

Summary of Time Theft Investigations

Office of the Inspector General



Investigation Results

We completed five investigations of alleged theft of time by BART employees. We are providing this summary report to remain compliant with California Public Utilities Code [28841](#), which requires that we keep BART administration, the board of directors, and the public fully informed of our findings and recommendations. Our investigations are based on complaints received from individuals who reported their concerns in good faith. The subsequent pages provide more information on our findings. In brief:

- Evidence supported that employees report to work on time, but surveillance was inconclusive as to whether they complete their list of duties and continue to perform their duties throughout their shifts.
- Evidence supports that union representatives are allowed to leave their shifts to conduct union business, but this information is not always captured in BART's timekeeping system.
- Extensive use of manual clock outs without explanation removed our ability to determine whether utility workers assigned to graffiti car-cleaning shifts are not working the full length of their shifts.
- Evidence did not support that an employee altered the employee's own timesheets for additional pay within the period of January 1, 2020, to June 30, 2021.
- Evidence supported that an employee was excessively tardy or reporting to the wrong duty station while being paid as if they reported on time to the correct station. However, management had already appropriately addressed the issue.

Recommendations

1. To allow for proper oversight of timekeeping, BART should require supervisors to enter the information that SEIU employees are required to provide when conducting union business - location, area of the activity, estimated time needed, and specific nature of the union business involved - into the timekeeping comment field, when they manually clock out SEIU union representatives who leave their worksites during their work shifts to conduct union business. This is in addition to ensuring supervisors enter the appropriate union code into the timekeeping system when they make time adjustments to account for union business time.
2. To allow for proper oversight of timekeeping, BART should require utility workers assigned to graffiti car cleaning shifts to use the TCD machines to clock out of their shifts at the yards at which they are conducting the cleaning, regardless of which yard they are regularly assigned to work.

Management agreed with our recommendations. See Appendix I on page nine for details.



Allegations

System Service staff (station cleaners) are not reporting for work at their assigned stations, are reporting up to five hours late, are cleaning during only a portion of their eight-hour shifts, and are not following enhanced COVID-19 cleaning protocols, thus exposing riders to COVID-19.

Allegation Determination

Partially Unsubstantiated and Partially Inconclusive

Relevant Law and Policy

Operations Rules and Procedures Manual (Subsection 1302): Employees shall report on time and be ready for duty at their assigned work location.

Operations Rules and Procedures Manual (Subsection 1303): Employees shall, while on duty, perform all tasks assigned or directed by proper authority.

We determined the allegations that System Service staff (station cleaners) are not reporting to their assigned stations and are reporting late are unsubstantiated. Our evidence was inconclusive as to whether the station cleaners are performing their cleaning duties during their entire eight-hour shifts as they perform some of their tasks outside of public view and are not required to complete task checklists. Our evidence was also inconclusive as to whether the station cleaning staff were performing enhanced COVID-19 cleaning protocols since those protocols were discontinued between the time we received the allegation and the time we were able to deploy our resources to investigate it.

To address the allegations, we reviewed available time and attendance data for seven station cleaners regularly assigned to the stations we identified as pertinent to the allegations and we conducted onsite surveillance. The evidence supported that the station cleaners are routinely reporting to work at their assigned stations and at their assigned start times. However, our surveillance did not confirm either continued cleaning or the lack of it. We saw station cleaners on site and performing their duties in some instances but not in others. We also noted that the stations were kept free of garbage and appeared clean in some instances but not in others. Given the foot traffic that goes through the stations and breadth of work required by the station cleaners, it is possible that the instances in which we noted that stations did not appear clean or free of garbage may have happened after the station cleaners performed their work in those areas. We have no recommendations for this allegation.



Allegation	
Employees are leaving work early on Fridays and being clocked out by their supervisors to get paid a for a full shift.	
Allegation Determination	
Unsubstantiated	
Relevant Law and Policy	
<u>Operations Rules and Procedures Manual (Subsection 1703)</u> : No employee shall knowingly falsify any official report, or knowingly enter, or cause to be entered, any inaccurate, false, or improper information on the books, reports, logs or records of the District.	<u>Service Employees International Union (SEIU), Local 1021 Collective Bargaining Agreement (Article 20.1)</u> : Union representatives shall advise their immediate supervisor or his/her designee of their intent to engage in Union business as far in advance as possible. Such request for release time shall include the location, area of the activity, the estimated time needed and the specific nature of the Union business involved.

We determined the allegation that employees are leaving work early on Fridays and being clocked out by their supervisors to get paid a for a full shift to be unsubstantiated. To address the allegation, we conducted surveillance, reviewed time and attendance data, interviewed two employees who we observed leaving before their shift ended but were clocked out at their normal end-of-shift time, and interviewed the two supervisors who clocked out those employees in advance on those days.

We did not see any patterns in the time and attendance data to substantiate that there is a pervasive problem of supervisors clocking out their employees on Fridays. In the dataset we reviewed covering a nine-month period, we determined that employees generally use their swipe cards to clock out at the beginning and the end of their shifts on Fridays. We did identify instances in which a supervisor clocked out an employee the next day, which is consistent with our understanding of problems with the timekeeping system that require supervisors to correct employee time. On average, this took place two times for each of the 10 employees supervised over nine months. We did identify three instances affecting two employees in which data showed that their supervisors entered time adjustments in the morning to show that the employees left at their normal time later that day, but we had observed those two employees leaving their worksite before the end of their shift on the days in question. These two employees in general had more time adjustments made by their supervisors than other employees.

The two employees were SEIU union representatives. Their collective bargaining agreement affords them reasonable time away from their normal duties to conduct union business. Their time to conduct union business is payable time and is to be coded as union business by their supervisors in the District's timekeeping



system when the time is considered extensive, for example, an hour or more. Supervisors are not expected to record short periods of time for union business, for example, 10 minutes for a phone call related to a union matter. SEIU union representatives are to inform their supervisors of the estimated time away from their normal duties, location to which they are going, and specific nature of the union business involved pursuant to Article 20.1 of the SEIU collective bargaining agreement. They are not required to put this information in writing but are to inform their supervisors of this need in as far in advance as possible. For this reason, supervisors will know that they must account for union time prior to the union representative leaving their work location to conduct union business and can make time adjustments in advance. The intent of Article 20.1 seems to be to provide accountability and transparency regarding the location of employees who are scheduled to work but are authorized to be away from their scheduled work area and responsibilities.

When we separately interviewed the SEIU union representatives and their supervisors, they said they could not recall why they left their worksite on the days in question, but believed it was for union business since that is generally why they leave their worksite early. However, the supervisors did not code the time as union business in the District's timekeeping system or input comments to explain the reason they input the employees' departure time. Both supervisors said that they sometimes do not make comments in the timekeeping system because they are busy. One supervisor acknowledged that it was an error to not code the time as being for union business.

Given the lack of evidence in timekeeping data to support a pervasive problem of supervisors clocking out employees so that the employees may leave work early on Fridays, we considered the allegation unsubstantiated. Further, we considered the statements by those we interviewed to be satisfactory given the provisions in the collective bargaining agreement. However, we believe that the District can improve its internal controls by requiring supervisors to enter the information that SEIU union representatives are required to report to them, per Article 20.1 of the SEIU collective bargaining agreement, into the timekeeping record comment field.

Recommendation

To allow for proper oversight of timekeeping, BART should require supervisors to enter the information that SEIU employees are required to provide when conducting union business - location, area of the activity, estimated time needed, and specific nature of the union business involved - into the timekeeping comment field, when they manually clock out SEIU union representatives who leave their worksites during their work shifts to conduct union business. This is in addition to ensuring supervisors enter the appropriate union code into the timekeeping system when they make time adjustments to account for union business time.

Management agreed with our recommendation. See Appendix I on page nine for details.



<p>Allegation</p> <p>Utility workers assigned to graffiti car cleaning shifts are not working the full length of their shifts.</p>
<p>Allegation Determination</p> <p>Inconclusive</p>
<p>Relevant Law and Policy</p> <p><u>Operations Rules and Procedures Manual (Subsection 1703)</u>: No employee shall knowingly falsify any official report, or knowingly enter, or cause to be entered, any inaccurate, false, or improper information on the books, reports, logs or records of the District.</p>

We determined the allegation that utility workers assigned to graffiti car cleaning shifts are not working the full length of their shifts to be inconclusive. This complaint arose after members of a graffiti car-cleaning crew were twice observed leaving the Richmond yard at 1 or 1:15 p.m., yet their time and attendance data revealed they were paid until 10 p.m. Additional time and attendance data disclosed that in the seven-month period of February 2021 to August 2021, there were 27 graffiti car cleaning shifts and a supervisor manually clocked out workers for each of those shifts. Of the 27 occurrences, 24 were 16- or 17-hour shifts that concluded at precisely 10 or 11 p.m. Further, a supervisor manually clocked out workers for seven of those 27 shifts well prior to 10 or 11 p.m. Precise shift-completion times for variable work like graffiti cleaning and manually clocking out workers are indications of potential theft of time, and excessive use of manual clock outs removes the ability to provide proper timekeeping oversight.

To address the allegation, we interviewed the manager and foreworker in charge of the graffiti car-cleaning program. They reported that removing the graffiti is a District priority and that train cars being graffitied is unpredictable. They explained that the 16- and 17-hour shifts encompass a range of time-consuming tasks, including workers responding to the affected yards, which may not be the yard to which they are regularly assigned; staging the cars for cleaning; and performing the cleaning, which requires the use of power washers, chemicals, and personal protective equipment; properly handling and disposing of hazardous waste; and in some cases, returning cleaning equipment back to centralized storage at the Richmond yard. They explained that some workers leave their assigned yard prior to the end of their shift because they are responding to a different affected yard or are taking a lunch break, and that the graffiti car-cleaning shifts are almost always 16 to 17 hours because of the range of tasks described. Last, they explained that supervisors sometimes manually clock out workers prior to or after their shifts because of either administrative convenience to ensure payroll is submitted on time or because the workers are not permitted to use the time collection device (TCD) machines at yards to which they are not regularly assigned. We communicated with Time, Accounting, and Administration Division (TAAD) personnel who informed us there are no TCD system limitations that prevent the utility workers from using the TCD machines at any of the yards, regardless of where they are regularly assigned to work.



Excessive use of manual clock outs remove the ability to ensure employees are working their full shifts. Therefore, our evidence is inconclusive as to whether utility workers assigned to graffiti car cleaning shifts are not working the full length of their 16- to 17-hour shifts, but it supports the need for workers to use the TCD machines at the end of their shifts, regardless of the yard to which they have been assigned.

Recommendation

To allow for proper oversight of timekeeping, BART should require utility workers assigned to graffiti car cleaning shifts to use the TCD machines to clock out of their shifts at the yards at which they are conducting the cleaning, regardless of which yard they are regularly assigned to work.

Management agreed with our recommendation. See Appendix I on page nine for details.



<p>Allegation</p> <p>An employee is altering the employee’s own timesheets for additional pay.</p>
<p>Allegation Determination</p> <p>Unsubstantiated</p>
<p>Relevant Law and Policy</p>
<p style="text-align: center;"><u>Operations Rules and Procedures Manual (Subsection 1703):</u></p> <p>No employee shall knowingly falsify any official report, or knowingly enter, or cause to be entered, any inaccurate, false, or improper information on the books, reports, logs or records of the District.</p>

We determined that the allegation that an employee is altering the employee’s own timesheets from January 1, 2020, to June 30, 2021, to receive additional pay is unsubstantiated. The complainant did not respond to our request for specific information on when the timesheet alterations took place; therefore, we limited our investigation to an 18-month time period surrounding the time of the allegation.

A lack of specific information removes our ability to effectively narrow in on events to investigate. However, to address the allegation, we reviewed the accused employee’s time and attendance data covering the time period we selected and interviewed coworkers mentioned in the complaint as being witnesses to the timesheet alterations. We identified no discernable patterns of timecard fraud in the time and attendance data within the time period we reviewed. The witnesses reported that the employee in question did alter the employee’s own time over 20 years ago and believed that management addressed the issue at the time. The witnesses said that the older timekeeping system easily allowed for such alterations to take place, but the system in place now prevents that from happening. The witnesses’ statements regarding the current timekeeping system is consistent with our knowledge of how time alterations require a third-party, such as a supervisor, to make the changes, and does not provide employees the level of access necessary to alter their own time. Given the length of time that has passed and the implementation of a timekeeping system with stronger controls, we did not pursue the older instance further. We have no recommendations for this allegation.



Allegation

An employee is excessively tardy or reporting to the wrong duty location, and their foreworker is clocking them in as if they were on-time.

Allegation Determination

Substantiated but Addressed by Management

Relevant Law and Policy

Operations Rules and Procedures Manual (Subsection 1703):

No employee shall knowingly falsify any official report, or knowingly enter, or cause to be entered, any inaccurate, false, or improper information on the books, reports, logs or records of the District.

We determined that an allegation that an employee is excessively tardy or reporting to the wrong duty station while being paid as if they reported on time to the correct station to be substantiated. However, management addressed the issue in July 2021 in accordance with the appropriate collective bargaining agreement. To verify that management’s actions were meaningful, we reviewed time and attendance data from July 2021 to October 2021 and determined that it supports that the employee is reporting on time to the correct station. We concluded that management’s actions were effective. Therefore, we have no recommendations for this allegation.

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Appendix I – Management Response to Recommendations

BART OFFICE OF THE GENERAL MANAGER RESPONSE TO OIG FINDINGS & RECOMMENDATIONS	
Report Title: Summary of Time Theft Investigations	
1.	<p>Recommendation:</p> <p>To allow for proper oversight of timekeeping, BART should require supervisors to enter the information that SEIU employees are required to provide when conducting union business - location, area of the activity, estimated time needed, and specific nature of the union business involved - into the timekeeping comment field, when they manually clock out SEIU union representatives who leave their worksites during their work shifts to conduct union business. This is in addition to ensuring supervisors enter the appropriate union code into the timekeeping system when they make time adjustments to account for union business time.</p>
	<p>Responsible Department: Maintenance and Engineering, Rolling Stock & Shops</p>
	<p>Implementation Date: TBD</p>
	<p>Corrective Action Plan:</p> <p>We are currently working with payroll to increase the input of information on fields explaining the nature of the business. The persons inputting time will be required to fill all applicable fields for a person to be paid Union Business. That pay code will require the inputter to fill in all fields with information for the payroll to be accepted by the system, if the required fields are not filled in properly the employee in question will have an error status. Which will trigger a secondary review of the persons payroll.</p> <p style="text-align: center;">-----</p> <p>OIG Note: We spoke with BART management to gain clarification on their response, and they do intend to implement the recommendation. Management’s goal is to capture the union time and identify location, area of the activity, estimated time needed, and specific nature of the union business involved in the time keeping system. Still under evaluation is whether it is possible to add new data fields to the time keeping system vs. using the comment field and, if so, what the time frame is for making those changes.</p>



BART OFFICE OF THE GENERAL MANAGER RESPONSE TO OIG FINDINGS & RECOMMENDATIONS	
Report Title: Summary of Time Theft Investigations	
2.	<p>Recommendation: To allow for proper oversight of timekeeping, BART should require utility workers assigned to graffiti car cleaning shifts to use the TCD machines to clock out of their shifts at the yards at which they are conducting the cleaning, regardless of which yard they are regularly assigned to work.</p>
	<p>Responsible Department: Rolling Stock & Shops</p>
	<p>Implementation Date: 3/14/22</p>
	<p>Corrective Action Plan: Assistant Chief Leo Pica has investigated this issue and the following direction in process will be reinforced. A worker should clock in at their headquartered location and clock out when their shift is completed, and they are released. If this cannot be accomplished due to travel or change of start location, the Foreworker in charge of graffiti remediation will manually enter the time of the crew.</p> <p style="text-align: center;">-----</p> <p>OIG Note: We spoke with BART management to gain clarification on their response, and they do intend to have the utility workers use the time collection devices at the yard at which they conducted the car cleaning to remove the graffiti. This removes the need for the workers to return to their headquartered location, at which they may have started their workday, to clock out of their shifts.</p>