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Inspector General

**Office of the Inspector General**  
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Phillip Eng  
President  
MTA Long Island Rail Road  
93-02 Sutphin Blvd., 3<sup>rd</sup> Floor  
Jamaica, NY 11435

**Re: Abuse of Time by Track Foreman  
MTA/OIG #2018-48**

Dear Mr. Eng:

The Office of the MTA Inspector General (OIG) has completed its investigation into time and attendance abuse by Raymond Murphy ("Murphy"), Foreman, Long Island Railroad ("LIRR"), Building and Bridges ("B&B"). We found that Murphy abused time and submitted false time records. We recommend that LIRR impose discipline on Murphy, up to and including termination. We also recommend that LIRR review and take steps to account for Murphy's actual work hours and recoup any payment made to Murphy for hours he did not work. We are continuing to review issues raised during this investigation related to both the oversight of time and attendance and the practice of granting "travel time."

### **BACKGROUND**

Murphy started at LIRR in March 1996 as a mechanic. He became a B&B foreman in 2008. His regular tour is Monday through Friday from 7:30 a.m. to 3:30 p.m., with Saturdays and Sundays as his regular days off. In addition to being a foreman, Murphy is one of four certified Track Car Pilots in B&B and is responsible for directing the movement of High Rail Equipment (HRE), including cranes and dump trucks that run on LIRR tracks. As a Track Car Pilot, Murphy rides with the drivers of HRE and monitors where the equipment moves based on signal and other track conditions. He also provides coverage for foremen who are out on leave. Murphy has approximately 22 years of service with LIRR and is second in seniority among Track Car Pilots.

According to Donald Malings (Malings), LIRR Assistant Supervisor of Structures who is in charge of scheduling shifts at the West Side Yard, Malings receives requests from LIRR Senior Project Manager Constant Okombi, assigned to the West Side Yard project, for one or two Track Car Pilots for night shifts on a regular basis. Malings stated that he is required to offer overtime to B&B employees first in order of their seniority, and confirmed that for this reason Murphy has frequent opportunities to accept overtime shifts. LIRR's contract with United Transportation

Union Local 29, of which Murphy is a member, entitles members to be paid time-and-a-half for standard overtime (SO) and double their hourly rate (DO) for overtime after sixteen continuous hours of work.

OIG confirmed that Murphy lives in a private home located in East Northport, New York. Murphy's current regular duty work location is Bethpage Yard Headquarters (Bethpage) located at 610 Hicksville Road in Bethpage, New York. Murphy does not have a LIRR-issued vehicle and OIG confirmed that he uses his personal vehicle, a 2015 Jeep with a New York Registration, to commute between his work and home. Murphy's home is located approximately 19 miles east of his Bethpage work site and approximately 47 miles east of his West Side Yard work site.<sup>1</sup> The distance between the Bethpage and West Side Yard work locations is approximately 35 miles.

## INVESTIGATION

According to Stefani Nutzel (Nutzel), Manager, Resource Development and Administration, LIRR, her unit is responsible for entering data into LIRR's time management system known as Corporate Time and Attendance Management System (CTAMS). The entries are made based on the Daily Gang Labor Sheets (Labor Sheets) that are submitted by each department. The Labor Sheets include employee information as well as the start and end times of each shift worked by the employee. The Labor Sheets are signed by the employee and their supervisors. Nutzel stated that foremen generally complete their own Labor Sheets.

OIG staff reviewed Murphy's time and attendance records for the period from April 1, 2018 through June 15, 2018, including his Labor Sheets and CTAMS records. According to the records, Murphy reported a total of 1,259 work hours, including overtime during the 2½-month time frame. Based on his reported hours, Murphy was paid a total of approximately \$91,521. More specifically, he claimed 427.5 hours of regular shifts for which he was paid \$21,024; 459 hours of SO for which he was paid \$33,859; and 372.5 hours of DO for which he was paid \$36,638.

On 42 of 71 days that Murphy claimed to have worked within the 2½-month period, he claimed more than 20 work hours per day. For example, during the five-day period from May 21 to May 25, 2018, Murphy claimed 114 work hours out of the five-day possible total of 120 hours. In other words, he claimed work hours for all but six hours over five continuous days. During the four-day time period from June 11 to June 14, 2018, Murphy claimed 92 work hours out of a possible total of 96 hours.

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<sup>1</sup> According to Google Maps, the distance between Murphy's home and the West Side Yard can vary from 43 to 49 miles depending on the driving route taken. Murphy's most likely route would cover approximately 47 miles.

During an expanded time period between January 1 and July 25, 2018, Murphy reported a total of 2,940 work hours, including overtime. Specifically, he claimed 1,027.5 hours of regular time for which he was paid \$50,445. During that same time period, Murphy also claimed 1,145 SO hours for which he was paid \$84,309 and 767.5 DO hours for which he was paid \$75,334—a total for overtime of \$159,643 and a total for all pay of approximately \$210,088 in just under seven months. By contrast, his current base **annual** salary is \$102,292.

In addition to its records review, OIG staff conducted surveillance of Murphy's movements on a total of 12 occasions between March 30, 2018 and June 14, 2018, during hours that Murphy claimed as work hours. On ten separate dates and 16 shifts, set forth below, Murphy was observed at or near his home during some of the hours he claimed to be at work at Bethpage, West Side Yard, or other work sites:

**Wednesday April 11, 2018 to Thursday April 12, 2018**

- Murphy claimed work hours on April 11, 2018, from 7:30 a.m. to 4:30 p.m., one hour at Bethpage and the rest at Stewart Manor in Hempstead (Stewart Manor), for which he claimed one hour of SO. Murphy also claimed work hours from 4:30 p.m. on April 11 to 6:00 a.m. on April 12, 2018, at the West Side Yard for which he claimed 7 hours of SO and 6.5 hours of DO.
- However, OIG investigators observed Murphy leave the Garden City Yard in his personal vehicle at 1:47 p.m. on April 11, 2018. The investigators later found Murphy's vehicle parked at his residence at 2:30 p.m. that day. Murphy was thereafter observed driving away from his residence at 3:34 p.m., at which point surveillance was terminated. It should be noted that Garden City Yard is where LIRR equipment is stored and is located approximately a 10 to 15 minute drive from Stewart Manor.
- The distance from Murphy's East Northport home to the West Side Yard is approximately 47 miles. According to Google Maps, based on traffic conditions at the time of day Murphy would have traveled (about 3:30 p.m. on a weekday afternoon), it could take from approximately 1½ hours to three hours to travel from Murphy's home to the West Side Yard.

**Wednesday April 18, 2018 to Thursday April 19, 2018**

- Murphy claimed work hours on April 18, 2018, from 7:30 a.m. to 4:00 p.m. at Stewart Manor for which he claimed .5 hours of SO. Murphy also claimed work hours from 4:00 p.m. on April 18 to 6:00 a.m. on April 19, 2018, at West Side Yard for which he claimed 7 hours of SO and 7 hours of DO. He further claimed he then worked from 7:00 a.m. to 7:30 a.m. on April 19, 2018 at Stewart Manor for which he claimed .5 hours of SO.

- However, OIG investigators observed Murphy arrive at his residence in his personal vehicle at 2:38 p.m. on April 18, 2018. Murphy was still at his residence when surveillance was terminated at 4:00 p.m.

**Monday April 23, 2018 to Tuesday April 24, 2018**

- Murphy claimed work hours on April 23, 2018, from 7:30 a.m. to 3:30 p.m. at Bethpage. He also claimed work hours from 3:30 p.m. on April 23 to 6:00 a.m. on April 24, 2018, at the West Side Yard for which he claimed 8 hours of SO and 6.5 hours of DO.
- However, OIG investigators observed Murphy's vehicle parked in the driveway of his residence at 1:40 p.m. on April 23, 2018, nearly two hours *before* his reported quit-time at Bethpage. At 2:15 p.m., Murphy was observed in his driveway; at 2:50 p.m., Murphy was observed on the rear deck of his home; and at 3:40 p.m., Murphy was observed dragging a garbage bag to the front curb of his home. Murphy was still at his residence when surveillance was terminated at 3:50 p.m.

**Tuesday May 15, 2018 to Wednesday May 16, 2018**

- Murphy claimed work hours on May 15, 2018, from 7:30 a.m. to 3:30 p.m. at Bethpage. He also claimed work hours from 3:30 p.m. on May 15 to 5:30 a.m. on May 16, 2018, at the West Side Yard for which he claimed 8 hours of SO and 6 hours of DO.
- However, during this surveillance, OIG investigators observed Murphy arriving at his residence in his personal vehicle at 1:40 p.m., once again nearly two hours *before* his reported quit-time at Bethpage and parking his vehicle on the street where it remained until the surveillance was terminated at 4:00 p.m., one-half hour after his reported start-time for his overtime shift at West Side Yard. When the investigators arrived for a follow-up surveillance on May 16, 2018, they observed Murphy's vehicle parked in the driveway of his residence at 5:30 a.m. which was his reported quit-time at West Side Yard. Murphy was later observed driving away in his vehicle at 7:10 a.m., at which point surveillance was terminated.

**Thursday May 17, 2018 to Friday May 18, 2018**

- Murphy claimed work hours on May 17, 2018, from 7:30 a.m. to 3:30 p.m. at Bethpage. He also claimed work hours from 3:30 p.m. on May 17 to 6:00 a.m. on May 18, 2018, at the West Side Yard for which he claimed 8 hours of SO and 6.5 hours of DO.
- However, OIG investigators observed Murphy's personal vehicle parked in the driveway of his residence at 1:30 a.m. on May 18, 2018, 4½ hours *before* his reported quit-time

from his overtime shift at West Side Yard. At 7:10 a.m., investigators observed Murphy driving away from his residence, at which point surveillance was terminated.

**Thursday May 24, 2018 to Friday May 25, 2018**

- Murphy claimed work hours on May 24, 2018, from 7:30 a.m. to 3:30 p.m. at Bethpage. He also claimed work hours from 3:30 p.m. on May 24 to 6:00 a.m. on May 25, 2018, at the West Side Yard for which he claimed 8 hours of SO and 6.5 hours of DO.
- However, OIG investigators observed Murphy's personal vehicle parked in the driveway of his residence at 12:50 p.m. on May 24, 2018, more than 2½ hours *before* his quit-time at Bethpage. The investigators later observed Murphy as he drove away from his residence at 4:26 p.m., nearly one hour *after* his start time for his overtime shift at West Side Yard, at which point surveillance was terminated.

**Wednesday May 30, 2018 to Thursday May 31, 2018**

- Murphy claimed work hours on May 30, 2018, from 7:30 a.m. to 4:30 p.m. at Stewart Manor for which he claimed 1 hour of SO. He also claimed work hours from 4:30 p.m. on May 30 to 6:00 a.m. on May 31, 2018, at the West Side Yard for which he claimed 7 hours of SO and 6.5 hours of DO. He further claimed work hours from 6:30 a.m. to 7:30 a.m. on May 31, 2018, at Stewart Manor for which he claimed 1 hour of SO.
- However, OIG investigators observed Murphy's personal vehicle parked near his residence at 4:10 a.m. on May 31, 2018, where it remained until the investigators observed Murphy driving away at 8:13 a.m., at which point surveillance was terminated.

**Thursday June 7, 2018 to Friday June 8, 2018**

- Murphy claimed work hours on June 7, 2018, from 7:30 a.m. to 4:00 p.m. at School Street in Westbury (Westbury) for which he claimed .5 hours of SO. He also claimed work hours from 4:00 p.m. on June 7 to 6:00 a.m. on June 8, 2018, at the West Side Yard for which he claimed 7 hours of SO and 7 hours of DO. He further claimed work hours from 6:30 a.m. to 7:30 a.m. on June 8, 2018, at Stewart Manor for which he claimed one hour of SO.
- However, OIG investigators observed Murphy as he arrived at his residence and parked his personal vehicle near his residence at 3:12 p.m. on June 7, 2018; Murphy was still at his residence when surveillance was terminated at 4:00 p.m.

**Wednesday June 13, 2018 to Thursday June 14, 2018**

- Murphy claimed work hours on June 13, 2018, from 7:30 a.m. to 4:00 p.m. at Westbury for which he claimed .5 hours of SO. He also claimed work hours from 4:00 p.m. on June 13 to 6:00 a.m. on June 14, 2018, at the West Side Yard for which he claimed 7 hours of SO and 7 hours of DO. He further claimed work hours from 7:00 a.m. to 7:30 a.m. on June 14, 2018, at Westbury for which he claimed .5 hours of SO.
- However, OIG investigators observed Murphy's personal vehicle parked near his residence at 12:30 a.m. on June 14, 2018, where it remained until Murphy was observed driving away at 8:42 a.m., at which point surveillance was terminated.

On June 29, 2018, OIG staff interviewed Murphy. Murphy was told he had been observed at his home during work hours. Murphy initially claimed that his union's collective bargaining agreement allowed him to leave early once he has completed his assignments for the day, and claimed that he is given travel time at the beginning and at the end of his shifts when assigned to work away from his regular work location at Bethpage. Murphy also claimed that since he is generally assigned to work at the West Side Yard for his overtime shifts, and because it takes him approximately two hours to get to the West Side Yard from Bethpage, he is given two hours of travel time each way. He further described as his general practice, that he stopped by his home or other work locations after ending his regular shift to shower and change before heading to the West Side Yard. After further questioning, Murphy admitted that he is required to remain at his work site until the end of his shift. He also admitted, contrary to his earlier claim, that there is no set two-hour travel time allotted for him to travel to and from the West Side Yard. Murphy added that the amount of time it takes him to travel from one work site to another, which differs depending on traffic, is considered to be a part of his shift. He claimed that he calls his supervisor when he arrives at West Side Yard to verify his arrival time.

OIG staff interviewed Timothy Carroll, B&B Supervisor for Bethpage. Carroll stated that all employees are required to be on site for their entire shift even if an employee has completed his assignments for the day. Carroll denied ever giving Murphy permission to leave early. Although Carroll is Murphy's direct supervisor and approves Murphy's Labor Sheets, Carroll stated that he does not verify Murphy's arrival and departure times. There is also no sign-in log or Kronos system available to document Murphy's arrival or departure at Bethpage. In Carroll's words, "There is a level of trust we give the foremen." Carroll stated that Murphy calls him to let him know where he is working, but only when Murphy is working his shift at Bethpage. Carroll stated he has no oversight over Murphy when Murphy is working at the West Side Yard. When asked how he approves Murphy's Labor Sheets when they include Murphy hours at the West Side Yard, Carroll stated that an outside contractor is responsible for the West Side Yard project and they reimburse the LIRR for Murphy's wages under the terms of the contract. Carroll stated that he assumed the contractor was keeping track of Murphy's hours and would dispute the charges if Murphy didn't work the hours.

Regarding “travel time,” Carroll stated that it refers to the time it takes an employee to get from their regular work location to a different work site. The time is considered to be part of their work shift and is limited to travel from point A to point B; in Murphy’s case, from Bethpage to the West Side Yard. Employees are not allowed to stop at any other location during this time, including their home. Carroll added that there is no “travel time” at the end of a shift when the employee is going home. Carroll stated that when he became the supervisor for Bethpage, the supervisor he was replacing told him that LIRR and the union had a verbal agreement to allow employees 2½ hours of travel time between Bethpage and the West Side Yard, so Carroll expected that Murphy would be entitled to 2½ hours of travel time to get to the West Side Yard only if Murphy completed his full work tour at Bethpage and then traveled directly to the West Side Yard.

## POLICIES

### *LIRR Corporate Policy and Procedure*

LIRR Policy # LEAVE-001 (Attendance Policy for Represented Employees), states in pertinent part:

Section I, Purpose, states,

The purpose of this Corporate Policy and Procedure (Policy) is to ensure that the MTA Long Island Rail Road (LIRR) employees adhere to timely and regular attendance in order to meet expected productivity standards throughout the organization.

Timely and regular attendance at the workplace is a condition of employment for all LIRR employees...

Failure to comply with the Policy may subject the employee to disciplinary action.

Section II, Scope, states,

This Policy applies to all represented employees of LIRR.

Section III, Essential Functions, states in pertinent part,

#### A. LIRR Employees

1. Report to work at the proper location, on time and in condition to perform his/her duties.

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2. Remain on duty for the employee's full tour unless otherwise excused by proper authority.

### FINDINGS

1. Murphy failed to remain on duty for his full tours on at least 10 separate dates and 16 work tours, in violation of LIRR Policy # LEAVE-001.
2. Murphy submitted falsified Labor Sheets to LIRR on multiple dates, which allowed him to receive payment for hours he did not work.

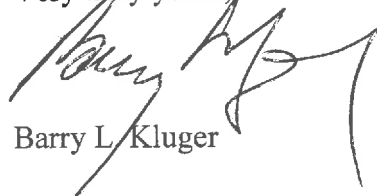
### RECOMMENDATIONS

1. We recommend that LIRR discipline Murphy, up to and including termination.
2. We recommend that LIRR take steps to account for Murphy's actual work hours and recoup any payment made to Murphy for hours that he did not work.

Based on the information obtained during this investigation, we are continuing to review issues raised related to both the oversight of time and attendance and the practice of granting "travel time."

Please provide me with the agency response to our recommendations within 30 days of receipt of this report. As always, we appreciate your continued courtesy and cooperation. Should you have any questions, please contact me at (212) 878-0007 or Deputy Inspector General Demetri M. Jones at (212) 878-0279.

Very truly yours,



Barry L. Kluger