



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

DISCREET INVESTIGATIVE PRACTICES RESULT IN THE PERCEPTION THAT SUSPICIOUS WORKERS' COMPENSATION CLAIMS GO UNINVESTIGATED

INVESTIGATION RESULTS



The BART Office of the Inspector General (OIG) investigated three separate allegations that BART employees were committing workers' compensation fraud and that, in some cases, BART failed to investigate. Each complaint identified different employees, for a total of nine employees allegedly committing workers' compensation fraud. To address each allegation, we examined BART's workers' compensation data and records, reviewed third-party investigator reports, and conducted interviews, including with BART's workers' compensation Third-Party Administrator (TPA).

Our first investigation was in response to an allegation that a BART employee was faking an injury to receive workers' compensation benefits. A medical evaluation arranged by the TPA confirmed the employee's injury; therefore, we did not substantiate the allegation.

Our second investigation addressed a complaint against two BART employees who were allegedly committing different forms of workers' compensation fraud. One allegation was that the employee was ineligible for workers' compensation benefits while living outside of California. Evidence did support that the employee was living outside of California while receiving workers' compensation as alleged. However, evidence also supported that the TPA had investigated the matter and determined that living out of state did not disqualify the employee from workers' compensation eligibility. Thus, we did not substantiate the allegation.

WHY THIS INVESTIGATION MATTERS



Workers' compensation fraud can have a significant negative impact on BART. Fraudulent claims can create a culture of mistrust, contribute to the high cost of workers' compensation insurance and self-insurance, and undermine legitimate workers' compensation claims. The OIG takes potential fraud seriously and seeks to ensure that suspected fraud, waste, or abuse is adequately investigated.

RELEVANT LAWS AND CONTRACTS



Workers' compensation is highly regulated by the California Labor Code, Code of Regulations, and Insurance Code; various case law; and collective bargaining agreements between BART and its labor partners.

California Insurance Code Article 1. False and Fraudulent Claims Section 1871.4 defines fraudulent acts related to workers' compensation, including knowingly making false statements and abetting someone who is making false statements.

RECOMMENDATION

There are no recommendations associated with this report.

The other allegation was that a BART employee was committing workers' compensation fraud by not reporting income from their private business enterprise. Evidence supported that the employee was operating a private business and potentially receiving income that was not disclosed as required by law. However, evidence also supported that the TPA was investigating the potential fraudulent aspects of the employee's workers' compensation claim in accordance with their contract with BART. Therefore, we closed our investigation.

Our third, and final, investigation addressed an allegation that the District was allowing for six BART employees to actively commit workers' compensation fraud. Evidence supported that five of the six employees were investigated for potential insurance fraud, while one was not investigated as the claim had been denied and closed prior to incurring any costs. Therefore, we unsubstantiated the allegation that BART was failing to investigate the alleged fraudulent workers' compensation claims.

The investigations conducted by the TPA were rightly unknown by the complainants to our investigations. The confidentiality surrounding workers' compensation investigations is upheld by privacy laws and regulations designed to protect the rights of all parties involved. Thus, the investigations are conducted discreetly to ensure sensitive information is not disclosed.

OIG REPORTING REQUIREMENT & DISCLOSURE PRACTICES

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 fraud, waste, or abuse investigation findings and recommendations.

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. The cases described in this report are linked to case numbers 212-2024, 226-2024, and 239-2024.

BART's Workers' Compensation Program Fast Fact

Employers who meet certain financial criteria can apply to the State of California to become self-insured, meaning they pay for claims directly instead of purchasing insurance from a carrier. BART meets the criteria and, therefore, has elected to be self-insured as it is more cost effective for the District.

.....

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

Claudette Biemeret, Inspector General

P: 510.464.6141 E: cbiemer@bart.gov

Jorge Oseguera, Deputy Inspector General

P: 510.464.6257 E: jorge.oseguera@bart.gov

Jeffrey Dubsick, Inspector General Investigative Auditor

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

Jessica Spikes, Executive Assistant

P: 510.464.6569 E: jessica.spikes@bart.gov

OFFICE OF THE INSPECTOR GENERAL

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

P: 510.464.6141

E: inspectorgeneral@bart.gov

W: bart.gov/oig

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

REPORTS

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