ability to meet the statutory requirements of our office.

Transit Offices of Inspector General Budgets as Compared to Transit Agency Budgets
Fiscal Year 2021

OIG	Agency Total Budget (In Millions)	OIG Budget (In Millions)	OIG Budget as % of Agency's	Agency FTE	OIG FTE	OIG FTEs as % of Agency's
New York Metropolitan Transportation Authority	\$23,812	\$17	0.07%	70,764	96.0	0.14%
California Department of Transportation	\$15,489	\$16	0.11%	20,743	91.5	0.44%
Washington Metropolitan Transportation Authority	\$3,780	\$10	0.28%	12,903	44.0	0.34%
Los Angeles Metropolitan Transportation Authority	\$1,929	\$7	0.38%	10,219	23.0	0.23%
San Francisco Bay Area Rapid Transit District	\$2,422	\$1	0.04%	4,338	3.0	0.07%

LIST OF OUR ACTIVITIES FOR THE YEAR

- Completed a districtwide risk assessment and worked with our consultant to develop a written report.
- Completed seven fraud, waste, or abuse investigations and launched 18 others, four of which are pending resolution.
- Performed follow up and confirmed that management implemented our recommendations from the investigations we issued in fiscal year 2021.
- Presented eight of our completed fraud, waste, or abuse investigations to the Audit Committee.
- Performed a detailed evaluation on 54 allegations of fraud, waste, or abuse and either marked them for investigation, declined them, or forwarded them to another BART oversight function.
- Developed an Audit Committee Charter in partnership with the Office of Performance and Budget and the Office of the Controller-Treasurer.
- Drafted a charter for our office outlining the traditional roles and responsibilities of an Office of the Inspector General.
- Presented an overview of our office to Union Presidents (separate from and prior to the meetings we held at the Board's request).
- Held numerous meetings with BART General Counsel, BART Board of Directors, Labor Relations, and union leadership regarding the unions' proposed changes to our charter language.
- Launched a whistleblower hotline, giving employees the ability to submit fraud, waste, or abuse complaints to our office 24/7 on any device.
- Implemented a case management system to track and manage fraud, waste, or abuse investigations and evaluate allegation trends.
- Developed marketing material, including a whistleblower poster, an informational handout and a trifold, and stickers and magnets with our hotline information.
- Attended training workshops and conferences to enhance our knowledge, skills, and abilities for conducting investigations and audits and to achieve compliance with our continuing professional education requirements.
- Attended the Inspectors General Summit via Microsoft Teams where we presented on the establishment of our office and exchanged information with other transit OIGs.
- Created a job description and recruited, hired, and onboarded a Principal Investigative Auditor within our current budget.
- Completed a Request for Quotations and selected a consultant to assist our office in an extensive fraud investigation.
- Toured BART tunnels as part of follow up to our M-Line Tunnel Lighting Project investigation.
- Updated the District's Whistleblower Policy, now known as the Whistleblower & Antiretaliation Policy, with input from the Office of the Independent Police Auditor, Office of Civil Rights, and Office Performance and Budget.
- Completed four activities reports and our annual report to the State Legislation.

.....

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

.....

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



**24/7 Fraud, Waste, & Abuse
Whistleblower Hotline**



www.bart.gov/oighotline



510-464-6100

OFFICE OF THE INSPECTOR GENERAL TEAM

Harriet Richardson, Inspector General

P: 510.464.6132 E: hrichar@bart.gov

Claudette Biemeret, Assistant Inspector General

P: 510.464.6141 E: cbiemer@bart.gov

Jeffrey Dubsick, Principal Investigative Auditor

P: 510.817.5937 E: jeffrey.dubsick@bart.gov

REPORTS

You can read this and all the Office of the Inspector General's reports on our website at www.bart.gov/about/inspector-general/reports.