



INSUFFICIENT SUPERVISION OF TRACK INSPECTORS AT NYC TRANSIT – FINAL REPORT

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I. EXECUTIVE SUMMARY

The Office of the MTA Inspector General (OIG) initiated an inquiry into the New York City Transit (NYC Transit) Track division in response to news reports of track debris raining down on cars below the elevated tracks. Some of the debris was large enough to cause damage and injury. These events led NYC Transit to spend \$15.9 million dollars to attach netting on the underside of elevated tracks to protect the public and employees. From our initial review of records and through interviews with the Track – Elevated Maintenance Division in the Department of Subways (Track), the OIG became concerned that inspectors might not be walking their assigned sections because in some cases, no reasonable explanation could be found as to why the loose debris had not been identified during the required twice-weekly inspections. We note that OIG has investigated a number of MTA inspection units over the years and has repeatedly found inspectors—who work with limited supervision—absent from their duties.¹

In January 2020, the OIG initiated an investigation by surveilling a test group of Transit track inspectors who were assigned to inspect 4 sections of track. The investigation revealed that, to varying degrees, 7 inspectors did not complete their assigned inspections but reported that they had done so. These inspectors frequently used their personal cellular phones to send and receive personal calls or text messages at times when they were supposed to be inspecting the tracks, which raises a safety concern and further illustrated their lack of attention to their duties. The OIG subsequently issued an investigation report presenting these findings and recommending that the inspectors be disciplined (OIG Report #2020-29²).

¹ See [Switch Testing and Inspections](#), MTA/OIG #2016-06; [Work Crews in Metro-North's Signals Division](#), MTA/OIG #2016-27; [Employee Misconduct](#), MTA/OIG #2013-14; [Failure to Perform Mandatory Visual Switch Inspections](#), MTA/OIG #2004-45L; and [Investigation of the Inspection and Testing of NYC Transit Subway Signals During 1999](#), MTA/OIG #2000-18.

² See [7 Track Inspectors' Failure to Inspect Tracks, False Claims of Inspections, and Dereliction of Duties](#), MTA/OIG #2020-29, issued on December 28, 2020.

In addition to the investigation, OIG conducted an audit to determine whether and how such widespread deception could occur without management's knowledge. The OIG transmitted its preliminary audit findings and recommendations to NYC Transit in December 2020, outlining the insufficient supervisory practices we had found. Once aware of the OIG investigative and audit findings, NYC Transit swiftly charged the 7 inspectors and instituted multiple procedures designed to ensure that workers conduct their inspections.³ As part of our audit, we also reviewed these new procedures as well as Track's plans for future improvements in its oversight of inspectors.

A. Summary of Findings

- Supervisors did not verify track inspectors' walks, either in real time or after the fact. Track supervisors until recently were expected to rely on a series of self-reported status updates from the inspectors to confirm that inspections were occurring daily. Supervisors were not expected to directly observe inspectors in the field and thus did not know that some inspectors were not actually performing their inspections as assigned.
- Interim controls that Track put in place after the OIG investigation report was issued create records that could be analyzed retroactively with much effort but do not provide assurance in real time.
- The new IT application (Infor EAM) rolled out in the first quarter of 2021 for track inspections does not take full advantage of the technology's capability to quickly place the inspector at a given location at the appropriate time. One limitation is that the application cannot make use of the GPS feature on cellphones to track employees directly due to a pre-existing agreement between management and the union not to do so except for certain circumstances.
- Track's policies, oversight, and monitoring of workers' cellphone usage are inadequate.

³ NYC Transit also informed us that, based on OIG's findings, the Acting President directed the Division of Track to immediately reinspect all elevated sections of track to ensure that they were safe.

B. Summary of Recommendations and Agency Response

OIG made 6 recommendations to improve oversight of track inspectors. In summary, OIG recommended:

- NYC Transit Division of Track should require its track inspectors to use the new Infor EAM application in a way that ensures the recorded dates and times of the inspections are accurate and reliable. The division should also require supervisors to periodically check the date and time data to ensure that inspectors are completing their sections as claimed. Track should evaluate whether it could further improve the application to allow supervisors to perform their important oversight function more effectively and with minimal effort.
- While the agency works to improve the new application, Track supervisors should continue to periodically conduct random visual checks of track inspectors.
- NYC Transit Division of Track should issue detailed, formal policies and guidelines for use of MTA-issued and personal cellphones. Track should explicitly require MTA-issued cellphones to be used for all work purposes when performing inspections.

These recommendations were accepted by NYC Transit. NYC Transit's Acting President wrote to the OIG that she directed that the agency "implement a two-step plan which included an immediate assessment and inspection of our entire system to ensure that it was safe for the riding public, and then to implement immediate changes to our inspection process to ensure track inspectors and supervisors were performing their jobs." NYC Transit provided specific responses to each recommendation which appear in the Recommendations section at the end of this Report.

II. BACKGROUND

A. Track Inspection

According to NYC Transit policy,⁴ the elevated sections of the subway system must be inspected on foot by NYC Transit track inspectors twice per week. Only in inclement weather may an inspector conduct an inspection while riding a train. These inspections are vital for

⁴ See *NYC Transit MW-1 Track Manual*, Section 102.2 (A).

public safety because damaged rails and switches can lead to train derailments and falling debris (e.g., pieces of damaged ties and loose bolts).

After the morning rush hour, starting between 10:00 a.m. and 10:30 a.m., the inspector walks the stretch of track they are responsible for, looking for defects in track components such as the running rail, rail joints, ties, bolts, and track switches. Each inspector is accompanied by 1 or 2 flaggers who provide protection by signaling to train operators that workers are on the track. The track inspector should make minor repairs on the spot, e.g., by tightening bolts, while noting other defects for future work. Because track inspections must be completed before the evening rush hour, the track inspector will usually leave the track between 2:00 p.m. and 2:30 p.m. During track inspections, each inspector is required to call an administrative assistant at their subdivision's offices once every hour to check in, primarily for safety purposes.⁵

Track inspectors return to their assigned crew quarters to complete their track inspection reporting forms, on which they should include descriptions of the track area covered. Inspectors should also note whether they responded to a trouble call for an unexpected event, performed inclement-weather inspections from onboard trains (or "riding inspections") instead of walking the track, or were unable to complete their inspection. The track inspector submits these forms to their supervisor after every inspection.⁶

According to agency policy, this inspection process should occur twice a week, every week, but a particular stretch of track should not be inspected on consecutive days.

III. FINDINGS

OIG reviewed the management activities and oversight protocols that the Track division used to ensure that inspectors were performing their duties, and we found that managers and supervisors did not know if track inspectors had actually walked their assigned routes. In addition, OIG concluded that existing documentation was inadequate to hold inspectors and flaggers fully accountable.

A. Inadequate Supervision of Track Inspectors and Flaggers

1. Supervisors did not verify inspectors' locations, either in real time or after the fact.

Information about track inspectors' whereabouts is all self-reported and, until recently, no electronic monitoring occurred, and physical checks were rare. Supervisors were not

⁵ The requirement to call the office every hour is an informal policy that is not in writing.

⁶ Flaggers are not required to sign the inspection reporting forms or complete any paperwork.

expected to directly observe inspectors in the field and therefore did not know some inspectors were not actually performing their inspections as assigned. Track supervisors instead relied on a series of self-reported status updates to confirm that inspections were occurring daily. This was clearly ineffective. The required hourly phone calls to the Track office can be made from anywhere and thus do not serve to verify the caller's location. Inspection reports list the inspector's claims about what was done, but these claims are not verified. In fact, Track managers told OIG that they are too busy with other duties to spend much time directly observing inspectors in the field.

In late October 2020, after OIG began asking about procedures for verifying track inspections, the Chief Track Officer tried to address the concern. She issued a memo that required inspectors to swipe their employee pass at the turnstiles in the stations closest to the start and end of their inspection route. While this action would create a time-stamped record of an inspector's location, it cannot be used in real time. Further, the data would have to be extracted from the cumbersome, legacy MetroCard system and compiled into a report to be useable for supervisory purposes.

In response to OIG concerns, NYC Transit informed us in January 2021 that it had taken the following temporary steps to add controls over track inspectors' work until a more thorough oversight system could be put into place. These temporary steps include:

- Track inspectors are now required to use their MTA-issued cellphones to photograph each station they pass during their inspections and to promptly send these photographs to their supervisors. Supervisors are to review these photos to validate inspections and address any exceptions. In February 2021, we were informed that Track created a form for supervisors to document receipt of these photos and to note any missing photos. The photos, however, do not provide assurance that the inspectors are where they are supposed to be, unless each photo's associated date and time stamp are compared to expectations for the work assignment. We were told that supervisors are not performing this step. Further, in our opinion, considering the numerous steps required to view each texted photo's date and time stamps, such a check would likely be too onerous.
- At the start of their walk, track inspectors are now required to text their supervisor to inform them that they are beginning their inspection. However, we note that a text does not confirm an inspector's location.

- The agency informed OIG that Subways plans to establish an internal control group that will provide quality assurance for the track inspection program by validating that the Track division complies with proper inspection standards. This appears to be a long-term plan, and the details of how this unit would function remain to be worked out.
- In February 2021, we were told that for the time being, supervisors and managers periodically ride trains in the area of inspectors' assigned locations to see if inspectors are present at the assigned times. Supervisors and managers also arrive to walk with the inspectors at unannounced, randomly selected times. These efforts do provide opportunities to verify inspectors' locations on a sample basis. However, these are labor-intensive efforts; how long management can continue to perform these spot-checks is uncertain.

Realistically, none of these additional activities are sustainable as a means of providing oversight. Most of these activities also record data in the event that a particular inspection history needs to be researched after the fact but are not useful tools that managers can use in real time. Fortunately, NYC Transit is moving ahead with a long-term solution that has the potential to provide real-time verification of inspection activity.

2. A new asset management system could provide verifiable information.

NYC Transit is developing, and rolling out in stages, a mobile module of the agency's Infor EAM system for Track to record inspection data in the field; it is intended to replace the temporary measures discussed above.⁷ In early February 2021, as the agency started to implement the first elements of the mobile module, Track and EAM officials described for us how it works and how they planned to use it. Unfortunately, the system's design and the protocols they described do not take advantage of the technology's capability to quickly place the inspector on the tracks at the appropriate time.

Each inspector has a customized application (app) on their MTA-issued phone to enable data collection. We learned that the app specifically asks the inspector to enter inspection start and end times in designated fields and provides a means for the inspector to upload photos of every station they pass during the inspection. Essentially, the system gathers the same information that is currently required but does so electronically. This will bring greater

⁷ Track's Infor EAM system is part of the MTA's Enterprise Asset Management (EAM) program, which helps manage physical assets to ensure proper maintenance, promote cost savings, improve quality, increase efficiency, and promote safety.

consistency and efficiency to the track inspection process. A positive feature is that the app automatically captures the date and time that photos are taken, which can confirm that an inspector is walking their assigned route. However, that data is not readily accessible to supervisors, requiring a number of steps to view the data for each photo separately. And while the date and time data can be revealed, supervisors have not been taught how to obtain this data, nor are they required to do so.

The easiest solution – having the app use the GPS capability of the inspectors’ MTA-issued cellphones to record the inspectors’ locations during the inspections – is not an option due to the agency’s past agreement with the union. In January 2018, in conjunction with the issuance of cellphones to union members, NYC Transit had agreed that “it will not use the GPS function in mobile devices issued to employees in DOS [Department of Subways] to track the location of employees on or off duty absent a particularized event (i.e., a safety related event, an operational emergency or an egregious action).” This limitation led the agency to require the inspectors to take, and forward to supervisors, photos of subway stations along the route to help confirm that the inspectors walked the full route.

We also found that the app gives inspectors leeway either to record their inspection start and end times as they occur (by clicking on Start and Stop buttons in the app), or to enter both times after completing the inspection. In effect, this second option prevents supervisors from obtaining verifiable time data. Track management needs to require that inspectors input the start and end times in real time to ensure the accuracy of the information.

We note that OIG has investigated a number of MTA inspection units over the years and has repeatedly found inspectors—who work with limited oversight—absent from their duties. OIG has been a strong advocate of proper oversight of inspectors and, as noted in previous reports, has been told that the mobile features of EAM will usher in a new era of accountability for field personnel.⁸ Now is the time, while the app is being tested, to ensure EAM and the protocols for its use provide management with the information they need.

3. Flaggers are not held sufficiently accountable for their track inspection duties.

Some of the deficiencies in ensuring accountability for track inspectors extend to the flaggers, who are track workers assigned to provide protection for the inspectors. Flaggers do not attest in the new EAM inspection app, or anywhere else, that they walked and flagged the assigned route.⁹ The new app does include fields where the inspector must note who was

⁸ See footnote 1.

⁹ Flaggers are not issued MTA cell phones and therefore cannot access the new EAM app.

flagging during a given inspection and their start and end times for this assignment. To further improve oversight and accountability, NYC Transit should require flaggers to attest to the completion of their flagging assignment and to their flagging start time, end time, and locations. The agency should consider protocols such as requiring the flaggers to complete a form that they then provide to their supervisor, who could then, in turn, upload a picture of the completed form to the Infor EAM system.

Without having this detailed information supplied or confirmed by the flagger themselves, a supervisor will have difficulty holding the employee accountable. In fact, during the OIG investigation of the 7 inspectors who claimed to have walked their assigned sections of track but whom OIG found did not do so all the times claimed, the assigned flaggers denied knowledge of, and responsibility for, what track the inspector claimed was walked that day. This proper accountability is required not just for the inspector but for the flagger as well.

B. Inadequate Policies, Oversight, and Monitoring of Cellphone Usage

The OIG investigation and audit found that inspectors were using their personal cellphones, rather than their MTA-issued phones, for NYC Transit business. The employees were also using their phones in violation of agency policy and in a manner and frequency that risked their safety.

1. Inappropriate use of cellphones is widespread.

NYC Transit Rules & Regulations, Rule 11(e) states that “employees must give their full and undivided attention to the proper performance of their duties; they must not neglect or shirk any duty. The use of cellular phones or accessories ... which may distract or impair an employee’s attention is forbidden, except where authorized.”

Similarly, the NYC Transit Department of Subways Maintenance of Way/Station Environment Maintenance (MOW/SEMS) Safety Rule Book, Rule 5.36 states that “employees must give their full and undivided attention to the proper performance of their duties; they must not neglect or shirk any duty. The use of cellular phones or accessories ... or any other similar and evolving devices which may distract or impair an employee’s attention is forbidden, except where authorized.”

As described in MTA/OIG report #2020-29, OIG investigators found that most of the 7 inspectors used their personal cellphones during hours that they were purportedly inspecting the tracks, in some cases so frequently as to be unsafe if the inspectors were actually on the tracks. The usage included sending and receiving personal and work-related text messages as well as making and receiving personal and work telephone calls. The distraction caused by

inappropriately using a cellphone in an environment that includes moving trains and high voltage third rails could create a safety hazard for employees and customers. Moreover, these inspectors' use of their personal cellphones while purportedly working on elevated tracks suggests that they were not conducting the inspections at all.

2. Inspectors used personal phones instead of MTA phones, in violation of policy.

NYC Transit Rules & Regulations, Rule 11(e), as interpreted by NYC Transit Rolling Stock and MOW Bulletin No. 06-26, prohibits employees from using personal cellular phones while on duty. While Track had previously made an exception by allowing inspectors to use personal phones for work purposes, the division issued MTA cellphones to track inspectors at the beginning of 2020 with the understanding that they would be used for work needs.

However, we found that inspectors did not use the MTA-issued phones during our audit period; in fact, the OIG found that none of them even carried their MTA cellphones while conducting inspections. Several inspectors told the OIG that the phones had been issued to them so they could complete inspection reporting forms via a mobile app, but they said they had not yet been "trained" on how to use the phones. Inspectors also told the OIG that they used their personal cellphones to conduct NYC Transit business, such as calling supervisors and taking photographs of defects and track conditions. However, as we noted above, once they received MTA-issued cellphones, these workers were prohibited from using their personal cellphones for such purposes.

3. Track does not specify expectations for phone usage in its own policies.

We found that the Division of Track had not issued sufficiently detailed policies and guidelines for use of MTA-issued and personal cellphones, including when, where, and how they should be used for both business and, especially, personal use. Additionally, the division had not recently reissued guidance to remind workers, including inspectors, that they are to use *only* MTA-issued cellphones when possible while performing their work. The last relevant bulletin provided to us by Track was issued by the division in 2006 (i.e., NYC Transit Rolling Stock and MOW Bulletin No. 06-26).

During our audit, on November 24, 2020, a superintendent in Track Subdivision T-1 (North) issued a memo directing the track supervisors within the subdivision to remind all track inspectors with an MTA cellphone that (1) they are to conduct MTA business with that phone and (2) they are not to use their personal cellphones while conducting inspections. The Division of Track should now develop and issue a formal, comprehensive, division-wide policy on cellphone usage that all relevant personnel are required to follow.

IV. RECOMMENDATIONS

1. NYC Transit Division of Track should require track inspectors to use the Start and Stop buttons in the EAM app to indicate the inspection start and end times and not allow these times to be entered manually. Track should also modify the EAM app so that the only option for the inspector to enter inspection date and times is the use of the Start and Stop buttons.

Agency Response: Agreed. The Division of Track will require track inspectors to use the Start and Stop buttons in the EAM application. However, the agency asserted that the EAM app needs to permit users to make manual entries if they forget to use the Start or Stop buttons. Instead, to ensure compliance, management will perform periodic audits to identify track inspectors who regularly fail to use the Start and Stop buttons. Employees who regularly fail to follow the established procedures will be subject to progressive discipline.

2. NYC Transit should require Track supervisors to periodically check the time and date stamps of station photos to ensure that inspectors are completing their sections as claimed. If supervisors require training to uncover these electronic markers, that instruction should be provided immediately. The agency should also attempt to configure the Infor EAM system to automatically display the photo time and date stamps next to the listing of photos so that supervisors can easily view this information.

Agency Response: Agreed. The agency asserted that it currently requires supervisors to periodically check the meta data for the time and date stamps of when station photos were taken by the track inspectors. Senior agency executives have directed management to actively engage supervisors to ensure they are performing their job as required.

NYC Transit stated that while the Infor EAM system currently does not automatically display the photo with a time and date, the agency will work towards ways to streamline the process for checking time and date stamps.

3. NYC Transit should explore the feasibility of using the electronic sensor and reporting features available in a mobile device to identify, at a glance, the actual section an inspector covers each tour and if there has been any deviation from the day's plan.

Agency Response: Agreed. NYC Transit stated that it will implement this recommendation. The agency committed to providing any updates to this effort to the OIG.

4. NYC Transit Track supervisors should continue to periodically conduct random visual checks of track inspectors until the Infor EAM system starts to generate and record reliable and accessible location information.

Agency Response: Agreed. NYC Transit wrote that, in the short term, the Division of Track has instructed that each maintenance superintendent and higher-level supervisor perform a minimum of 1 random, unannounced spot check of track inspectors quarterly and submit a compliance report of findings and any necessary actions. To fully satisfy this OIG recommendation, an audit group will be established by the end of the 4th quarter of 2021 to provide additional quality assurance for the track inspection program, including reviews of procedures and audits of flaggers and track inspectors. The agency committed to keeping the OIG informed of this audit group's progress.

5. NYC Transit should require flaggers assigned to track inspections to attest to the completion of their flagging assignment and to their flagging start and end times and locations.

Agency Response: Agreed. The Division of Track plans to have flaggers sign a document following each shift which will confirm their presence on the tracks for that shift and confirm where and at what times they were present for flagging.

6. NYC Transit Division of Track should issue detailed, formal policies and guidelines for use of MTA-issued and personal cellphones, including when, where, and how they should be used. Track should explicitly require MTA-issued cellphones to be used for all work purposes when performing inspections. The division should communicate these policies and guidelines widely and provide training, as needed.

Agency Response: Agreed. NYC Transit's Maintenance of Way Division, which includes Track, will draft an updated, comprehensive policy regarding the use of personal and MTA-issued cell phones. The division will issue this policy by the end of the 2nd quarter of 2021. NYC Transit stated that it will provide a copy of the policy to the OIG.