



IMPROVING SAFETY CONTROLS IN THE MTA NYC TRANSIT PARATRANSIT BROKER CAR SERVICE PROGRAM

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OVERVIEW

The NYC Transit Paratransit Division (Paratransit) has provided transportation to disabled riders for 20 years through its Access-A-Ride program (AAR). Since 2011, in a successful effort to reduce costs, Paratransit has used a car service broker to provide about 20 percent of all rides for Paratransit customers.

In early 2013, after receiving some complaints regarding the safety of the trips provided by the broker service program, and given the vulnerability of the Paratransit customer base, the Office of the MTA Inspector General (OIG) commenced a review focusing on the safety of riders in vehicles operated under the broker program. Significantly, our review found that:

- Data compiled by Paratransit's Safety and Performance Unit (the Unit), a group created to conduct undercover ride checks of AAR drivers, indicate that from August 2012 to June 2013, 36 percent of broker service drivers were observed driving dangerously, including 28 percent who were either texting or talking on a cell phone while driving.
- Safety violations and excessive cell phone use observed by undercover riders are not being reported by Paratransit to the broker. As a result, drivers are never disciplined for the violations.
- Samplings of the safety programs that the broker claims to have implemented are not in effect.
- The broker is not reporting accidents and injuries to Paratransit as required by its contract.

Certainly, whether Paratransit is transporting its customers directly or by means of the Paratransit broker car service, Paratransit must ensure that its customers have a transportation service with effective safety controls in place. Specifically, in terms of its broker car service, we recommend that Paratransit: enhance the operation and functioning of its Safety and Performance Unit in terms of gathering, recording, and analyzing data accurately and completely regarding the performance of broker drivers; require that the Unit promptly report safety violations to the brokers; and institute meaningful oversight of the broker car service program.

Indeed, on October 2, 2013, before completion of this report, we sent a letter to the NYC Transit Vice President in charge of the Paratransit Division, alerting him to our preliminary safety findings and recommendations, concluding as follows:

We believe that the undercover rider program can be an effective tool to improve the safety of Paratransit rides, provided that all violations observed are promptly disclosed to [the broker], and are monitored to ensure that the drivers are appropriately disciplined. Accordingly, and for the betterment of its riders, Paratransit should immediately establish and implement the procedures necessary to accomplish that result.

Summary of Agency Response

In his written response to the OIG report, MTA NYC Transit Senior Vice President Darryl Irick accepted each of our five recommendations. In particular, he asserted that Paratransit had instituted the following improvements to address our concerns:

- Undercover ride check sheets were revised to provide a consistent reporting format.
- Internal controls were developed to ensure check sheets are properly maintained.
- Detailed summaries of observations are provided to the brokers weekly, with a required one-week response.
- In instances where egregious findings are observed, they are reported to the brokers immediately, with an expectation of an expedited response.
- As of February 2014, Paratransit began sending brokers a summary of safety issues identified during undercover check rides to which they are required to respond.
- Paratransit will be working with brokers to develop their safety programs and to ensure proper reporting of accidents, which Paratransit will now be tracking in a database.

Regarding the Safety and Performance Unit, the focal point of our report, Mr. Irick noted that aside from collecting statistics through undercover rides on the broker car service providers, the unit has a number of “other significant responsibilities,” several of which were apparently put in place after our review.

OIG Reply

Certainly we are encouraged by the agency’s acceptance of all of our recommendations. Going forward, we will continue to monitor Paratransit’s implementation of these recommendations to assess whether and to what extent the agency has achieved the ultimate goal of our report: to ensure that Paratransit and its Safety and Performance Unit are most effectively promoting the safety and well-being of Paratransit riders.

BACKGROUND

Since 1993 Paratransit has provided transportation to disabled riders through its AAR program. During this time, ridership increased fifteen fold, from 424,000 in 1994 to approximately 6.8 million in 2012. Primarily because of this huge increase in ridership, and factoring in inflation, the cost of the program over the 20 year period grew from \$14.5 million to \$446 million.

AAR service was originally provided using vehicles dedicated exclusively to this purpose and owned by NYC Transit, but operated by contracted transportation companies. This program is referred to within Paratransit as “dedicated” service. In 2001, in an effort to reduce costs, Paratransit introduced its voucher car service program where Paratransit arranges for a participating black car/livery service to transport the customer.

According to Paratransit officials, while it had been a challenge initially to get the car service industry to participate, and though the program is burdensome for Paratransit to administer because Paratransit still has to assign trips and notify car service companies, the voucher program has saved money for the agency. By 2010, Paratransit was transporting approximately 500,000 riders annually using 20 car service companies at about half the per-trip cost of dedicated vehicles.

More recently, Paratransit has worked with the industry to create its Broker Car Service (BCS) program to reduce Paratransit administrative costs by using a broker (instead of Paratransit) to manage, schedule, and assign trips provided to customers by the car service. In January 2011, Paratransit contracted with its first (and still active) broker, Corporate Transportation Group, Ltd. (CTG), to provide car service through CTG’s network of black car sedans and livery car service companies. Considered a pilot program at first, Paratransit shifted trips from its dedicated and voucher service programs to BCS starting with 250 trips per day, reaching an average of almost 3,800 trips per day in August 2013. Trip costs paid to CTG vary (depending on distance) but are significantly lower than the overall average cost per ride to the agency for all its trip programs combined.

By 2013 CTG was transporting 20 percent of Paratransit riders. In November 2013, Paratransit added a second broker and estimates that the BCS program will soon replace much of the remaining voucher service within the next few years.

FINDINGS

Paratransit Staff Have Observed Safety Violations Committed by Broker Car Service Drivers

As a car service broker for Paratransit, CTG assumes the administrative duty of scheduling and dispatching a daily allotment of trips to drivers. CTG assigns a majority of the trips to drivers who work for one of 12 CTG-owned companies and assigns others to approximately 30 affiliated car service companies that own fleets of cars, hire drivers to operate them, and have an agreement to work with CTG.

To ensure that drivers used by the broker are driving safely and providing proper service, Paratransit laudably established a Safety and Performance Unit in January 2012. This Unit's primary task has been to collect statistics through "undercover rides" (meaning that a Unit employee poses as a disabled customer) on the safe operation, punctuality, and condition of drivers and vehicles that transport Paratransit customers. The Unit has four employees who work undercover and take four to five rides a day with different drivers. Their findings are disturbing.

More than a Third of Drivers Observed Were Driving Dangerously

For each ride, the undercover rider completes a one page check sheet making a general assessment of driver safety, including observations of speeding, noncompliance with traffic signs and signals, and cell phone use while driving. OIG auditors reviewed 1,090 of these check sheets completed by the four undercover staff during the period August 2012 to June 2013. We found that drivers on 392 trips—36 percent of all trips reviewed—were recorded as driving dangerously. In fact most were violating one or more traffic laws. The main violations were:

- 304 drivers (28 percent) were either texting or talking on their cell phones.
- 66 drivers (six percent) were speeding.
- 49 drivers (four percent) went through a red light.
- 27 drivers (two percent) did not obey a stop sign.

The extent of cell phone use uncovered (28 percent) is especially egregious. Not only is it a violation of New York State law, but NYC Transit and MTA Bus have additional policies and procedures prohibiting employee cell phone use while driving. Indeed, effective January 2011, NYC Transit and its unions negotiated a "Zero Tolerance" cell phone policy that results in a 20 day suspension for a first cell phone offense and dismissal for a second offense committed within two years of the first. Additionally, the unions involved warned employees that they would lose their jobs for violating the cell phone policy. NYC Transit reported that since the inception of the revised policy there has been a large reduction in the number of cell phone infractions and that terminations as a result of those infractions have had a strong deterrent effect on other employees.

Paratransit Does Not Report to CTG the Individual Driver Violations Observed by the Safety and Performance Unit

Paratransit's contract requires CTG to ensure that its drivers comply with all New York State and NYC traffic laws, obviously including the State prohibition on speeding, running red lights and stop signs, and cell phone use while driving. As the contracting agency with responsibility for the safety of its customers, Paratransit should provide any evidence it has to CTG of safety violations by CTG drivers and expect CTG to take appropriate disciplinary action. To the contrary, though, Paratransit procedures for the Unit do not require it to notify CTG of violations or to follow up regarding disciplinary action. As a result, neither the Unit supervisor nor anyone else at Paratransit reported the individual driver violations noted above to anyone at CTG. Rather, the supervisor simply summarized the violations by type in reports for Paratransit management. Predictably, we found no action taken by the CTG for drivers using cell phones and violating other traffic laws, given that the detailed findings of these undercover rides were never provided to CTG.

While NYC Transit's Vice President for Paratransit and CTG's president had telephone conversations generally about safety, the Paratransit VP raised only the summaries, without reference to the specific problems revealed by the undercover rides. Notably, CTG told us that if informed of driver-specific safety concerns, it can initiate discipline and suspend, fine, or terminate the offending drivers. However, for its part, as discussed below, CTG itself did not conduct extensive, proactive oversight focused on the safety practices of its drivers.

We continue to believe, as noted in our letter to Paratransit in October, that the undercover rider program can be an effective tool to improve the safety of Paratransit riders, provided that all violations observed are promptly disclosed to CTG and are monitored to ensure that the drivers are appropriately disciplined. Accordingly, and for the betterment of its riders, Paratransit should immediately establish and implement the procedures necessary to accomplish these results.

The Safety and Performance Unit Had Limited Oversight Purpose or Authority Regarding the Broker Car Service Program

Despite its title, the Safety and Performance Unit had a narrow charge during the pilot phase of the BCS—to provide insight into broad trends so that the BCS could be compared with existing services and the trends could be provided to the broker as general feedback on their performance. However, just as the Unit provided no feedback to CTG on the undercover rides, the Unit also developed no data on Paratransit's other AAR services that could be compared to data related to the broker service. While the broker data could be used to see how the broker's performance changed over time, the Unit rarely did this type of analysis. We also found that trend information on the performance of broker drivers was formally shared with the broker only once at a meeting in August 2012. According to the Vice President of Paratransit, he also discussed trend information in April and July 2013 with CTG's president over the phone, though CTG

managers were not aware of this and did not use the information. And as noted above, Paratransit's VP did not discuss the specifics of the undercover rides with CTG's president.

In addition to our concern about the serious limitations on the scope of the undercover ride program, we also have serious concerns about the way the program was operated by the Unit. Generally speaking, program recordkeeping was weak and even the design of the one page check sheet had inherent weaknesses that introduced the risk of data errors. Specifically, we found the following:

- Check sheets could not be found for 24 percent of the 255 trips taken by undercover staff during the period January through March 2013.
- There were no written procedures clarifying how safety violations should be evaluated and reported on by the Unit. For example, the check sheet directs ride checkers to answer the question "Excessive speeding?" with a simple 'yes' or 'no' regardless of whether that meant speeding five or 25 miles per hour over the speed limit.
- The design of the check sheet could be improved by rewriting questions so that they require consistent 'yes' answers for safe driving practices and 'no' for unsafe driving, and not alternating the significance of a yes or no. Currently, the check sheets require yes/no answers for both "Talking/texting while driving?" and "Stop at red light?," with inconsistent consequences of a yes or no answer. Having prompts where 'no' always indicates a concern would make it easier to review and accurately summarize check sheets and identify those with violations. For example, the question regarding cell phone use could be rephrased to "**Avoids** talking/texting while driving?" or "Does the driver obey cell phone laws prohibiting texting or talking while driving?"

In our view, had the Unit simply shared its findings regarding safety violations with CTG, the Unit would have provided a much greater return on the investment of the \$500,000 each year it costs Paratransit in salaries and in payments to the broker for the undercover rides. Now that the broker car service program is no longer in its pilot stage, Paratransit needs to determine how to best utilize these resources to promote safety. The activities of the Unit need to contribute to promoting safety and quality performance going forward, especially given the vulnerability of AAR's riding population.

Paratransit Should Provide Oversight of Safety Performance in the Broker Car Service Program

CTG's broker contract reiterates in several provisions that CTG is required to provide Paratransit riders assigned through the BCS program with a *safe*, reliable, and timely trip. During our review, Paratransit officials stated on several occasions that Paratransit relies on CTG to ensure the safety of its broker riders without Paratransit oversight. Yet our review indicates that this reliance is misplaced.

CTG's "Safety Program"

While the contract with CTG requires it to provide a safe trip, the means to that end are left up to the broker. OIG was assured by CTG officials that they have a broad range of safety-related programs to ensure that its drivers are transporting Paratransit riders in a safe and secure manner. To test that assertion, OIG elected to review four of the safety programs and controls that CTG claimed to have in place and found them lacking:

- **Safety-related policies and procedures** - CTG's safety-related policies and procedures do not (1) address their drivers' obligation to follow all laws, including those prohibiting speeding and cell phone use while driving; and (2) instruct their drivers how to safely provide service to Paratransit customers, such as by offering assistance to customers. While CTG officials did provide us with some written procedures, the only topics covered were testing for drug and alcohol use, a prohibition on fighting and disorderly conduct, and a ban on firearms and weapons.
- **Driver training classes** - CTG claims to hold safety-related training for its new drivers and for non-compliant drivers who must be retrained. However, CTG could not provide OIG with a list of topics covered or any written materials used in the classes.
- **On-the-Road Team** - According to the Team's director, the surveillance personnel look for various driver violations regarding timeliness, proper assistance to customers, and safety-related violations such as cell phone use and reckless driving. Despite this assurance, OIG reviewed a list of all violations cited by the CTG Team for 2013 and found that *none* of the cited violations were for safety-related matters, even though Paratransit's own undercover riders found 36 percent of drivers were violating safety laws.
- **Trend analyses of its driver performance database** - CTG told OIG auditors that it maintains a "driver performance database" that contains complaints, accidents, and On-The-Road Team violations from which it regularly produces four to five trend analysis reports each month to identify weak drivers. However, CTG could not provide the OIG with any of the trend analyses conducted.

Paratransit is currently working under the assumption that CTG has the necessary controls in place to ensure the safety of its customers. However, that assumption is undermined by our review, which seriously questions the extent and depth of the broker's reported controls. Indeed, given that CTG had deficiencies in all of the CTG safety programs and controls that OIG sampled, going forward Paratransit must monitor all of CTG's claimed safety programs and controls.

CTG is Not Providing Contractually-Required Notification of Accidents and Injuries

CTG's contract with Paratransit requires CTG to report all accidents¹ and injuries to Paratransit. Specifically, article 104, section I, of CTG's contract states that, within 24 hours of their occurrence, the broker must notify the agency if any of the following occur while transporting Paratransit customers:

1. Collisions between its vehicle(s) and other vehicle(s), person(s) or objects.
2. Any personal injury.
3. Customer disturbances, sickness or instances where Customers elect to leave the vehicle before arrival at their destination.
4. Customer complaints of injury or property damage or other circumstances likely to result in filing of claims against the Contractor or the Authority.

We found that despite this requirement to report all accidents and injuries, and certain incidents, CTG does not notify Paratransit about such reportable events. Instead, Paratransit learns about such events and their details when customers file claims with NYC Transit or contact Paratransit's complaint unit. Specifically, we found that between January 2012 and March 2013, Paratransit became aware of 75 accidents (including injuries). Of these, 50 notifications came from NYC Transit's Law Department based on claims filed and the remaining 25 notifications came as complaints to Paratransit²—none of the notifications were made by CTG. Indeed, CTG provided information on the accidents only after Paratransit learned about them from other sources and specifically requested the information from CTG.

Paratransit officials have been aware of CTG's non-compliance with this contract requirement, but have not enforced the provision. In our view, the need to identify all accidents is important not only for resolving claims, but also because the data can be used as key safety performance measures. Paratransit should not miss the opportunity to identify and track all relevant events as indicators of customer safety. The data can also be used to assess broker performance prior to awarding contracts in future BCS procurements.

¹ The contract defines "accident" to mean an event causing property damage of \$1,000 or any personal injury that occurs while in Paratransit service.

² There were a total of 32 complaints received regarding accidents and injuries, but seven of the 32 were also received as claims. Thus, there were 25 unique complaints related to accidents and injuries.

RECOMMENDATIONS

To improve its Broker Car Service program, Paratransit should:

1. Clarify the role of its Safety and Performance Unit by stating a clear mission, objectives, and a set of programs and activities for the Unit that will effectively promote safety and improve contractor performance.
2. Enhance the operation and functioning of the Unit in terms of gathering, recording, and analyzing data accurately and completely regarding the performance of broker drivers.
3. Establish procedures to ensure timely reporting of driver safety violations observed by the Unit to Paratransit brokers for appropriate discipline and other action, and monitor the nature and extent of discipline imposed.
4. (a) Ensure that car service brokers have a program to provide safe rides for Paratransit customers as required by the brokers' contracts; and
(b) Provide appropriate oversight of that program, with due focus on the adequacy of the broker's safety-related internal controls.
5. Enforce the broker contract requirement to promptly notify Paratransit of accidents, injuries, and incidents and track these events, along with driver safety violations, as key performance indicators.