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Metropolitan Transportation Authority
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Carolyn Pokorny
MTA Inspector General

August 19, 2021

Via Electronic Mail

Phillip Eng
President
MTA Long Island Rail Road
93-02 Sutphin Blvd., 3rd Floor
Jamaica, NY 11435

**Re: LIRR Conductors Violating
Agency Policies
MTA/OIG #2021-20**

Dear Mr. Eng:

Observant employees of the Long Island Rail Road (LIRR) alerted the Office of the MTA Inspector General (OIG) of their suspicion that an LIRR Conductor, Robert Anderson, was engaging in a scheme to defraud the MTA out of ticket revenue. Specifically, it was alleged that Anderson collected tickets from fare paying passengers and not only failed to remit those tickets to the LIRR but was giving them to his family and friends for use. The OIG's joint investigation with Suffolk County District Attorney's Office led to Anderson's arrest.¹

The investigation of Anderson led to a broader, proactive investigation which resulted in the OIG finding 8 LIRR Conductors (Conductors 1 - 8, collectively "the Conductors") were not adhering to the LIRR's policies regarding cancelling tickets in front of the customer and properly remitting customer tickets back to the agency.

On 15 instances, between 2019 and 2020, OIG and Suffolk County investigators (the Investigators) rode LIRR trains when the Conductors were on duty. The Investigators presented one-way peak tickets to the Conductors for travel. As detailed below, the OIG found that the Conductors did not submit the tickets used by the Investigators to the LIRR and the Conductors did not cancel the tickets in the OIG's presence. While the OIG did not find that the Conductors

¹ The matter People of the State of New York v. Anderson, CR-012000-21SU. On July 28, 2021, Anderson pled guilty to 1 count of Official Misconduct, a class A misdemeanor, and was sentenced to a \$1,000 fine. Anderson also resigned from the LIRR.

took these tickets for personal gain as Anderson did, the OIG found that the Conductors violated agency policy designed to protect the agency's revenue and employees from allegations of fraud.

We recommend that the Conductors be disciplined as the LIRR deems appropriate.

I. BACKGROUND

LIRR conductors are responsible for “servicing” the tickets onboard trains. Servicing a ticket is an LIRR term used to describe the collection of on-board fares, usually by punching the ticket with a design unique to the conductor, indicating that the ticket was used. As per the *MTA LIRR Accounting Department Ledger 205 Manual of Instructions to Passenger Train Service Employees* (the ADL Manual), a one-way ticket should have a maximum of 3 punches: one indicating direction of travel, another if the ticket would be used for the Jamaica stop and other junction points, and the third for “cancellation” of the ticket at which point it is taken by a conductor. This is also described by the Conductors as “killing” the ticket, meaning that ticket can no longer be used for travel.

Additionally, according to the ADL Manual, at the end of the shift, a conductor is supposed to submit a remittance envelope with the serviced tickets collected to either a ticket clerk at any LIRR station or a ticket receiver clerk if at the Jamaica, Pennsylvania (Penn), or West Side Yard stations.² The location differs based on where the conductor's shift ends. The remittance envelopes are required to contain all serviced tickets. The remittance envelopes are sent to the Revenue Office for review. The ADL Manual also requires that all tickets, trip passes, or other forms of transportation except Annual and Visitor passes, must be immediately canceled in the presence of the customer to show service rendered in accordance with the policies and procedures set forth in the manual.

In September 2019, the LIRR contacted the OIG regarding Anderson potentially committing fraud by not properly servicing and remitting customer tickets. The OIG conducted an undercover operation with Suffolk County which revealed evidence that Anderson allegedly failed to include train tickets presented by investigators to Anderson, in his signed revenue reports³ on 8 separate occasions in 2019 and 2020. Additionally, Anderson was excessively punching used tickets – some had 5 to 10 punches – purportedly in an effort to cover up his scheme.

² On May 4, 2020, the LIRR issued Train Service Notice 23-20 regarding End of Tour Remittance. The policy allowed employees to discard killed/cancelled paper tickets by disposing of them in LIRR garbage cans not accessible to public or in view of public. This policy was in effect until July 15, 2020.

³ The revenue reports are the remittance envelopes the Conductors are required to submit to the agency which contained all the serviced tickets during their shift.

As part of that investigation, from October 2019 to February 2020, the LIRR searched the remittance envelopes of all LIRR Conductors (~1200 conductors) – approximately 5,500 envelopes a week. As a result of that review, the OIG found that only less than 1% of Conductors were following this same pattern of turning in excessively punched tickets in their remittance envelopes. This led the OIG to proactively investigate those Conductors.

The LIRR hired the Conductors as Assistant Conductors and then promoted them to the Conductor title as follows:

Employment Information		
Conductor	Hire Date	Promotion Date
1	April 1998	November 2000
2	September 1998	October 2001
3	July 2002	June 2005
4	April 2012	April 2014
5	May 2016	January 2019
6	January 2017	August 2019
7	February 2017	January 2020
8	September 2017	February 2019

According to LIRR, all Assistant Conductors receive 11 days of ticket training as part of the process of becoming an Assistant Conductor. During those 11 days, they review the ADL Manual. Students must pass a final exam in order to remain employed. All of the Conductors interviewed confirmed that they took this training when they were hired and it covered the policies and procedures for servicing and remitting LIRR tickets for travel. Additionally, the Conductors are issued an On-Board Ticket Issuing Machine (OBTIMs). It is a handheld device used for ticket sales. An electronic version of the ADL Manual can be referenced in the Secure Content Locker on the OBTIMs device.

II. INVESTIGATION

A. OIG's Undercover Investigation

Between 2019 and 2020, Investigators rode the trains of Conductors 1—8 and presented one-way peak tickets to the Conductors during the ride. In total, Conductors 1—8 collected 15 tickets from the Investigators (the OIG Tickets). None of these OIG Tickets were in the respective Conductors remittance envelopes that were submitted. Additionally, the Investigators could not tell if their ticket was punched because the Conductors did not service the ticket in their presence as required by policy. The total value of the OIG Tickets used was \$249. Examples of the operation include:

- On November 25, 2019, Investigators rode the LIRR train from Jamaica to Penn Station that Conductor 4 was working. Conductor 4 took the OIG ticket, but the Investigator was unable to observe if he punched the ticket properly. Conductor 4 turned in an envelope with approximately 70 tickets, but not the OIG ticket.

- On July 10, 2020, Investigators boarded a 9:00 a.m. west bound train from Jamaica to Penn Station. Conductor 1 took the OIG ticket. The Investigator heard what sounded like ticket punches but was unable to see if the OIG ticket was punched. Conductor 1 then proceeded to walk to the front of the car and was observed talking to the Train Engineer (the Engineer). Video surveillance shows Conductor 1 handing what looks like tickets to the Engineer while the train was still in service. Conductor 1 did not turn in a remittance envelope for that date.
- On August 30, 2020, Investigators boarded the 10:22 a.m. west bound train from Jamaica to Penn Station. At approximately 10:30 a.m., the Investigator presented a one-way peak ticket to Conductor 7. According to the Investigator, Conductor 7 did not appear to punch the ticket after collecting it.⁴ Conductor 7 did not turn in a remittance envelope for that date.
- On September 4, 2020, Investigators boarded the 3:48 p.m. east bound train to Huntington from Jamaica Station. After the train departed Jamaica station, Conductor 5 approached the Investigator and asked for the one-way peak ticket and proceeded to walk to the front of the car. The Investigator observed Conductor 5 place the ticket in his right rear pants pocket. Video of the interaction shows Conductor 5 taking tickets from the Investigator and other customers without punching them. Conductor 5 can then be seen placing the collected tickets in his right back pocket. Additionally, Conductor 5 submitted an empty remittance envelope.
- Also on September 4, 2020, Investigators boarded the 5:34 p.m. east bound train from Jamaica to Babylon. The Investigator gave Conductor 8 a one-way peak ticket. The Investigator was unable to determine whether the Conductor punched the ticket. Conductor 8 submitted an empty remittance envelope.

⁴ Video was requested from the LIRR for all dates of surveillance but was not always available.

The below chart shows that none of the ticket submitted during the OIG's undercover operation for the below listed dates and Conductors were remitted:

Conductor	Date of Ride	Envelope Submitted	OIG Ticket in Envelope	Ticket Value
1	7/10/2020	No	-	\$16.75
1	7/31/2020	Yes	Empty envelope	\$19.75
2	12/10/2019	Yes	No	\$14.00
3	11/22/2019	Yes	Empty envelope	\$14.00
3	11/26/2019	Yes	Empty envelope	\$19.75
4	11/25/2019	Yes	No	\$14.00
4	12/4/2019	Yes	No	\$19.75
5	9/3/2020	Yes	Empty envelope	\$16.75
5	9/4/2020	Yes	Empty envelope	\$16.75
6	12/13/2019	Yes	No	\$16.75
7	11/22/2019	Yes	No	\$16.75
7	8/29/2020	No	-	\$10.75
7	8/30/2020	No	-	\$19.75
8	9/2/2020	Yes	No	\$16.75
8	9/4/2020	Yes	Empty envelope	\$16.75

B. Summary of OIG's Interviews

As detailed in the attached appendix, the OIG interviewed 8 Conductors with their counsel present⁵ and the Engineer. All 8 Conductors stated that they throw out serviced tickets. Some claimed it was a result of changes in policy during COVID-19, while others stated that they practiced this behavior prior to COVID-19. The Conductors could not explain why they handed some tickets into the agency and while throwing out others, including the OIG Tickets. For example, Conductor 4 handed in 70 tickets from the ride on November 25, 2019, but not the OIG ticket. Additionally, Conductor 6 handed in 79 tickets from the ride on December 13, 2019, but not the OIG ticket. With respect to the reasons why tickets were excessively punched, the Conductors responded that it was their way to get the customer's attention when they are collecting tickets.

Notably, all of the Conductors acknowledged in their interviews that they know the agency's policy is to hand in their serviced tickets and that they violated the policy by throwing away the tickets. The Conductors denied keeping customer tickets for personal gain.

⁵All 8 conductors were represented by the same counsel.

III. POLICIES AND ANALYSIS

A. MTA All-Agency Code of Ethics

The MTA All-Agency Code of Ethics, Section 4.02, Public Trust, states, in pertinent part, that employees shall not engage in a course of conduct that will raise suspicion among the public that they are likely to be engaged in acts that are in violation of the public trust. Further, employees shall avoid even the appearance that they can be improperly influenced in the performance of their official duties or induced to violate the public trust or impair their independence of judgment in the exercise of their official duties.

Here, the Conductors engaged in a course of conduct that created suspicion that they were likely engaged in acts which violated the public trust by not following agency policy on properly servicing and submitting tickets.

B. LIRR Policies, Rules, and Agreement

1. *LIRR Rules of the Operating Department*

The LIRR Rules of the Operating Department, General Rules, Section E, states, in pertinent part, employees, on or off duty, must conduct themselves in such a manner that the Company will not be subject to criticism or loss of good will.

2. *MTA LIRR Accounting Department Ledger 205 Manual of Instructions to Passenger Train Service Employees*

Chapter 1, Section 100. Statement of Responsibilities

The Statement of Responsibilities states, in pertinent part, that one of the primary responsibilities of Train Service Personnel is the proper collection of transportation from every customer on board.⁶ Employees whose duties require handling of company revenue/funds may be subject to disciplinary action for failure to comply with the rules and procedures outlined in this manual.

Chapter 4: Section 403. Non-Commutation Tickets Peak One-Way & Round-Trip Tickets, Subsection 8, Cancellation Formula

Section 403 of the ADL Manual requires that all tickets, trip passes, or other forms of transportation except Annual and Visitor passes, must be immediately **canceled in the presence of the customer** to show service rendered in accordance with the policies and procedures set forth in this manual (emphasis added).

⁶ According to the ADL Manual, “personnel” applies to Conductors, Assistant Conductors, and Collectors.

Chapter 8. Section 804. Handling Ticket Collections

Regarding ticket collection the ADL Manual provides the preparation and remittance instructions as follows:

Personnel are to securely band the tickets and trip passes collected from each train. Write the train number, date, employee number and initial on the back of the last ticket in the bundle. Submit the bundle of tickets in one (1) Ticket Collections Remittance Envelope for each job. Complete the information as requested on the face of the envelope. Serviced tickets are required to be submitted. **Tickets should not be thrown away or disposed of.** (Emphasis added).

Here, the Conductors violated these policies by failing to service the tickets given to them by OIG staff in their presence and throwing away serviced tickets instead of remitting these tickets to the agency.

IV. FINDINGS

1. The Conductors did not properly service tickets submitted by the Investigators in violation of the MTA All-Agency Code of Ethics Section 4.02, the LIRR Rules of the Operating Department, General Rules, Section E, and the MTA LIRR ADL Manual, Chapter 1, Section 100, Statement of Responsibilities and Chapter 4: Section 403, Non-Commutation Tickets Peak One-Way & Round-Trip Tickets.
2. The Conductors failed to submit, in their remittance envelopes, all the tickets they collected during their shift in violation of the MTA LIRR ADL Manual, Chapter 8, Section 804, Handling Ticket Collections.

V. RECOMMENDATIONS

We recommend that LIRR discipline the Conductors as it deems appropriate.

As always, we appreciate your continued courtesy and cooperation. Please advise our office within 30 days of any actions you intend to take, and the result of any action taken pursuant to this letter. In addition, please indicate your acceptance or rejection of each recommendation and the proposed quarter in the calendar year that the recommendation will be implemented. Please be advised that the Office of the MTA Inspector General may publicly disclose this report consistent with its statute and other state law, which may include name(s) of individuals and entities. Should you have any questions, or need additional information, please contact Executive Deputy Inspector General for Legal Pei Pei Cheng-de Castro at (212) 878-0072.

Very truly yours,

/S/

Carolyn Pokorny

cc: Paige Graves, General Counsel, LIRR
Rose Koven, Acting Director of Labor Relations Administration, LIRR
Stephen Papandon, Senior Deputy General Counsel & Ethics Officer

APPENDIX: INTERVIEWS OF THE CONDUCTORS

Conductor 1

Conductor 1 stated that he was hired by the LIRR in April of 1998, as an Assistant Conductor and qualified as a Conductor in November 2000. Conductor 1 admitted that he would throw out tickets because they would be uncomfortable in his pocket. He also admitted to turning in empty envelopes. He stated that if he did not have any more remittance envelopes, he would fill out a sheet at the station window to hand in his cash transactions.

Conductor 1 acknowledged that the agency's policy was to remit tickets back to the agency.

Conductor 1 was informed that the OIG conducted undercover rides on his train on July 10, 2020 and July 31, 2020. For the ride on July 10, Conductor 1 did not hand in an envelope and for July 31, his envelope was empty. Conductor 1 did not have an explanation as to why that happened. Conductor 1 was shown video from July 10, where it appeared he handed items that looked to be tickets to the Engineer as the train was moving. Conductor 1 stated he is friendly with the engineers in general and did not recall what he handed the Engineer that day. Conductor 1 denied that he kept any tickets or not punching them.

The OIG also interviewed the Engineer. The Engineer confirmed that he has known Conductor 1 for about 15 years and has worked with him in the past on numerous occasions. The Engineer was asked if he knew whether Conductor 1 was taking tickets that he collected from passengers and kept them for himself and the Engineer responded no. The Engineer also stated that Conductor 1 never gave him passenger tickets. When the Engineer was shown photograph stills from the July 10th video, the Engineer again stated that Conductor 1 never gave him tickets and that Conductor 1 gave him a newspaper crossword puzzle on a regular basis.

Conductor 2

Conductor 2 stated that he was hired by the LIRR on September 28, 1998, as an Assistant Conductor and he qualified as a Conductor in October 2001. Conductor 2 stated that he would kill one-way tickets and put them in his pocket. Conductor 2 admitted that he throws out the serviced tickets. Conductor 2 claimed he would not throw out anything related to the LIRR in garbage cans in public spaces and would only throw tickets out inside a LIRR facility or sometimes take the tickets home to dispose of them.

Conductor 2 was informed that the OIG conducted an undercover ride on his train on December 10, 2019 and shown the envelope from that ride. Conductor 2 did not hand in the OIG ticket in his envelope but handed in other tickets. Conductor 2 did not have an explanation as to why that happened, he assumed he threw it away. Conductor 2 claimed that he never kept tickets.

Regarding excessively punching serviced tickets, Conductor 2 claimed he did this to alert customers that he was coming through the car.

Conductor 2 acknowledged that the policy requires him to hand in his tickets that he collected. He further stated he was only trained on submitting tickets when he first started 22 years ago.

Conductor 3

Conductor 3 stated he was hired by the LIRR as an Assistant Conductor on July 15, 2002. He was promoted to Conductor in 2005.

Conductor 3 said he would collect tickets and would punch them depending on the type of ticket. A killed ticket would have 3 punches. Conductor 3 admitted that most of the time he would hand in empty envelopes because he has been throwing away his tickets for years. Sometimes he would hand in tickets if he had to hand in an envelope with cash receipts but because of the COVID-19 pandemic that has not happened often.

Regarding why some of his tickets were excessively punched, he said that he would use punching to wake up passengers and signal that he was collecting tickets, in addition to announcing that he was coming to collect tickets.

Conductor 3 was shown 2 empty envelopes from rides conducted by the Investigators on November 22 and 26 in 2019. Conductor 3 confirmed that it must have been when he was throwing away tickets.

Conductor 3 acknowledged that the policy is to hand in tickets but also stated that he received training regarding collecting tickets only when he was first hired.

Conductor 4

Conductor 4 stated that he was hired by the LIRR on April 11, 2012 as an Assistant Conductor and qualified as a Conductor in April 2014. Conductor 4 admitted that prior to the COVID-19 pandemic, sometimes he would throw the tickets away. Conductor 4 said there would be no “rhyme or reason” as to why he would keep or throw out tickets and claimed it was due to laziness. Conductor 4 also said that he would have excessive punches on tickets because that is how he gets the customers attention that he is coming through the car.

During the COVID-19 pandemic, Conductor 4 stated that he would kill the tickets and then throw them away. He also stated that if he had no cash transactions, he would hand in empty envelopes. Conductor 4 said he started handing in tickets again about 3 months ago (February 2021).

The OIG told Conductor 4 that we conducted undercover rides on his train November 25, 2019, December 4, 2019, and January 6, 2020. Conductor 4 was shown the envelopes from those dates. While he did hand in the OIG ticket from the January 6, 2020 ride, he did not for the November 25, 2019 and December 4, 2019 rides. Conductor 4 did not have an explanation on why he did not hand in the OIG tickets in his envelopes on those dates but handed in other tickets.

Conductor 4 admitted that he knows the policy is to turn in the tickets.

Conductor 5

Conductor 5 stated that he was hired by the LIRR on May 18, 2016, as an Assistant Conductor and qualified as a Conductor in January 2019. Conductor 5 stated he would kill tickets with 3 punches or sometimes tear the tickets instead of punching them to kill them. Conductor 5 also claimed that sometimes he would punch tickets more than 3 times to get the customers' attention that he was coming. Conductor 5 stated that before the COVID-19 pandemic he would hand in the tickets in the envelope and during the COVID-19 pandemic he would throw them away. If there were no cash sales, he was told by the agency to throw away the tickets during the pandemic. However, as noted above, the policy that allowed tickets to be thrown away had expired on July 15, 2020.

Conductor 5 was shown video surveillance from the OIG's undercover rides on his train on September 3, 2020 and September 4, 2020. For the September 3rd ride, Conductor 5's envelope was empty and he did not submit an envelope for September 4. He did not have an explanation as to why that happened. Conductor 5 denied that kept tickets.

Conductor 5 admitted that he knows the policy is to turn in the tickets.

Conductor 6

Conductor 6 stated that he was hired by the LIRR on January 25, 2017, as an Assistant Conductor and qualified as a Conductor in August 2019. Conductor 6 stated that he would put the tickets in his pocket after killing the tickets with 3 punches. Conductor 6 stated that if his pockets are filled, he would throw away the tickets in the bathroom of the train. Conductor 6 said he would hand in half of his tickets and throw away half. Conductor 6 also stated that he would not hand in an envelope if there were no cash sales.

The OIG told Conductor 6 that we conducted an undercover ride on his train on December 13, 2019 and he did not hand in the OIG ticket in his envelope, but handed in other tickets. Conductor 6 did not have an explanation as to why that happened. He stated that sometimes he writes on tickets to remember what jobs he wants to be bid on and then he would throw that ticket out. He stated that he never kept tickets.

Conductor 6 admitted that he knows the policy is to turn in the tickets. However, Conductor 6 said he did not know the rule on punching the ticket in front of the customer.

Conductor 7

Conductor 7 stated that he was hired by the LIRR on February 17, 2017 as an Assistant Conductor and qualified as a Conductor in January 2020. Prior to the COVID-19 pandemic, Conductor 7 stated he would scan the e-tickets and if he had paper tickets, he would punch them 3 times, depending on where the passengers were traveling. After COVID-19, he stated that he would punch the tickets and then throw them away. He stated he did this for about a year because he did not want any germs. Conductor 7 stated that he still throws away the tickets.

Conductor 7 was informed that the OIG conducted undercover rides on his train on November 22, 2019, August 29, 2020, and August 30, 2020 and he was shown the envelopes from those dates. For the November 22, 2019 ride, Conductor 7 handed in his tickets, but the OIG ticket was not in his envelope. Conductor 7 did not have an explanation for why he did not hand in the OIG ticket, but did hand in other tickets in his envelope. He claimed he submits some but throws some away and could not explain why he does this. For both the August rides, he handed in empty envelopes. He stated that he threw away the tickets after COVID-19 so that is why his envelopes were empty in August 2020. Conductor 7 denied keeping any tickets.

Regarding his tickets being excessively punched, he claimed sometimes he was “punch happy,” but when questioned to explain that, he had no reason for this behavior.

Conductor 7 admitted that he knows the policy is to hand in his envelopes.

Conductor 8

Conductor 8 stated that he was hired by the LIRR on September 16, 2017, as an Assistant Conductor and qualified as a Conductor in February 2019. Conductor 8 stated he was trained on the collection of tickets when he was an Assistant conductor.

Conductor 8 stated that he would punch the ticket in the presence of the customer and kills the tickets with 3 punches. Conductor 8 said there were times he would throw away tickets for no particular reason. Conductor 8 gave conflicting statements. He admitted that he continues to throw away tickets, conceded that it is a bad habit, and knows he is supposed to turn in his tickets, but then also said if there were no cash sales, he did not have to hand in an envelope.

Conductor 8 was informed that the OIG conducted undercover rides on his train on September 2, 2020 and September 4, 2020 and shown his envelopes from those rides. The envelope from September 2nd did not contain the OIG ticket, but did contain other tickets and the September 4th envelope was empty. Conductor 8 did not have an explanation as to why that happened, other than sometimes he throws tickets away. Conductor 8 said he never kept tickets.



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Agency Response
to
MTA/OIG #2021-20

LIRR Conductors Violating Agency Policies

LIRR reviewed the OIG investigation and report finding that 8 Conductors failed to cancel and turn in tickets in violation of agency procedure and process, and noted that the OIG did not find that the Conductors took these tickets for personal gain. In response, the LIRR issued Letters of Caution to each of the 8 Conductors to serve as a warning regarding their failure to properly perform their duties as Conductors. The Conductors were also instructed to review the appropriate policies and told that any further violation of this nature will result in disciplinary action. Additionally, LIRR is taking appropriate measures through notices and training to ensure that everyone in the department is reminded and aware of the policies.