

State of New York



Matthew D. Sansverie
Inspector General

Office of the Inspector General
Metropolitan Transportation Authority
111 West 40th Street, 5th Floor
New York, New York 10018
212-878-0000



January 20, 2005

Mr. Lawrence Reuter
President
MTA New York City Transit
370 Jay Street
Brooklyn, NY 11201-3814

**Re: Failure to Perform Mandatory
Visual Switch Inspections
MTA/OIG #2004-45L**


Dear ~~Mr. Reuter~~:

I am writing in response to your letter of January 7, 2005 regarding MTA/OIG #2004-45L, "Failure to Perform Mandatory Switch Inspections."

I have enjoyed working with you and the rest of the team at the MTA New York City Transit (NYC Transit) for the last four years, in part because NYC Transit is the life blood of this City. Fare crises aside, the amount of activity, planning and effort that go into that taken-for-granted ride to work or ride home or to school or the doctor is beyond any real description – or adequate appreciation. The opportunity to see this operation up close and be given time by the many busy and conscientious NYC Transit managers, especially yourself, has been priceless. When we have from time to time disagreed, it is usually because we have two different perspectives on very narrow issues that arise in OIG reports and audits rather than the bigger picture issues.

I want you to know that I appreciate and understand your perspective and your January 7, 2005 letter does a good job of presenting your point. In this case, I think our disagreement is a difference of perspective.

Where we disagree, and why I write to you now, is the fact that OIG does not focus on pragmatism and end result so much because our mission is to perceive through the prism of Internal Controls. When the written policies and procedures of any MTA entity are blatantly disregarded, there is a stark Internal Controls problem. The very nature of Internal Controls is that the written policies prevail, unless and until properly and orderly changed. To take any other position with respect to Internal Controls and policy, especially in the realm of safety, is to weaken the chain of command and accountability. It is a short trip from there to much greater trouble when an employee can ignore written requirements with impunity.

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Moreover, unless it is a power specifically given to them, managers do not have the discretion to ignore a written policy. Whether it was inartful drafting to leave managerial discretion out of this policy in the first place, or merely that time had rendered this signal inspection requirement obsolete, ignoring it and proceeding in a different way without formally changing the policy is not appropriate. We know only too well what comes of a situation where trusted managers feel free to operate outside the rules. (Over the last two years we have seen at least one example of high managerial employees who ignored policy and attempted to operate beyond their authority, in contravention of their superior's direction.)

In this case, the right thing to do was to change the policies as per the orderly methods used to do such things. That would have alerted everyone that a change was justified, and it would have insured a review by those in charge at NYC Transit, guaranteeing that they knew about this change, evaluated this change and approved this change. In addition, when the OIG investigators arrived, the finding would have been that the (newly changed) policy was being followed. Whenever OIG investigates or audits, it is always the rules in effect at the time that control. We could never do our job, nor frankly could you, if we were asked to evaluate performance based on the rules as they could or should be.

I cannot condone a failure to appropriately go about changing the inspection requirement rules. Left unpunished, in the long run this behavior could weaken other mandatory rules and dissipate legitimate managerial authority and thus, oversight, if subordinates see no consequence of this activity. I feel that I know you well enough to know that you do not want such a result.

Thus, the only issue I see is whether you feel it appropriate to seek some discipline or reprimand, however slight, as a result of this manager's failure to seek an orderly change in the rules, thereby reminding everyone that the ends do not justify the means, and that rule making procedures have meaning and value in the organization.

If you have any further questions please feel free to contact me directly.

Very truly yours,



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**Re: Failure to Perform Mandatory
Visual Switch Inspections
MTA/OIG #2004-45L**

Dear Mr. Reuter:

The Office of the Inspector General (OIG), Metropolitan Transportation Authority (MTA) has completed an investigation into an anonymous allegation that signal maintainers at certain locations were not performing daily visual inspections of switches as required by MTA New York City Transit (NYC Transit) Policy/Instruction 11.001.2. We confirmed the allegation. The policy/instruction requires switches to be inspected daily, but switches often went much longer than that, sometimes more than a week, between inspections.

We are also troubled by the fact that Signal Division (Signals) management knew the mandated visual inspections were not being performed, yet took no action to remedy the problem until OIG intervened. Left to their own devices, it appears that Signals would have continued to ignore what it apparently viewed as an inconvenient procedure. This neglect started at the very top of the Signal Division. Despite the clarity of the policy/instruction calling for daily inspections, Chief Electrical Officer Jerome Martin told us that he let his supervisory staff decide how often switches should be inspected and, not surprisingly, his subordinates mirrored his laissez-faire attitude. Managers subordinate to Martin also knowingly allowed switch inspections to be skipped. If Martin sincerely believed that the instruction should be changed, and that visual inspections should be carried out less frequently, he failed to take appropriate steps to change the policy. In no event, however, was Martin authorized to unilaterally waive a standing safety related policy/instruction because he may have thought it unnecessary.

In short, Martin behaved inappropriately and NYC Transit should consider disciplinary action against him in order to assure the public that they can rely on the system of checks and balances

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that NYC Transit claims to have in force for their safety without concern that arbitrary,¹ unilateral deviations will be tolerated. NYC Transit should also immediately move to determine whether all of its safety and inspection rules are being carried out as written and advise me of the result. Where there is a deviation, such should be noted and explained.

In addition to the risk to passengers and train crews, failure to follow clearly defined safety policies poses an unjustifiable financial risk to NYC Transit in the event of an accident.

ALLEGATION

An anonymous complainant alleged that NYC Transit signal maintainers are not conducting daily visual inspections of switches as required. The complainant stated that the inspections are not being completed because the supervisors are breaking up teams and assigning them to other duties. The complainant identified specific locations where, he alleged, visual switch inspections are not being performed. These included identified areas assigned to maintainers on the Marcy Avenue, J, and Canarsie lines.

The complainant also stated that Signals' management prohibited signal maintainers from making entries in the section logbooks² that the inspections were not conducted because it would "just bring attention to it."

METHODOLOGY³

To determine whether the allegation that switches were not being inspected in various areas, we obtained the "section logbooks" for the areas identified by the complainant for 2003 and the first six months of 2004. After reviewing these logbooks and confirming the allegation, we reviewed another sample of logbooks for April through July 2003⁴ to determine whether the problem is limited to the areas reported to us, or is more widespread.

During this investigation, we interviewed several NYC Transit employees, including: Carlo Perciballi, Chief of Operations, Rolling Stock/Maintenance of Way; Jerome Martin, Chief Electrical Officer; Tracy Bowdwin, Assistant Chief Signal Officer; Alan Duran, General

¹ Despite assurances from Signal Division managers that skipping inspections poses no safety risk, and does not compromise mechanical reliability, we were shown no systematic engineering study by qualified personnel supporting that view. Therefore, unless and until such a study is completed, and in fact lends support to these claims, Signals must take all necessary steps to enforce the current rule requiring daily visual switch inspections.

² In which they record their work.

³ OIG conducted this investigation in accordance with *Quality Standards for Investigations* promulgated by the President's Council on Integrity and Efficiency and the *Quality Standards for Investigations* adopted by the Association of Inspectors General in May 2001, as amended.

⁴ Bedford Park (Section 135), 111th Street (Section 108), 155th Street and 8th Avenue (Section 108), Freeman Street (Section 129), and Parkchester (Section 115).

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Superintendent (S2); Michael Cresci, Superintendent; and Dominick Spagnolo, Joseph Fedele, and Jean Telant, Signal Maintainers.

Finally, we examined all relevant policies, rules, regulations, and guidelines, including the 2003 and 2004 "Standard Logbook Instructions," NYC Transit Policy Instruction 11.001.2; "Signal Division Instructions for Signal Maintainers," revised November 1, 1989; "Signals Maintenance Gram," October 2000; "Rules and Regulations Governing Employees of MTA New York City Transit, Manhattan and Bronx Surface Transit Operating Authority and South Brooklyn Railway, which details rules and regulations regarding flagging; and an April 1, 2004 memorandum from Martin regarding logbook entries.

INVESTIGATION

Background

Visual Switch Inspections

According to Division of Electrical Systems Policy/Instruction 11.001.2, Section 3.24,⁵ NYC Transit Signal Maintainers must inspect every switch⁶ on their assigned sections of track every day.⁷ A "Signals Maintenance Gram" dated October 2000 elaborates on that Policy/Instruction and provides more current information, again requiring signal maintainers to visually inspect each switch daily. The Signals Maintenance Gram also explains why NYC Transit considers visual switch inspections so important:

Just as preventive maintenance is described as maintenance before breakdown, the visual inspection of switches is a means by which we can detect potential problems and take corrective actions prior to encountering a malfunction. This procedure is essential if we are to meet our commitment of providing our customers with a safe and reliable Signal Train Control System.

Signal Maintenance Organizational Structure

The signal maintainers who perform visual inspections work in one of six maintenance subdivisions identified as S1, S2, S3, S4, S5 and S6. Each maintenance subdivision is

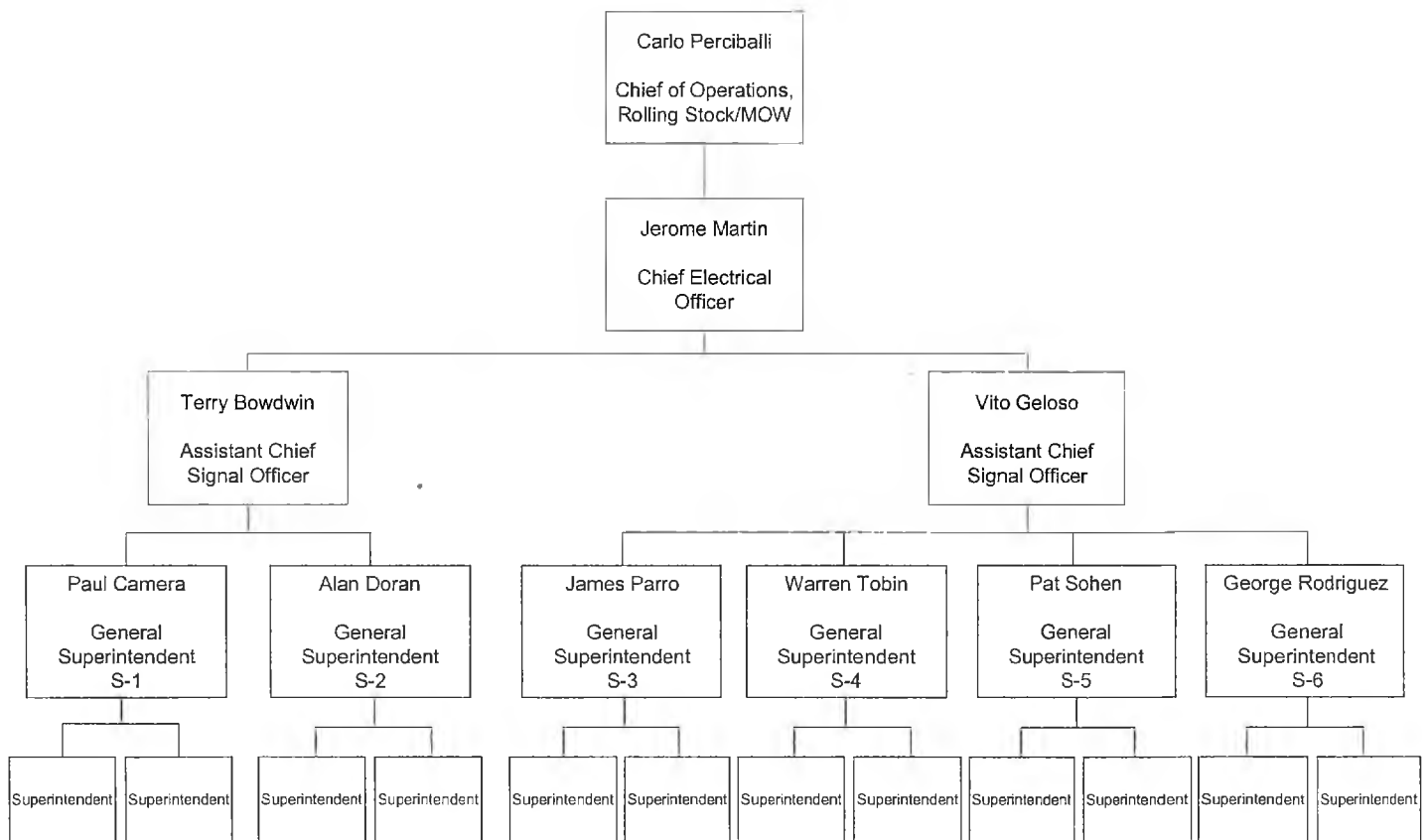
⁵ Last revised November 1, 1989.

⁶ A switch is a connection between two lines of track to permit cars of trains to pass from one track to the other.

⁷ According to the Signals Maintenance Gram, a visual switch inspection requires the maintainer to: (1) Ensure that the switch point is closed and properly aligned to the stock rail; (2) Pay particular attention to the condition of switch points, stock rails, rods, belts, locknuts and cotter pins; (3) Ensure that the painted line across the adjusting nut and jam nut on lock, throw and point detector rods are aligned and that the nuts are tight; (4) Ensure that the space between the open switch point and stock rail is free of debris or obstructions; and (5) Inspect the area around the frog to ensure that the area is free of debris that can affect the integrity of the track circuit.

supervised by a general superintendent aided by two superintendents. The maintenance subdivisions are further broken down into zones, each under a maintenance supervisor, who supervises four to six sections within the zone, each covered by signal maintainer teams. There are a total of 220 sections in the Transit system. The six maintenance subdivisions report to Jerome Martin, the Chief Electrical Officer. He is assisted by two assistant chief signal officers, Tracy Bowdwin and Vito Geloso. Martin reports to Carlo Perciballi, Chief of Operations, Rolling Stock/Maintenance of Way.

TABLE 1: Signal Maintenance Organizational Chart



Signal Maintenance Section Logbooks

Each of the 220 NYC Transit signal maintenance sections has a logbook in which the maintainers are required to document all visual switch inspections. The Standard Logbook Instructions, issued by Martin, are annexed to each logbook. The 2003 instructions state that: "Each tour is responsible for the Visual Inspection of switches on their section. This inspection must be documented in the daily log entry." In 2004, after we inquired about the apparent

disagreement between the logbook instructions requiring inspection each tour and the Policy/Instruction requiring daily inspections, Martin revised the logbook instructions to conform to Policy/Instruction 11.001.2, which requires switches to be inspected daily. Both the new logbook instructions and the "Maintenance Gram" described above state that visual switch inspection must be noted in the logbook.⁸

Failure to Perform Required Visual Switch Inspections

To determine whether NYC Transit signal maintainers visually inspect switches as required by Policy/Instruction 11.001.2, we examined the logbooks for the four signal sections⁹ identified in the complaint for various random months during 2003 and 2004. We found numerous instances when visual switch inspections were not performed. For example:

- **Fresh Pond Road:** No visual inspections were conducted on the Fresh Pond Road signal section between July 4 and July 10, 2003, and during a nine-day period in September 2003. Between January 1 and February 6, 2004, there were eight days when no visual inspections were performed.
- **Livonia Yard:** No visual inspections were performed on the Livonia switches during a nine-day period in September 2003.
- **Broadway/Myrtle:** No visual inspections were conducted on the Broadway/Myrtle switches during the first nine days of March 2003 and for five- and eight-day periods that month.
- **AY Yard:** Between May 1 and June 18, 2004, there was one occasion where visual inspections were not conducted for four days, another for three days, and a third for two days at the AY Yard Section.
- **Crescent Street:** No visual inspections were performed on the Crescent Street Section between February 17 and 21, 2003.

In addition, we found many other occasions when switches were not inspected for two to three days. Therefore, we conclude that this evidence substantiated the allegation that Signals failed to perform mandated daily visual switch inspections within the areas identified.

⁸ The new logbook instruction states: "Each day maintainers are responsible for the Visual Inspection of switches on their section in accordance with Policy Instruction 11.001.2 (3.3, 3.24) *or as directed by Signal Supervision.*" While this seems to permit Signal Division supervision to override the daily inspection requirement, none of the Signal Division managers we spoke to mentioned the logbook revision as a rationale for missing visual switch inspections. Virtually everyone we spoke to acknowledged that the requirement was daily switch inspections.

⁹ We examined the logbooks for the following signal sections Fresh Pond Road, AY and Lavonia Yards, Crescent Street, and Broadway/Myrtle Avenue.

To determine whether the problem extended beyond the sections identified in the complaint, we randomly selected five other signal sections. We looked at: Bedford Park (Section 135), 111th Street (Section 108), 155th Street and 8th Avenue (Section 108), Freeman Street (Section 129), and Parkchester (Section 115). For each section, we examined log entries for April through July. Once again, we found that visual inspections were not performed. For example:

- **111th Street:** Signal maintainers worked 142 tours during the four-month period reviewed. There are just five log notations indicating visual inspections were performed during this four-month period.
- **Bedford Park:** Signal maintainers performed 19 visual inspections during the four-month period.
- **155th Street - 8th Avenue:** During the four month period, there were only seven logbook notations indicating that visual inspections were performed.
- **Freeman Street:** Signal maintainers performed 66 visual inspections over four months.
- **Parkchester:** There were only 28 log notations indicating that visual inspections were performed over the four-month period.

Based on our expanded look, we are lead to believe that the failure to conduct daily visual inspections is relatively widespread.

Absence of Management Accountability

One of the hallmarks of effective management is accountability. From the front line supervisor, to the manager in charge of a unit, it is necessary for supervisory personnel to perform two critical functions. First, they must ensure that strong internal controls are in place so that they are well positioned to determine whether their subordinates are performing their jobs properly. When subordinates do not perform, it is the supervisor's responsibility to remedy the problem. If the supervisor cannot fix a problem himself, or if higher-level supervision is needed, it is his responsibility to inform his superiors of the problem so that additional help – personnel, equipment, procedural changes, etc. – can be dedicated to correcting the problem.

The second aspect of accountability is that when supervisory personnel do not acquit themselves in the manner described above, either because they have no means to ascertain whether work is being done correctly, or because they know work is being done incorrectly and fail to act on it, they must be held responsible for their failure to supervise their subordinates properly. This means that their supervisors need mechanisms to determine whether the lower-level supervisors they manage are doing their job correctly. This applies all the way up the supervisory chain.

During our examination of visual switch inspections, we observed lapses both in internal controls and management's response to poor performance, especially among the higher-level supervisors. We make this assertion for the following reasons. Regarding internal controls, field supervisors

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are responsible for ensuring switches are inspected as required. They are to do so by examining the section logbooks each week and denoting their review by signing the book in red ink. We found, during our investigation, that field supervisors were performing this function, but not addressing the failure to perform visual inspections. We also found no performance monitoring mechanism for higher-level management to be routinely apprised of whether visual inspections were performed or not.

Despite the absence of a management reporting system, that visual switch inspections were not being performed was certainly no secret within Signal Maintenance. For example, Assistant Chief Signals Officer Bowdwin indicated he knew that daily visual inspections were not always done because signal maintainers were assigned other duties (i.e., flagging). He was clearly not aware of the scope of the problem, however. He told us he would be concerned if switches were not inspected at least every three days. In another interview he said he thought switches should be inspected once a week. As this report demonstrated, though, there were many occasions on which switches went more than a week between visual inspections.

Bowdwin supervises two general superintendents, Alan Doran and Michael Cresci. They were also aware that visual inspections were not being conducted daily, but, like Bowdwin, asserted that other duties, such as flagging and responding to emergencies prevented daily visual inspections.

Chief Electrical Officer Martin adopted the "company line." He stated that responding to trouble (which has always been a part of the maintainer's job) takes priority and that new flagging and reduced staffing make it impossible to perform visual inspections daily. He said that he leaves it to people with knowledge of signals (i.e., his supervisory staff) to determine how often signals need to be inspected. When asked what he was going to do about the failure to perform daily visual inspections, he said, "I am between a rock and a hard place." He said that System Safety would not let him change the policy/instructions, and with the need to respond to problems and new flagging requirements, the maintainers could not conduct the required daily inspections. However, he had made no attempt to change the rule or enlist System Safety's assistance. When we spoke to Cheryl Kennedy, NYC Transit's Vice President for System Safety, she was unaware visual inspections were being missed. Thus, Martin was aware of the problem, but instead of taking steps to resolve it, chose to ignore it.

When we met with Martin's supervisor, Carlo Perciballi, on September 23, 2004, he acknowledged that switches were not being visually inspected each day. It is unclear, though, whether he was aware of it all along or was just advised of the issue. Indeed, as we were entering his office, a group of his senior managers were leaving, having just been instructed to undertake an engineering study of the possibility of changing the policy. When we interviewed Perciballi, he said he did not think it was possible to inspect each of NYC Transit's 2,600 switches daily and expressed a desire to change the requirement. Because he did not know the safety and mechanical reliability implications of loosening the visual inspection requirement, he said he had just ordered his staff to conduct an engineering study.

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In short, we found weaknesses in both the management reporting/internal control function and Martin's failure, or reluctance, to either hold his subordinates responsible for their tolerating frequent departures from the daily visual inspection policy or take appropriate steps to modify the policy.

Forbidding Maintainers to Note in Logbooks That No Visual Inspections Were Performed

We found no evidence to substantiate the allegation that Signals management directed maintainers not to record in the logbooks that they could not do visual inspections to cover up the problem.

According to Cresci, Maintainer Homesh Budham wrote in his log that he could not perform visual inspections in his section because he was reassigned. Cresci directed him not to make such notations. When we spoke to Cresci, he said that the logs were maintained to record what actually was done; not what was not done. Cresci brought the issue to the attention of his supervisors, Doran and Bowdwin, who agreed with him. Thus, while the allegation was correct, in part, it did not appear to be done as cover up. We found no evidence that management tried to cover up the failure to perform visual inspections and made no attempt to enforce a proscription against such notations by issuing a directive or otherwise. In fact, among the maintainers we interviewed, the only ones who were even aware of this issue were union representatives.

It appears that this part of the allegation was nothing more than an isolated occurrence originating in union/management relations.

FINDINGS

1. We *substantiated* the allegation that mandatory daily visual switch inspections are not performed. NYC Transit policy requires switches to be inspected daily, but we discovered numerous instances of switches not being inspected daily and sometimes going more than a week between inspections.
2. We found that the failure extends beyond the four sections identified in the original complaint.
3. We found no evidence to substantiate the claim that management was trying to cover up the failure to perform visual inspections. The allegation painted an isolated event as being widespread.
4. Chief Electrical Officer Jerome Martin failed to take steps to ensure his subordinates conducted daily visual switch inspections and, despite the fact that he said the requirement was overly onerous, took no steps to modify the policy/instruction. He simply accepted the fact that the policy was not being followed.

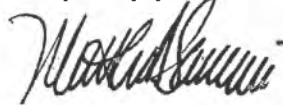
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RECOMMENDATIONS

1. NYC Transit's Signal Division should conduct a comprehensive engineering study to determine the maximum length of time that switches can go between visual inspections without jeopardizing safety or compromising mechanical reliability.
2. Until the Signal Division completes such an engineering study, management must take aggressive steps to ensure that the current policy/instruction requiring daily visual inspections is followed.
3. Chief Electrical Officer Jerome Martin should be appropriately disciplined for permitting his subordinates to violate an important safety rule with his clear consent.
4. NYC Transit should immediately undertake an internal audit to ensure that each of its safety policies and requirements are being followed and advise us of its findings.

Please advise me within 30 days of what actions you plan to take regarding the foregoing. If you have any questions, or need additional information, do not hesitate to call.

Very truly yours,



Matthew D. Sansverie

cc: P. Kalikow
C. Rinaldi
K. Lapp
L. Kearse
T. Savage
P. Spinelli
M. Schnabel