

# Union Obstruction Prevented Investigation: Demonstrates Necessity of SB1488



Harriet Richardson, Inspector General

## Union Obstruction Prevented Investigation

- OIG attempted to investigate adequacy of safety protocols for graffiti removal from vandalized train cars
- No employees were subjects of the investigation
- No employees were accused of wrongdoing
- Health and safety, chemical runoff, and training concerns remain





# Investigation Efforts Blocked

- Multiple requests to observe process unanswered
  - 15 graffiti removals in six-month period – no notification received
- Learned of scheduled cleaning from another source
  - Cleaning canceled – no notification received
  - Cleaning took place following day – no notification received
- Requests to interview utility workers ignored
  - Tried email, phone, & texting
  - Tried personal phone numbers only after BART communication channels unsuccessful
  - OIG wrongfully accused of harassment
- Investigator prevented from speaking to utility workers during site visit



## Union Violated Confidentiality & Employee Rights

- Investigator was told meetings are to be scheduled through SEIU President
- Violates confidentiality of investigation
- Removes ability to manage course of investigation
- Undermines ability to collect evidence
- Deprives employees of their right to decide if they want representation
- Violates whistleblower law





## Union Obstruction Demonstrates Why SB1488 Is Needed

- Intent is to clarify OIG's authority & access rights
- Is needed to overcome obstruction
- Protects OIG independence & the integrity of investigations & audits
- Provides mandated whistleblower protections
- Protects employee's right to make decisions regarding their representation
- Provides subpoena power - OIG prefers to work in cooperation with those linked to investigations, will use this power if obstruction continues



# OIG Has Always Honored & Protected Employees' Weingarten Rights

- Weingarten Rights allow a represented employee to have a union representative present during investigatory interview when they reasonably believe it may lead to discipline
- Law requires employee to make the request for representation
- OIG has always gone beyond the legal requirement by notifying subjects of an investigation of their rights
- No one was a subject of our investigation & no one was suspected of wrongdoing
  - OIG sought utility worker expertise & knowledge of the graffiti removal process
  - Investigation intended to ensure utility workers had the procedures, equipment, & training necessary to protect their health & the environment





# Questions?

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