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Inspector General

Office of the Inspector General

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October 10, 2013

Mr. Carmen Bianco
President
MTA New York City Transit
2 Broadway, 30th Floor
New York, New York 10004

**Re: Employee Misconduct
MTA/OIG #2013-14**

Dear Mr. Bianco:

This office investigated a complaint alleging that Track Department Superintendent Simon Valentine¹ failed to conduct mandatory Superintendent track inspections and instead had other personnel perform these inspections. The complaint further alleged that Valentine ordered employees to falsely state that they were assisting Valentine while he conducted his inspections. Our investigation established that Valentine did not perform all of his required inspections and that he falsified track inspection reports by preparing and signing inspection forms claiming that he performed these inspections when in fact he was not present when these inspections took place. In addition, we found that Valentine has been observed sleeping at his desk in his office at the Roosevelt Avenue Track Office during his work shift hours.

INVESTIGATION

During the timeframe of this investigation, Simon Valentine, employee #913792, was a Track Superintendent in Subway Maintenance T-6, Zone D. Zone D encompasses the IND line in Queens from south of Queens Plaza to 179th Street, Jamaica, including the Archer Avenue line. In this capacity, Valentine supervised one Maintenance Supervisor Level II (MS-II), 7 MS-Is, and about 60 track employees. Valentine's work shift normally started at 11:00 p.m. and ended at 7:00 a.m.

As Superintendent, Valentine was required by the NYC Transit 2012 MW-1 Track Standards Manual (Track Manual) 102.2 (B) to:

...[inspect] all guarded curves with a radius of less than 500 feet, on all mainline tracks and main yard lead tracks. In addition, the Superintendent shall perform an inspection of all mainline switches in his zone at least once a year...

¹ As of June, 2013, Valentine returned to his former title as Maintenance Supervisor.

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Section 102.2 (B) of the Track Standards Manual also requires that

A written inspection report must be prepared... certifying that the inspection was performed.

According to NYC Transit Chief Track Officer David Knights, the superintendent is expected to prepare a report for each guarded curve inspection that he performs, and is required to sign and retain a copy of the inspection report in his office. NYC Transit did not specify a format to be used by the superintendent when reporting on guarded curve inspections. In contrast, when reporting on switch inspections, a track superintendent is required to use a "Joint Switch and Frog Inspection Form" (Switch Inspection Form). A separate form is required for each switch inspection. The superintendent is required to sign the form and forward a copy to his supervisor, a Maintenance General Manager.

According to the Assistant Chief Track Officer, Michael Torrillo, the superintendent inspection requirements were designed to ensure that superintendents are regularly inspecting the condition of the track in their zone. He told OIG that the superintendent's quarterly guarded curve inspections are very important for ensuring safety, because the superintendent's knowledge of track conditions can help him to spot potential problems.² He went on to state that the superintendent inspections supplement weekly and monthly inspections conducted by track workers and supervisors.³

Guarded Curve Inspections

Requirements

According to the Assistant Chief Track Officer, when conducting inspections the superintendent is usually accompanied by a Maintenance Supervisor Level I or Level II (MS-I or MS-II) and four or five track workers who provide flagging protection.

When conducting a guarded curve inspection, the superintendent must visually inspect the tracks for damage and wear. In addition, track gauge measurements are taken every ten feet along the radius of the curve. According to the Assistant Chief Track Officer, either a track worker or the maintenance supervisor will take these measurements. The superintendent is required to "physically observe every measurement" and ensure that the measurements are recorded.

² The Assistant Chief Track Officer did point out that NYC Transit also makes use of a "track geometry car" to inspect guarded curves. A track geometry car is an automated track inspection vehicle that is used to test several geometric parameters of the track including the position, curvature, and alignment of the track. However, he also told OIG that the superintendent inspection is vital, because he can spot potential problems that the automated inspection machine will not record.

³ According to the Track Standards Manual, all main line track switches must be inspected each month, and a track supervisor must be present for the inspection.

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There are 14 guarded curves in T-6, Zone D.⁴ One track supervisor that we interviewed told OIG that normally two guarded curve inspections can be completed in a shift as each guarded curve inspection takes about two hours to complete, and track access restrictions limit the amount of time that a crew can actually spend on the tracks to about four hours a shift. Valentine agreed with this estimate.

In order to meet NYC Transit track inspection requirements to inspect each of the 14 guarded curves in his zone on a quarterly basis, Valentine would have had to produce 64 guarded curve inspection reports in 2012. However, when OIG requested the guarded curve inspections performed by Valentine in 2012, it received only 14 inspection reports.

We brought this to Torrillo's attention who questioned Valentine in late January 2013 about the discrepancy. Valentine claimed that he had misinterpreted the Track Standards Manual, and thought that he was required to perform only one inspection each year. In an undated memo sent to Torrillo, Valentine wrote:

I severely misinterpreted the scheduling for Guarded Curve inspections. I wrongly interpreted the scheduling as the same timeframe as... Switch Inspection[s].⁵

However, while Valentine claimed that he conducted at least 14 guarded curve inspections on seven dates in 2012, our investigation determined that at best, Valentine was actually present for only six of the guarded curve inspections (conducted during three dates in 2012) that he claimed to perform.

Interview with a subordinate MS-I

OIG interviewed an MS-I who Valentine's subordinate who stated that he was assigned to accompany Valentine for six of the dates in 2012, and took the measurements for the inspections conducted on these dates. The MS-I recalled that Valentine accompanied him on a couple of guarded curve inspections. After the first two, however, Valentine did not show up to conduct any of the other guarded curve inspections that the MS-I was to participate in, and the MS-I proceeded without him to perform the measurements and the visual inspection. The MS-I stated that Valentine was not present at any time when he took the measurements for the inspection on March 21, 2012, June 12, 2012, September 11, 2012 and September 12, 2012. In effect, the MS-I conducted these inspections instead of Valentine, because he told OIG that he took all of the required measurements and also visually inspected the tracks. Nevertheless, OIG found that Valentine prepared, dated, and signed forms that he used to report on these inspections entitled "Guarded Curve Inspection Forms" for these dates indicating that he conducted these inspections when in actuality he did not do so.

⁴ According to the assistant chief track, the track department recently determined that there are only 12 curves in T-6, zone D with a radius of 500 feet or less, not 14 as previously thought in 2012.

⁵ A superintendent is required to inspect each switch in his zone at least once a year.

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The MS-I said that one time when Valentine did not appear at the inspection site he spoke to Valentine regarding his not showing up for the inspection. According to the MS-I, Valentine told him to "put my name on the paperwork." The MS-I said that because of that conversation, he continued putting Valentine's name on the paperwork whether Valentine showed up for the inspections or not.

Valentine

When questioned about his 2012 guarded curve inspections, Valentine provided evolving and conflicting explanations. Valentine first stated that it was his procedure to have his subordinate MS-I take the measurements (i.e., gauge the track every ten feet of the guarded curve) and record the results by hand on a form that Valentine uses to record these inspections entitled "Guarded Curve Inspection Form." Valentine told OIG that while the MS-I was taking the measurements at the inspections site(s), he did not actually stand over the MS-I when the inspection was being done, but he (Valentine) was visually inspecting other parts of the curved track but remained in visual contact with the MS-I. If track measurements taken by the MS-I were "out of tolerance" the MS-I contacted him and he returned to that inspection location.

Valentine said that a day or two after the inspection date, he would receive the MS-I's handwritten report which would be delivered to him, either personally, or by fax. Valentine said that after receipt of the MS-I's report, either he or his office personnel would prepare a typed version of the report and he would review and sign it.

During a subsequent interview, OIG produced Valentine's 2012 signed guarded curve inspection reports which included inspection dates March 21, 2012, June 12, 2012, September 11, 2012 and September 12, 2012. Valentine reviewed each report and stated that he reviewed and signed off on each of these reports.

When further questioned by OIG, Valentine stated that he may not have actually been at the inspection site(s) on the dates when the measurements were taken by the MS-I. Valentine said that he "may have returned at another time or date." When asked to clarify Valentine said that sometimes the inspection team went to the work site and the measurements for his guarded curve inspections were taken by the supervisor and entered on the handwritten version of the report, and he (Valentine) "returned at a later time [that day] or [on a later] date to take [his own] measurements, do a visual, or verify the data collected by the MSI/MS-II." When asked about the dates that appear on the guarded curve inspection report, Valentine said that the date on the typed version that he signs matches the date listed on the handwritten version of the report, which reflects the date when the measurements were actually taken by the MS-I.

When asked to explain why he was not physically present during the inspection, Valentine insisted that he would go to the inspection site later the same day after the inspection team had completed the measurements, or even at a later date, and would visually check the track. He said, "I will go and look at the curve, because that is what I'm supposed to do."

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OIG pointed out that guarded curve inspections usually require four or five flaggers to ensure safety. Valentine agreed that when any track work or inspections are taking place, flagging must be setup on the track area(s). When asked about the flagging procedures if he returned at a different time or date, other than the time the measurements were actually taken by a track supervisor, Valentine told OIG that sometimes he has a flagger with him, sometimes not. Valentine told OIG that "sometimes I go on the tracks alone." When OIG pointed out to Valentine that this was a serious safety problem, Valentine said that other supervisors go on the tracks without flagging support.

Superintendent Joint Switch Inspections

Requirements

NYC Transit's "MW-1 Track Standards Manual," Section 102.2 (B) & (C) requires that each track department superintendent perform a Joint Switch Inspection (JSIs) of all main-line switches in his Zone at least once each year. According to the Manual, the superintendent must perform "detailed" inspections and submit the appropriate paperwork. According to Assistant Track Officer Torriolo, the superintendent must at least be physically present during his required yearly superintendent JSI inspections.

When performing yearly superintendent JSIs, the track superintendent, and track and signal personnel must be present at the inspection site. Signals personnel (usually a Signal Maintainer) records the results of his inspection in the "Signal Section" of the JSI form, and signs his name in that section of the form. The track inspection information is usually input in the Track section of the form by a track supervisor. Upon completion, the Track Superintendent performing the inspection reviews and signs the JSI inspection form.

Valentine's Inspections

The number of inspections that a track and signals inspection team can complete in a shift varies depending on the location of the switches. OIG requested Valentine's entire 2012 superintendent JSI's and received 145 superintendent JSI, which encompassed 15 dates.

We interviewed another MS-I who was the MS-I at Valentine's superintendent JSI Inspection sites on 12 of the 15 dates. The MS-I stated that although the superintendent was required to be on site to oversee the entire inspection for each of his yearly superintendent JSI inspections, Valentine was only on site for his inspections about five times during (calendar) year 2012. The MS-I further stated that sometimes Valentine was only on site for part of the time during these 5 dates. During these occasions the MS-I said that he and other track and signal personnel would go to the location and start Valentine's superintendent JSI inspections⁶ and Valentine might show up at a later time and "look" at the switches.

⁶ He would take the measurements and visually inspect the switch.

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The MS-I said that Valentine would take his word that the measurements were taken and that the switches were inspected. The MS-I continued by saying that there were times when Valentine told him that he would meet him in the field but did not show up at the location at all. When asked if he could specifically remember the dates when Valentine actually appeared to conduct his JSI inspections, the MS-I replied that he could not recall specific dates.⁷ In effect, the MS-I conducted many of the JSI's instead of Valentine, because he told OIG that he took all of the required measurements and also visually inspected the switches.

July 5, 2012 Inspections

The OIG interviewed an MS-II who was assigned to assist Valentine on July 5, 2012. The MS-II stated that he took all the measurements for the 11 JSIs that were conducted on this date. The MS-II said that he was authorized to go on track at the Queens Plaza location at about 1:10 AM. Valentine showed up "a little while later," after the MS-II had already started taking measurements. The MS-II said that Valentine remained at the Queens Plaza location for about 20 minutes and then left. The MS-II did not know where Valentine went. The MS-II further stated that upon completing work at the Queens Plaza location, he and his work gang proceeded to the Northern Boulevard location and started taking measurements at that site. The MS-II went on to state that Valentine never showed up at the Northern Boulevard location. The MS-II did not know where Valentine was at that time.

Valentine

On July 5, 2012, Valentine's paperwork indicates he performed two Guarded Curve Inspections in addition to the 11 superintendent JSIs that he claimed to conduct on this date. Performing both types of inspections (two Guarded Curve, and eleven superintendent JSIs) is a physical impossibility due to the time needed to perform these inspections. It should also be noted that these inspections took place at two different track locations that are miles apart.⁸

When asked if he could have performed both his Guarded Curve inspections and his Superintendent JSI's during one work shift, Valentine admitted that he could not have performed both types of inspections on the same date.

Valentine could not give a satisfactory explanation as to why the date July 5, 2012, appeared on both the Guarded Curve and JSI inspection reports. During one interview he told OIG that while track personnel may have conducted the measurements for the guarded curve inspection on July 5, 2012, he may have returned at a later date to "verif[y] all the raw data (i.e., track gauge

⁷ The MS-I said that he believes that on November 08, 2012 Valentine was at the inspection site because of a damaged frog, which would usually require a response by a superintendent. This was the only date which the MS-I was certain about.

⁸ One inspection took place south of the Northern Boulevard station, and the other North of the Queens Plaza station.

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measurements) at the guarded curve inspections site, on his own when he went back at a later time [or] date to confirm the accuracy of the measurements.”

During another interview, Valentine opined that the date on the JSI form may have been wrong, because the Signals Division may not have been able to supply personnel to perform their portion of the test. However, OIG confirmed that signals personnel did perform their portion of the inspection on July 5, 2012.

Valentine Sleeping During Work Hours

During our investigation of Valentine it came to OIG’s attention that NYC Transit’s Special Investigation Unit had received an allegation and a photograph that Valentine had been sleeping during work hours. This allegation was subsequently referred to OIG for further investigation. When shown the photograph, during our June 24, 2013 interview, Valentine admitted that it was a photo of him but falsely stated that the photo was taken in 2012 when NYC Transit had extended work hours during hurricane “Sandy” during which sleeping was allowed . Subsequently, OIG interviewed the NYC Transit Track worker who photographed Valentine asleep at his Superintendent’s office desk at the Roosevelt Avenue Track Office on February 18, 2013. The track worker also videotaped Valentine asleep at his desk. OIG obtained these images and confirmed the date of the incident by reviewing emails regarding the incident and interviewing Assistant Chief Officer Michael Torrillo, and a Local 100 Union representative.

In addition, the track worker told OIG that there were other occasions when he saw Valentine go into his office, shut the door and turn off the office lights during work hours. According to this track worker, this happened “almost every shift.” A Track Department MS-II was also interviewed by OIG and told us that on at least twelve occasions he personally observed Valentine sleeping at his office desk at the Roosevelt Avenue track office location, for an hour to an hour and a half, during each incident.

FINDINGS

1. Valentine failed to perform all his required 2012 quarterly Guarded Curve inspections in violation of the 2012 NYC Transit MW-1 Track Standards Manual, Section 102.2 (B) and (C), and violation of NYC Transit Rules and Regulations, Rule 11 (e) (Neglect of duties).
2. On four dates, March 21, 2012, June 12, 2012, September 11, 2012 and September 12, 2012, dates which Valentine claimed to have performed these Guarded Curve inspections, he failed to personally conduct these inspections, was not present at the inspection sites to oversee or supervise subordinate employees who he allowed to conduct his inspections in violation of the 2012 NYC Transit MW-1 Track Standards Manual, Section 120.2 (B) and (C), and in violation of NYC Transit Rules and Regulations, Rule 11(e) – (Neglect of Duties; And allowing another person to perform any part of his duties without proper authorization).

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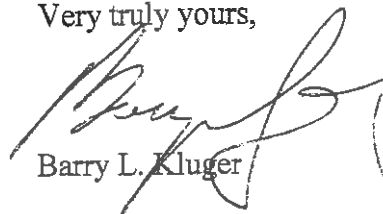
3. Valentine falsified documents showing that he performed Guarded Curve Inspections on March 21, 2012, June 12, 2012, September 11, 2012 and September 12, 2012 when he had not actually done so. Violation of NYC Transit Rules and Regulations, Rule #8 (a) – (Employee Reports – Employees who knowingly submit or make reports containing false statements should be charged with misconduct and incompetence).
4. Valentine failed to perform, or be present at all of his required 2012 yearly superintendent joint switch inspections in violation of NYC Transit MW-1 Track Standards Manual, Section 120.2 (B) and (C) and violation of NYC Transit Rules and Regulations, Rule 11 (e) (Neglect of duties).
5. On July 5, 2012, Valentine claimed to have performed 11 joint switch inspections. However, he failed to personally conduct and was not present at the inspection sites to oversee or supervise subordinate employees who he allowed to conduct his inspections in violation of the 2012 NYC Transit MW-1 Track Standards Manual, Section 120.2 (B) and (C), and in violation of NYC Transit Rules and Regulations, Rule 11(e) – (Neglect of Duties; And allowing another person to perform any part of his duties without proper authorization).
6. Valentine falsified documents by signing his name on 2012 superintendent JSI forms showing that he had performed 2012 “Superintendent” Joint Switch and Frog Inspections when he had not performed these inspections, in violation of NYC Transit Rules and Regulations, Rule 11(e) – (Neglect of Duties; And allowing another person to perform any part of his duties without proper authorization).
7. On various occasions including February 18, 2013, Valentine slept at his superintendent’s office desk at the Roosevelt Avenue Track Office, during his work shift hours for an extended period of time, in violation of NYC Transit Rules and Regulations, Rule 11(e).

RECOMMENDATION

OIG recommends that Valentine be disciplined up to and including termination.

If you have any questions or comments, please do not hesitate to contact me or Assistant Deputy Inspector General Christopher Wieda at 212-878-0096.

Very truly yours,



Barry L. Kluger

Cc: Mark Neadel