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December 28, 2020

Via Electronic Mail

Sarah E. Feinberg  
Interim President  
New York City Transit  
2 Broadway, 30<sup>th</sup> Floor  
New York, NY 10004

**Re: 7 Track Inspectors’  
Failure to Inspect Tracks, False  
Claims of Inspections, and  
Dereliction of Duties  
MTA/OIG #2020-29 (Updated)**

Dear Ms. Feinberg:

The Office of the MTA Inspector General (OIG) initiated this investigation during the course of an ongoing OIG audit in response to [news reports](#) of track debris raining down on the streets below the elevated tracks. The elevated tracks of NYC Transit’s subway system are supposed to be inspected on foot by NYC Transit track inspectors every week. From our meetings with the Tracks-Elevated Maintenance Division, Maintenance of Way (MOW), Department of Subways, the OIG became suspicious that inspectors were not doing their jobs because there seemed to be no explanation, in some cases, why the falling debris was not identified during the weekly inspections.

We began our review with a test group—examining 7 NYC Transit Track Inspectors (Inspector) assigned to Track, Subdivision T-1 (North), which encompasses the elevated tracks located in the Bronx, Queens, and all elevated tracks in northern Manhattan. This area was selected because of the public reports and the magnitude of incidents of falling debris in this area. The OIG investigation and audit of elevated track inspections more broadly are on-going, but due to our alarming findings vis-à-vis this initial test group—these Inspectors treated their duties like a no-or low-show job—we are reporting our findings now, with further investigation and reporting to follow.

## I. EXECUTIVE SUMMARY FINDINGS

Proof that these 7 Inspectors did not complete the track inspections they reported on NYC Transit forms includes OIG surveillance of their inspection routes where the Inspectors were nowhere to be found or conducted incomplete inspections, and records showing the Inspectors frequently used their cellular telephones for personal calls and texts at times when they were supposed to be inspecting active tracks—a dangerous and likely implausible proposition. Over the course of 6 months, the OIG conducted surveillances on at least 37 days and found problems with 20 inspections, or nearly 54% of the time. The OIG’s observations raise alarm about the diligence with which the Inspectors approached their work, due to distractions or their complete absence from the tracks, thereby creating significant safety risks.

Our conclusions are conservative, since they are based only on the few months that investigators conducted surveillance. In addition, when it became apparent that most of the Inspectors’ cellular phone usage indicated that they could not be performing their jobs without distractions, the OIG took another sampling of cellular phone records covering a different time period. While we would not want to extrapolate from the discrete number of observations that were made, in light of the weak controls and the falling debris, the actual number of partial or completely absent inspections is likely higher.

The OIG interviewed all 7 Inspectors, who generally claimed they could not recall specific dates they were asked about, nor could they explain why the OIG had not seen them where they were expected to be conducting inspections. One of the inspectors, though, admitted that he will sometimes falsely report a complete inspection when he had not actually completed it. Notably, most Inspectors did not deny what the OIG found in the surveillance—their absence from duty. Regarding the individual inspectors, the OIG found that:

- **Inspector 1**, who earned \$70,865 in 2019, did not inspect the tracks on 2 dates in April 2020 as OIG surveillance confirmed, yet submitted work forms falsely claiming she did. On those 2 dates, Inspector 1 used her personal cellular phone frequently throughout her workday, while she purportedly was busy inspecting elevated tracks with active train traffic. The MTA paid Inspector 1 \$580 for those 2 dates alone. During a limited review of Inspector 1’s cellular phone records over a 3-month period in 2020, we identified 23 additional dates when she frequently used her personal cellular phone while purportedly working on elevated tracks, leading us to conclude she did not inspect them. We recommend that NYC Transit discipline Inspector 1 as it deems appropriate, up to and including termination, and seek to recover, at a minimum, the 25 days that Inspector 1 was paid for conducting inspections. *See Appendix I.*
- **Inspector 2**, who earned \$79,230 in 2019, failed to fully inspect the tracks on 3 dates and failed to inspect the tracks at all on 1 date between June 2020 and July 2020 as OIG surveillance confirmed, despite submitting reports falsely claiming that he had completed those inspections. On those 4 dates, Inspector 2 frequently used his personal cellphone while purportedly inspecting the tracks, which we find implausible. MTA paid Inspector 2 \$1,209 for these 4 dates alone. During an interview, Inspector 2

admitted to sometimes falsifying inspection reports. Moreover, during a limited review of Inspector 2's cellphone records over a 3-month period in 2020, we identified 36 additional dates when he frequently used his personal cellular phone while purportedly working on elevated tracks, leading us to conclude that he was, at best, distracted while conducting inspections, and in all likelihood not conducting them at all. We recommend that NYC Transit discipline Inspector 2 as it deems appropriate, up to and including termination, and seek to recover at a minimum the 40 days Inspector 2 was paid for conducting inspections. *See Appendix II.*

- **Inspector 3**, who earned \$62,500 in 2019, failed to conduct at least 4 inspections between February 2020 and April 2020, despite submitting reports falsely claiming that he had completed those inspections. On these 4 dates, the OIG did not see Inspector 3 on the tracks. The MTA paid Inspector 3 \$1,163 for these 4 dates alone. Moreover, during a limited review of Inspector 3's cellular phone records over a 3-month period in 2020, we identified 22 additional dates when he used his personal cellular phone while purportedly working on elevated tracks (on some days 90 or more total calls and messages), leading us to conclude he was, at best, distracted while conducting inspections, and in all likelihood not conducting them at all. We recommend that NYC Transit discipline Inspector 3 as it deems appropriate, up to and including termination, and seek to recover, at a minimum, the 26 days that Inspector 3 was paid for conducting inspections. *See Appendix III.*
- **Inspector 4**, who earned \$107,633 in 2019, failed to conduct a track inspection on 1 date in March 2020 despite submitting a report falsely claiming that he had. On a second date in March 2020, Inspector 4 claimed he conducted a riding inspection but the weather report for that day did not appear to justify that. Moreover, on both of these dates, Inspector 4 spent a significant amount of time on his personal cellular phone, thereby making a thorough inspection improbable. The MTA paid Inspector 4 \$591 for these 2 dates alone. Moreover, during a limited review of Inspector 4's cellular phone records over a 3-month period, we identified 40 additional dates when he used his personal cellular phone while purportedly working on elevated tracks, leading us to conclude that he was, at best, distracted while conducting inspections, and in all likelihood not conducting them at all. We recommend that NYC Transit discipline Inspector 4 as it deems appropriate, up to and including termination, and seek to recover, at a minimum, the 42 days that Inspector 4 was paid for conducting inspections. *See Appendix IV.*
- **Inspector 5**, who earned \$82,267 in 2019, did not conduct complete inspections on 2 dates in June 2020 despite submitting forms falsely claiming that he did. On these 2 dates Inspector 5 also used his personal cellular phone while he purportedly was inspecting elevated tracks with active train traffic. The MTA paid Inspector 5 \$604 for these 2 dates alone. Moreover, during a limited review of Inspector 5's cellular phone records over a 3-month period in 2020, we identified 22 additional dates that Inspector 5 used his personal cellular phone while purportedly working on elevated tracks, leading us to conclude that he was, at best, distracted while conducting inspections, and in all likelihood not conducting them at all. We recommend that NYC Transit discipline

Inspector 5 as it deems appropriate, up to and including termination, and seek to recover, at a minimum, the 24 days that Inspector 5 was paid for conducting inspections. *See* Appendix V.

- **Inspector 6**, who earned \$90,782 in 2019, did not conduct inspections on 3 dates in June 2020, despite submitting forms falsely claiming he had. On 2 additional dates in June 2020, Inspector 6 did not conduct complete inspections despite submitting a form falsely claiming he had. The MTA paid Inspector 6 \$1,512 for these 5 dates. Moreover, during a limited review of Inspector 6’s personal cellular phone records, we identified at least 30 dates that he used his personal cellular phone while purportedly working on elevated tracks, leading us to believe that he was, at best, distracted while conducting inspections, and in all likelihood not conducting them at all. We recommend that NYC Transit discipline Inspector 6 as it deems appropriate, up to and including termination, and seek to recover, at a minimum, the 35 dates that Inspector 6 was paid to conduct inspections. *See* Appendix VI.
- **Inspector 7**, who earned \$78,116 in 2019, did not conduct an inspection on 1 date in May 2020, despite submitting forms falsely claiming he had. The MTA paid Inspector 7 \$295 for that date. We recommend that NYC Transit discipline Inspector 7 as it deems appropriate, up to and including termination, and seek to recover, at a minimum, the day that Inspector 7 was paid to conduct inspections. *See* Appendix VII.

## II. BACKGROUND

### A. Track Inspection

The elevated tracks of NYC Transit’s subway system must be inspected on foot by NYC Transit track inspectors every week.<sup>1</sup> Inspectors are the first line of protection for the integrity of the tracks by monitoring the conditions of the rails and ties, tightening bolts that secure tracks and switches, and clearing debris. These inspections are vital for public safety because damaged rails and switches can lead to train derailments and debris, such as pieces of damaged ties and loose bolts, falling to the street injuring pedestrians or damaging vehicles. The track inspector performs these inspections independently, with follow-up inspections conducted every 14 days by supervisors. The track inspector’s accurate report is critical to the safe operation of the subway system. As the track inspector’s report is important to the safe operation of the subways, the track inspector position has been designated as safety-sensitive.<sup>2</sup>

Once a year, track inspectors select the section of track that they will inspect for the next year; these selections are done in order of seniority. Twice a week, a track inspector must perform a walking inspection of the complete length of all tracks within that section. The twice weekly inspections of each track cannot be completed on consecutive days. Track inspectors are required to perform inspections at least 4 days a week and some use their 5th day to complete work in the yard or “special work.” This “special work” may include correcting

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<sup>1</sup> Riding inspections can be done by train only in inclement weather.

<sup>2</sup> *See Burka v. New York City Transit Authority*, 739 F. Supp 814, 823 (S.D.N.Y. 1990).

minor defects and removing debris from track baskets, which are baskets between the ties that catch debris such as dislodged bolts, observed during their inspections.

Track inspectors generally begin their day at 8 a.m., and until about April 2020, when the COVID-19 pandemic began, were required to sign in and out for the day using a biometric time clock at their reporting location. Their current timekeeping is recorded by swiping their identification card in the Kronos system or signing in with their supervisor. A Maintenance Supervisor gives a morning briefing, the track inspectors collect their tools and bolts for making minor repairs, and usually take their morning break before heading out to the tracks with 1 or 2 flaggers, who are track workers who provide protection to the inspector by signaling to on-coming train traffic that a worker is on the track.<sup>3</sup>

Between 9:15 a.m. and 9:45 a.m., a track inspector will call the Rail Control Center (RCC) for permission to access the tracks after the morning rush hour. Because getting through to the RCC in the morning can be difficult, if an inspector gets through they will sometimes pass their phone to other inspectors so each can provide their assigned reference number and be given permission to access the tracks.<sup>4</sup> Around 10:00 a.m. and 10:30 a.m., the inspections begin. Track inspections must be completed prior to the evening rush hour and therefore, the track inspector must usually leave the track between 2:00 p.m. and 2:30 p.m. The track inspectors will call the RCC when they leave the track for the day. A Superintendent, Elevated Track-North, Track & Infrastructure, Department of Subways, NYC Transit, (Superintendent) told the OIG that he expects the inspectors to be on the tracks from about 10 a.m. to 2:30 p.m. He said that he expects track inspectors to spend as much as 5 to 6 hours conducting inspections.

After leaving the tracks, track inspectors return to their reporting location to complete their Track Inspection Reporting Forms (Inspection Reporting Forms), which should describe the track area inspected, the location and description of any defects found, as well as notes on work performed. Inspectors should also note whether they responded to a trouble call, performed inclement weather inspections from trains or “riding inspections,” or if they were unable to complete their inspection. The track inspector submits these forms to their supervisor<sup>5</sup> and punches or swipes out for the day at 4:00 p.m.

Among the things the track inspector will inspect are running rail conditions, rail joints, ties, safety rail conditions, rail supports, straps, bolts, spikes, baskets, the third rail, switches, walkways, railings and signal devices on the track. The track inspector should address any loose bolt or spike requiring immediate attention. If a track inspector cannot fix the defect with the tools on hand and the defect is determined to be a Priority 1 Defect, the inspector must notify their supervisor immediately, while also staying at the location where the defect was found until someone arrives. Track inspectors may also be called on trouble calls, which are

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<sup>3</sup> Two flaggers will be assigned to provide track protection when a section includes a bi-directional track and if the section of track is curved so that an inspector is protected in both directions.

<sup>4</sup> Requests for flagging are submitted to the RCC which will assign each approved request a reference number.

<sup>5</sup> Flaggers are not required to sign the Inspection Reporting Forms or complete any paperwork.

emergency calls to respond to a track condition or items dropped on the tracks, usually within their section.

All track inspectors receive Track Walker training and/or complete the Track Flagging Refresher course during which all participants are trained on safety protocols and reminded of NYC Transit rules prohibiting employees from being distracted while performing their work duties. As detailed in the appendices, all 7 Inspectors received both trainings.

### III. SUMMARY OF THE INVESTIGATION

In January 2020, the OIG investigators began conducting surveillance of track inspectors responsible for inspecting elevated subway tracks in upper Manhattan and the Bronx. Over the course of 6 months, the OIG conducted surveillances on 37 days and found problems with 20 inspections, or nearly 54% of the time. Multiple OIG investigators were positioned at different stations along each section of track while conducting surveillance, ensuring that if an inspector walked their complete route they would be seen. The OIG reviewed NYC Transit documents completed in conjunction with the daily inspections, Inspection Reporting Forms, as well as personal cellular phone records, and RCC records.

#### A. Observations

The OIG found that no inspectors were seen 12 times during the OIG surveillances despite inspectors submitting Inspection Reporting Forms falsely claiming the inspections were complete. The OIG found that 8 additional inspections observed by the OIG were incomplete, despite inspectors submitting Inspection Reporting Forms falsely stating they were complete.<sup>6</sup>

#### B. Cellular phones

The full-rate track inspectors have been issued MTA cellular phones.<sup>7</sup> Nevertheless, the OIG found that none of them carry their MTA cellular phones with them while conducting inspections. Among other things, the OIG was told that the phones had been issued to them to use an application that enables them to complete their Inspection Reporting Forms from the phone and that they had not yet been “trained” on how to use the phones.<sup>8</sup> Inspectors told the OIG that they use their personal cellular phones to conduct NYC Transit business such as calling the RCC, calling supervisors, and taking photographs of defects and track conditions. The OIG found that, to varying degrees, the Inspectors used their personal cellular phones during hours that they were purportedly inspecting the tracks. The usage included sending and receiving text messages as well making and receiving telephone calls.

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<sup>6</sup> On one of these dates an inspector conducted a riding inspection despite clear weather conditions.

<sup>7</sup> A full-rate track inspector’s only work assignment is track inspections.

<sup>8</sup> On November 24, 2020, all track inspector supervisors were directed to remind all track inspectors with an MTA cellular phone that they are to conduct all MTA business with that phone and that they are not to use their personal cellular phones while conducting inspections.

During interviews, all 7 Inspectors acknowledged they were aware of NYC Transit policies requiring that they commit their full attention to their work. However, they also acknowledged sometimes receiving and making personal calls while conducting inspections. The OIG found that in some cases the cellular phone usage strongly corroborated the OIG's surveillance observations that inspections were either not done or were incomplete.

For instance, during an OIG surveillance, Inspector 1 was not observed walking her section of track on a day she claimed she worked. On that day, she sent and received a combined 115 text messages between 9:30 a.m. and 2:02 p.m., the 4 ½ hours that she should have been inspecting the tracks, showing that she could not possibly have been attentive to her work, even if in fact she was working on the tracks. The level of distraction suggests she would have created significant safety risks.

### C. Interviews

As detailed in the attached appendices, the OIG interviewed all 7 Inspectors who submitted paperwork for the inspections at issue.<sup>9</sup> Generally, the Inspectors could not recall specific dates they were asked about, nor could they explain why the OIG had not seen them where they were expected to be conducting inspections. Inspector 2 even admitted that he will sometimes falsely report a complete inspection when he had not actually completed it. Notably, however, most Inspectors did not deny what the OIG found in the surveillance.

## IV. POLICIES AND ANALYSIS

### A. NYC Transit Rules & Regulations

#### 1. *Rule 5 Reporting for Duty*

Rule 5(a) states, in pertinent part, that employees must report for their assignments as directed. Absence from duty without proper authority is regarded by the Authority as willful neglect of duty and as a serious breach of discipline.

Here, as to Inspectors 1, 2, 3, 4, 6, and 7, the OIG conducted surveillance on the section of track that the Inspectors claimed to have inspected and did not see them conducting those inspections. Inspector 1 could offer no explanation for her absence from the tracks on those dates. Moreover, her cellular phone records from those dates strongly suggest that she was not walking the tracks to conduct inspections. Inspector 2 at first insisted that the OIG made a mistake in its observation, but then relented and asked why he was only being asked about his "bad days." Inspector 3 could offer no explanation for his absence from the tracks on the dates observed by the OIG. Inspector 4 offered no explanation for why he was not seen on the tracks, but insisted he completed his inspection. Inspector 6 could offer no explanation for why he was not seen on the tracks on the 3 dates that the OIG did not see him. Finally, Inspector 7 could offer no explanation for why he was not seen on the tracks during the OIG's surveillance.

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<sup>9</sup> The Inspector is the "employee in charge" when an inspector and flagger are on the tracks, which means that the flagger takes direction from the Inspector.

## 2. *Rule 6 Records, Timecards and Paychecks of Employees*

Rule 6(b) states in pertinent part, that all employees, unless otherwise directed, must report daily, on prescribed time records the amount of time on duty, the actual reporting time, the time relieved, the account, function or job number of each job and the time devoted thereto.

Here, all 7 Inspectors did not conduct the inspections that they claimed on their Track Inspection Reporting Forms. Nevertheless, they submitted a time record reporting that they had completed a full tour, which would require that they conduct the inspections in the manner that they are required. Therefore, their pay records were not accurate.

## 3. *Rule 8 Reports*

Rule 8(a) states, in pertinent part, that written or oral reports must be complete and accurate. Employees who knowingly submit or make reports containing false statements shall be charged with misconduct and incompetence.

Here, all 7 Inspectors submitted written reports that falsely stated that they completed inspection and maintenance work that they did not complete.

## 4. *Rule 11 Certain Acts of Employees Prohibited*

Rule 11(e) states in pertinent part, 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.

Here, Inspectors 1, 2, 3, 4, 5 & 6's personal cellular phone records<sup>10</sup> reflect excessive use of their personal phones while they were purportedly conducting track inspections. If, despite all evidence to the contrary, the Inspectors were inspecting the tracks, they plainly did not give their work their full and undivided attention.

## 5. *Rule 4 General Duties and Obligations of Employees*

Rule 4(e) states in pertinent part, that all employees are required to extend the fullest cooperation to duly authorized investigative personnel.

Here, all 7 Inspectors' false and evasive answers to the OIG investigators were inconsistent with their obligation to fully cooperate with investigations. It strains credulity that they were unable to explain why they failed to complete their inspections.

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<sup>10</sup> At the time of this report, Inspector 7's cellular phone carrier has not provided his records.

## **B. Department of Subways, Maintenance of Way/Station Environment Maintenance, Safety (MOW/SEMS) Rule Book, Chapter 5**

The NYC Transit Department of Subways MOW/SEMS Safety Rule Book Rule 5.36 states, in pertinent part, 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 discussed above, Inspectors' 1, 2, 3, 4, 5 & 6 personal cellular phone records reveal that they did not devote their full and undivided attention to the track inspections, as reflected in the activity on their cellular phones while purportedly on the tracks.

## **C. MTA All-Agency Code of Ethics**

### *§ 1.07 Cooperation with Audits and Investigations*

The Code of Ethics section 1.07 requires all employees to "cooperate fully and honestly" with investigations conducted by the OIG. "Failure to so cooperate will subject an Employee to appropriate disciplinary penalty, up to and including dismissal."

As noted above, all 7 Inspectors were confronted with compelling evidence that they did not complete inspections that they claimed they completed. Their false and evasive statements to the OIG were inconsistent with their obligation to cooperate fully and honestly with the OIG investigation.

## **V. FINDINGS**

1. Inspectors 1, 2, 3, 4, 6 & 7 failed to complete the inspections they reported on their Inspection Reporting Forms, in violation of NYC Transit Rules & Regulations rule 5(a).
2. Inspectors 1, 2, 3, 4, 5, 6 & 7 submitted times sheets reporting that they had completed a full-day's work as an Inspector and were paid in violation of NYC Transit Rules & Regulation 6(b).
3. Inspectors 1, 2, 3, 4, 5, 6 & 7 submitted false Inspection Reporting Forms to claim that they had completed inspections that they had not, in violation of NYC Transit Rules & Regulations rule 8(a).
4. To varying degrees, Inspectors 1, 2, 3, 4, 5 & 6 used their personal cellular phones during the hours that they were purportedly conducting inspections which would have undoubtedly distracted them from their work in violation of NYC Transit Rules & Regulations rule 11(e) and the Department of Subways Maintenance of Way/Station Environment Maintenance, Safety Rule Book, Chapter 5, Rule 5.36.
5. Inspectors 1, 2, 3, 4, 5, 6 & 7 failed to cooperate with the OIG investigation when they offered evasive and incredible responses during their interviews in violation of NYC Transit Rules & Regulations Rule 4(e) and the MTA All-Agency Code of Ethics §1.07.

## VI. RECOMMENDATIONS

1. Inspector 1 should be disciplined up to, and including, termination, and the agency should seek to recover, at a minimum, the 25 days that Inspector 1 was paid to conduct inspections.
2. Inspector 2 should be disciplined up to, and including, termination, and the agency should seek to recover, at a minimum, the 40 days that Inspector 2 was paid to conduct inspections.
3. Inspector 3 should be disciplined up to, and including, termination, and the agency should seek to recover, at a minimum, the 26 days that Inspector 3 was paid to conduct inspections.
4. Inspector 4 should be disciplined up to, and including, termination, and the agency should seek to recover, at a minimum, the 42 days that Inspector 4 was paid to conduct inspections.
5. Inspector 5 should be disciplined up to, and including, termination, and the agency should seek to recover, at a minimum, the 24 days that Inspector 5 was paid to conduct inspections.
6. Inspector 6 should be disciplined up to, and including, termination, and the agency should seek to recover, at a minimum, the 35 days that Inspector 6 was paid to conduct inspections.
7. Inspector 7 should be disciplined up to, and including, termination, and the agency should seek to recover, at a minimum, the day that Inspector was paid to conduct inspections.

As always, we appreciate your continued courtesy and cooperation. Please advise our office within thirty (30) days of any action you intend to take, and the result of any action taken. In addition, please indicate your acceptance or rejection of each recommendation and the proposed quarter in the calendar year that the recommendation will be implemented.

Please be advised that the Office of the MTA Inspector General may publicly disclose this report consistent with its statute and other state law, which may include name(s) of individuals and entities. Should you have any questions, or need additional information, please contact Executive Deputy Inspector General for Legal Pei Pei Cheng-de Castro at (212) 878-0072.

Very truly yours,

/S/

Carolyn Pokorny

cc: David Farber, General Counsel, NYC Transit  
Monica Murray, Chief Administrative Officer, NYC Transit  
Kim Moore-Ward, Vice President, Office of Labor Relations, NYC Transit

## APPENDIX I

### Inspector 1

#### A. Background

Inspector 1, assigned to the Concourse Yard, was hired as a track worker on December 8, 2014. She has worked as a dual-rate track inspector for 1 year and 9 months. A dual-rate track inspector must be a permanent track worker with a minimum of 1-year experience. A dual-rate track inspector performs inspections when a full-rate track inspector is absent and is paid the higher hourly wage of a full-rate track inspector when performing those duties.<sup>11</sup> Inspector 1 received Trackwalker training on January 7, 2019 and Track Flagging Refresher training on January 23, 2020. Inspector 1 earned \$70,865 in 2019<sup>12</sup>.

#### B. Investigation

On April 7 and 8, 2020, between 10:30 a.m. and 12:45 p.m., the OIG conducted surveillance of the elevated section of track on the number 6 line between Morrison Avenue/Soundview Stations and Castle Hill Avenue Stations. During that time, the OIG did not see a track inspector inspecting the tracks. The OIG obtained the Inspection Reporting Forms for those dates on that section of track and found that Inspector 1 claimed to have completed those inspections.

##### 1. *April 7, 2020*

For April 7, 2020, Inspector 1 claimed on the Inspection Reporting Form that she completed an inspection of the tracks on the number 6 line between Pelham Portal to E. 177<sup>th</sup> Street/Parkchester Station. She claimed on the same report to have tightened bolts north of the St. Lawrence Avenue Station. These claims were proven to be false, as follows:

First, as noted above, the OIG surveillance determined that neither Inspector 1, nor any other inspector, performed inspections in that vicinity during the time of the OIG's surveillance.

Second, as detailed in the chart below, the OIG found that during the period when Inspector 1 claimed to be inspecting the tracks, she was actively using her personal cellular telephone in a manner wholly inconsistent with someone inspecting an active track, which—as discussed above—requires one's full attention for safety reasons.

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<sup>11</sup> A dual-rate track inspector primarily works as a track worker/flagger but will perform inspections as needed. A full-rate track inspector primarily performs track inspections and minor inspection-related repairs, unless needed for a trouble call.

<sup>12</sup> The salary information in this letter is based on a PeopleSoft query search within the HCM module.

April 7, 2020	
Time	Conduct
9:24 a.m.	Called the RCC
9:24 a.m. to 2:13 p.m.	Sent 30 text messages and received 14 text messages, for a total of 44 text messages. Also received 1 phone call.
2:13 p.m.	Called the RCC
2:14 p.m.	Called the RCC
2:17 p.m.	Called the 180 <sup>th</sup> St. Yard

## 2. April 8, 2020

On April 8, 2020, Inspector 1 claimed on the Inspection Reporting Form that she had completed an inspection of the tracks on the number 6 line between the Parkchester-E. 177<sup>th</sup> Street Station to the Westchester Square-East Tremont Station. She claimed on the same report to have tightened bolts south of the Parkchester-E.177<sup>th</sup> Street Station. These claims were proven to be false, as follows:

First, as noted above, the OIG surveillance determined that neither Inspector 1, nor any other inspector, performed inspections in that vicinity during the time of the OIG's surveillance.

Second, as detailed in the chart below, the OIG found that during the period when Inspector 1 claimed to be inspecting the tracks, she was actively using her personal cellular telephone in a manner wholly inconsistent with someone inspecting an active track, which—as discussed above—requires one's full attention for safety reasons:

April 8, 2020	
Time	Conduct
9:28 a.m.	Called the RCC
9:30 a.m. to 2:02 pm (~4.5 hours)	Sent 77 text messages and received 38 text messages. Total of 115 text messages. Also received 2 calls at 9:48 a.m. and 12:07 p.m.
2:15 p.m.	Called the RCC
2:16 p.m.	Called the 180th St. Yard

Inspector 1's payroll records for April 7, 2020 and April 8, 2020, show that she was paid at the higher track inspector rate (\$290 per day) rather than at her regular rate (\$270 per day) as a track worker.

### 3. *Additional Dates*

After discovering the number of text messages that Inspector 1 exchanged on the dates that the OIG conducted surveillance, the OIG looked into additional dates that she worked as a track inspector to determine if there were similar problems. We found additional dates that Inspector 1 was actively using her cellular phone while purportedly inspecting the tracks (generally, between the time the inspector was granted access to the track and when the inspector was required to leave the tracks) as noted in the table below:

<b>Date of Inspection</b>	<b>Number of Calls: Placed</b>	<b>Number of Calls: Received</b>	<b>Text Messages: Sent</b>	<b>Text Messages: Received</b>	<b>Total Calls &amp; Text Messages</b>
4/1/2020	1	3	31	14	49
4/5/2020	-	2	27	14	43
4/6/2020	7	2	27	11	47
4/10/2020	1	-	2	1	4
4/11/2020	2	-	18	10	30
4/26/2020	-	-	5	4	9
4/27/2020	1	3	20	12	36
4/29/2020	-	-	10	6	16
5/11/2020	-	2	9	4	15
5/17/2020	-	3	66	34	103
5/18/2020	5	4	18	8	35
5/19/2020	4	2	13	8	27
5/21/2020	-	-	5	3	8
6/07/2020	5	1	39	18	63
6/10/2020	1	1	30	17	49
6/11/2020	1	2	32	16	51
6/14/2020	-	1	32	17	50
6/21/2020	4	1	21	10	36
6/22/2020	-	1	33	15	49
6/23/2020	1	-	17	9	27
6/24/2020	3	2	29	16	50
6/25/2020	-	-	1	-	1
6/26/2020	1	2	5	4	12

#### 4. *Interview of Inspector 1*

On September 23, 2020 and November 23, 2020, the OIG interviewed Inspector 1. She told the OIG that it takes her at least 2 ½ hours, without any stops, to complete an inspection walk for her assigned section of track. When she was confronted with the fact that she was not observed performing her inspections or performing the work she described on her Inspection Reporting Forms on April 7 and 8, 2020, she could not offer any explanation as to why the OIG did not see her. She could not recall why she would have recorded a complete inspection on her work form other than maybe she had been “hung up.” Given that Inspector 1 told the OIG that a complete inspection of her section of tracks would take a minimum of 2 ½ hours, it would have been impossible for her to complete the inspection she claimed on her Inspection Reporting Form without being seen by the OIG.

Further, Inspector 1 admitted that most of the text message exchanges on her phone between approximately 10 a.m. and 3 p.m. on April 7, 2020 were personal and not work related when she identified the numbers as personal calls. She also admitted that of the 115 text messages, sent and received on April 8, 2020, the vast majority were personal texts and not related to her work.

The overwhelming evidence contradicts Inspector 1’s claim that she was working on elevated tracks. First, the OIG surveillance shows that she was not present. Second, she could not have been conducting track inspections and at the same time been as active on her cellular phone. The sheer volume of cellular phone activity corroborates the OIG’s observations that she did not conduct the inspections she reported on her Inspection Reporting Form. Additionally, her cellular phone records confirm that she could not possibly have been attentive to her work, even if in fact she was working on the tracks. The level of distraction suggests she would have created significant safety risks.

### **C. Conclusion**

Inspector 1 did not inspect the tracks on at least 2 dates in April 2020 as OIG surveillance confirmed yet submitted work forms falsely claiming she did. On those 2 dates, Inspector 1 also used her personal cellular phone frequently throughout her workday and, most alarmingly, while she purportedly was busy inspecting elevated tracks with active train traffic. The MTA paid Inspector 1 \$580 for those 2 dates alone. Moreover, during a limited review of Inspector 1’s cellular phone records over a three-month period in 2020, we identified 23 additional dates when she frequently used her personal cellular phone while purportedly working on elevated tracks, leading us to conclude she did not perform complete inspections. We recommend that NYC Transit discipline Inspector 1 as it deems appropriate, up to and including termination, and seek to recover, at a minimum, the 25 days that Inspector 1 was paid for conducting inspections.

## APPENDIX II

### Inspector 2

#### A. Background

Inspector 2, assigned to Burnside Avenue Quarters, was hired as a track worker on March 26, 2007. He has worked as a dual-rate track inspector for 9 to 10 years. Inspector 2 received Trackwalker Requalification on November 21, 2018 and Track Flagging Refresher on January 21, 2020. Inspector 2 was paid \$79,230 in 2019.

#### B. Investigation

On June 29, June 30, July 1, and July 2, 2020, between 10:00 a.m. and 2:30 p.m., the OIG conducted surveillance of the elevated section of track on the number 4 line between the Jerome Portal and the Kingsbridge Road Station. During that time, the OIG either did not see a track inspector complete a full inspection of the tracks or did not see an inspector on the tracks at all. The OIG obtained the Inspection Reporting forms for those dates on that section of track and found that Inspector 2 claimed to have completed those inspections.

##### 1. *June 29, 2020*

For June 29, 2020, Inspector 2 claimed on the Inspection Reporting Form that he completed an inspection on the number 4 line between the Jerome Portal and the Kingsbridge Road Station noting only that there were no new defects. The form's report stating that he completed that inspection was proven to be false. Inspector 2 did not conduct a complete inspection as required.

First, as noted above, the OIG surveillance determined that Inspector 2 did not complete the inspection. The OIG investigators did not see Inspector 2 until he walked from the Burnside Avenue Quarters to the station platform and boarded a train at 11 a.m. Inspector 2 traveled by train between stations, stopping briefly to walk the tracks to inspect or tighten bolts. At no time did Inspector 2 walk between stations, as the inspection requires. Inspector 2 returned to the Burnside Avenue Quarters a little after 12 p.m. and did not return to the tracks.

Second, Inspector 2 used his personal cellular phone at a time that he should have been inspecting the tracks. Inspector 2 called the RCC at 9:45 a.m. and then at 3:04 p.m. In between those times, he sent 8 text messages, received 7 from identifiable numbers.<sup>13</sup> A total of at least, 15 text messages.

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<sup>13</sup> Inspector 2's phone records also reveal 24 text messages identified by the originating number "2300" that were not included in the calculation and may be messages received from a different messaging application, such as What's App/Line/Signal, etc.

2. *June 30, 2020*

For June 30, 2020, Inspector 2 claimed on the Inspection Reporting Forms to have conducted a complete inspection between the Kingsbridge Road Station to the Jerome Portal, and to have secured “loose lock spikes” and “secured shims.” These claims were proven to be false through several means.

First, as noted above, the OIG surveillance determined that neither Inspector 2, nor any other inspector, performed inspections in the vicinity that day.

Second, as detailed below, the OIG found that on this date during the hours that Inspector 2 was purportedly inspecting the tracks, he used his phone 17 times. He called the RCC around 9:44 a.m. and at 2:37 p.m. Between those times, he sent 4 text messages, received 5 text messages, placed 3 calls, and received 5 calls.

3. *July 1, 2020*

For July 1, 2020, Inspector 2 claimed on the Inspection Reporting Form to have completed an inspection of the tracks on the 4 line between the Jerome Portal and the Kingsbridge Road Station. However, Inspector 2 did not complete the required inspection. This claim was proven to be false through several means.

First, as noted above, the OIG surveillance determined that Inspector 2 did not complete the inspection as reported on his Inspection Reporting Form. Instead, Inspector 2 left his quarters at the Burnside Avenue Station by train. He was not seen conducting inspections, and he returned to the Burnside Avenue Station by train, where he worked, intermittently on the track for about an hour and a half but did no further inspections.

Second, the OIG found that at the time Inspector 2 was purportedly inspecting the track he sent 5 text messages and received 6 text messages (total of 11 messages).

4. *July 2, 2020*

For July 2, 2020, Inspector 2 claimed on the Inspection Reporting Form that he had completed an inspection of the tracks on the 4 line between the Jerome Portal and the Kingsbridge Road Station. He claimed on the same report that he had detected no new defects. These claims were proven to be false.

First, Inspector 2 did not complete the inspection as reported in his Inspection Reporting Form. Inspector 2 was seen only between the 176<sup>th</sup> Street and the Burnside Avenue Stations for just a little over an hour, despite submitting a report that he had completed an inspection from the Jerome Portal to the Kingsbridge Road Station, noting that no new defects had been found.

Second, Inspector 2 sent 9 texts and received 7 texts and placed 1 call (total of 17 times he used his phone) while purportedly conducting a track inspection.

5. *Additional Dates*

Because of concerns about the level of personal cellphone usage by the inspectors during the OIG's initial review, the OIG expanded its review to include additional dates. We found additional dates that Inspector 2 was using his cellular phone while purportedly inspecting the tracks (generally, between the time the inspector was granted access to the track and when the inspector was required to leave the tracks) as noted in the table below:

Date	Number of Calls: Placed	Number of Calls: Received	Text Messages: Sent	Text Messages: Received	Total Calls & Text Messages
4/5/2020	1	2	3	5	11
4/6/2020	-	-	2	2	4
4/7/2020	4	-	4	3	11
4/8/2020	1	-	2	2	5
4/9/2020	1	4	25	19	49
4/10/2020	-	3	11	6	20
4/12/2020	2	-	7	6	15
4/13/2020 <sup>14</sup>	-	5	6	6	17
4/14/2020	1	3	21	33	58
4/15/2020	1	1	14	15	31
4/16/2020	1	-	7	10	18
4/17/2020	4	2	9	6	21
4/29/2020	1	-	4	7	12
4/30/2020 <sup>15</sup>	-	1	12	15	28
5/3/2020	-	-	3	6	9
5/5/2020	5	1	14	14	34
5/6/2020	7	2	3	8	20
5/7/2020	12	10	19	11	52
5/8/2020	13	9	10	12	44
5/17/2020	2	-	3	2	7
5/18/2020	1	3	15	18	37
5/19/2020	2	-	1	-	3
5/20/2020	13	9	4	7	33
5/21/2020	-	-	1	15	16
5/22/2020	1	2	2	2	7
5/24/2020	-	1	1	1	3
5/25/2020	2	2	4	2	10
5/26/2020	2	-	4	4	10
5/27/2020	-	2	19	16	37
6/16/2020	-	1	2	2	5
6/17/2020	2	3	12	14	31
6/18/2020	1	3	-	2	6
6/19/2020	2	4	12	14	32
6/21/2020	1	1	13	13	28
6/24/2020	-	1	5	6	12
6/25/2020	2	5	6	3	16

<sup>14</sup> Reported a riding inspection.

<sup>15</sup> Reported a riding inspection.

## 6. *Interview of Inspector 2*

On October 23, 2020, the OIG interviewed Inspector 2. He said that to complete a full inspection of his section of track takes him between 2 ½ to 3 hours, and that he usually finishes his inspection between 1:00 p.m. and 1:30 p.m. He said that sometimes he will stay in 1 area of track and tighten as many as 30 bolts in a day and doing so might prevent him from completing an assigned inspection for the day.

Notably, he admitted that sometimes he will falsely report an incomplete inspection as completed but said that it is unusual for him to not complete an inspection. Inspector 2 could not explain why the OIG investigators did not see him performing the inspections reported in his Inspection Reporting Forms on June 29 and July 1, 2020 and initially insisted that there must be a mistake. As he was confronted with what the OIG observed each day, he said that he could not explain why he was either not seen or seen only conducting incomplete inspections. He said that he could not remember work he performed 6 months earlier. He then asked why he was only being asked about his “bad days.”

Inspector 2 admitted that he will use his personal cellular phone for personal business and had no reaction when the OIG informed him of the volume of usage at the time that he was purportedly conducting inspections. He admitted that he has an MTA issued cellular phone which he does not use. Inspector 2’s half-hearted defense that he conducted the inspections belies the evidence supporting the conclusion that he has, on at least 4 occasions, failed to complete inspections as he has claimed.

## C. Conclusion

Inspector 2 failed to fully inspect the tracks on at least 3 dates and failed to inspect the tracks at all on 1 date between June and July 2020 as OIG surveillance confirmed, despite submitting reports falsely claiming that he had completed those inspections. On those 4 dates, Inspector 2 frequently used his personal cellular phone while purportedly inspecting busy, elevated tracks, which we find implausible. MTA paid Inspector 2 \$1,209 for these 4 dates alone. During an interview, Inspector 2 admitted to sometimes falsifying inspection reports. Moreover, during a limited review of Inspector 2’s cellphone records over a three-month period in 2020, we identified 36 additional dates when he frequently used his personal cellular phone while purportedly working on elevated tracks, leading us to conclude that he was, at best, distracted while conducting inspections, or at worst, not conducting them at all. We recommend that NYC Transit discipline Inspector 2 as it deems appropriate, up to and including termination, and seek to recover at a minimum the 40 days Inspector 2 was paid for conducting inspections.

## APPENDIX III

### Inspector 3

#### A. Background

Inspector 3, assigned to the 180<sup>th</sup> St. Yard, was hired by NYC Transit on May 14, 2001, became a track worker on June 30, 2012, and a full-rate track inspector about a year later. Inspector 3 received Track Walker Requalification training on October 25, 2018.<sup>16</sup> Inspector 3 was paid \$62,500 in 2019.

#### B. Investigation

On February 3, March 24, March 25, and April 1, 2020, generally between 10:30 a.m. and 12:45 p.m., the OIG conducted surveillance of the elevated section of track on the number 2 line between the Gunhill Road and the East Tremont Avenue Stations. During that time, the OIG did not see a track inspector inspecting the tracks. The OIG obtained the Inspection Reporting Forms for those dates on that section of track and found that Inspector 3 claimed to have completed those inspections.

##### 1. *February 3, 2020*

For February 3, 2020, Inspector 3 claimed on the Inspection Reporting Form that he completed an inspection of all three tracks on the number 2 line between the East Tremont - 177<sup>th</sup> Street Station and the Gunhill Road Stations including the 180<sup>th</sup> Street Yard, which would have required him to walk the full length of the tracks 3 times. He claimed on the same report to have installed bolts between the Allerton Avenue and Pelham Parkway Stations and tightened bolts in various locations. These claims were false as Inspector 3 was not seen conducting inspections during the time of the OIG's surveillance.

##### 2. *March 24, 2020*

For March 24, 2020, Inspector 3 claimed on the Inspection Reporting Form that he completed an inspection of track on the number 2 line between the Bronx Parkway East Station and the East Tremont Avenue Stations. He also claimed that he had installed bolts both north and south of the 180<sup>th</sup> Street Station. These claims were false. As noted above, the OIG surveillance determined that neither Inspector 3, nor any other inspector, performed inspections in that vicinity during the time of the OIG's surveillance.<sup>17</sup>

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<sup>16</sup> Inspector 3 completed the Track Flagging Refresher course on September 2, 2020.

<sup>17</sup> Inspector 3 had no outgoing text messages and 3 incoming text messages during the hours he would have been on the tracks.

### 3. *March 25, 2020*

For March 25, 2020, Inspector 3 claimed on the Inspection Reporting Form that he completed an inspection of track on the number 2 line between the East Tremont Avenue Station and the Gun Hill Road Station including the 180<sup>th</sup> Street Yard. He also claimed that he had installed bolts north and north east of the 180<sup>th</sup> Street Station. These claims were false based on the OIG surveillance which determined that neither Inspector 3, nor any other inspector, performed inspections in that vicinity during the time of the OIG's surveillance.<sup>18</sup>

### 4. *April 1, 2020*

For April 1, 2020, Inspector 3 claimed on the Inspection Reporting Form that he had completed an inspection of track on the number 2 line between the East Tremont Avenue Station and the Gun Hill Road Station including the 180<sup>th</sup> Street Yard. He claimed on the same report to have tightened bolts at various locations. Similarly, however, the OIG surveillance determined that neither Inspector 3, nor any other inspector, performed inspections in that vicinity on that day.<sup>19</sup>

### 5. *Additional Dates*

Because of concerns about the level of personal cellphone usage by the inspectors during the OIG's initial review, the OIG expanded its review to include additional dates. We found additional dates that Inspector 3 was using his cellular phone while purportedly inspecting the tracks (generally, between the time the inspector was granted access to the track and when the inspector was required to leave the tracks) as noted in the table below:

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<sup>18</sup> Inspector 3 had 1 outgoing text message during the time that he would have been expected to be on the tracks, and most of his calls are to NYC Transit phones, including the Yard Office and the RCC.

<sup>19</sup> Inspector 3 exchanged 4 text messages at the time that he should have been inspecting the tracks.

<b>Date</b>	<b>Number of Calls: Placed</b>	<b>Number of Calls: Received</b>	<b>Text Messages: Sent</b>	<b>Text Messages: Received</b>	<b>Total Calls &amp; Text Messages</b>
4/11/2020	1	2	23	21	47
4/20/2020	3	3	2	1	9
4/22/2020	1	3	10	6	20
4/23/2020	6	9	12	16	43
4/24/2020	7	-	10	13	30
4/28/2020	1	3	45	31	80
4/29/2020	1	4	27	16	48
5/17/2020	2	4	11	10	27
5/19/2020	6	4	36	26	72
5/31/2020	2	4	7	3	16
6/1/2020	2	7	38	41	88
6/2/2020	4	4	24	27	59
6/15/2020	3	1	20	20	44
6/16/2020	-	-	14	11	25
6/17/2020	5	5	17	12	39
6/21/2020	9	4	42	35	90
6/22/2020	2	2	9	9	22
6/23/2020	3	2	7	7	19
6/25/2020	1	2	16	14	33
6/28/2020	12	4	55	50	121
6/30/2020	3	2	3	7	15
7/1/2020	8	3	-	-	11

### 6. *Interview of Inspector 3*

On October 5, 2020 and November 23, 2020, the OIG interviewed Inspector 3. Inspector 3 told us that although he has been issued an MTA cellular phone, he uses his personal cellular phone to call the RCC and take photographs of issues that he finds. However, he could only show the OIG 1 photo that he took. He claimed he has not been told to use his MTA phone to make work calls and take photographs. He admitted that he sometimes receives calls from his family while working. Inspector 3 offered no explanation for why he was not seen during the OIG's surveillance on the dates above.<sup>20</sup>

### C. Conclusion

Inspector 3 failed to conduct at least 4 inspections between February 2020 and April 2020, despite submitting reports falsely claiming that he had completed those inspections. On these 4 dates, the OIG did not see Inspector 3 on the tracks. The MTA paid Inspector 3 \$1,163 for these 4 dates alone. Moreover, during a limited review of Inspector 3's cellphone records over a three-month period in 2020, we identified 22 additional dates when he used his personal cellular phone (on some days 90 or more total calls and messages) while purportedly working on elevated tracks, leading us to conclude he was, at best, distracted while conducting inspections, or at worst, not conducting them at all. We recommend that NYC Transit discipline Inspector 3 as it deems appropriate, up to and including termination, and seek to recover, at a minimum, the 26 days that Inspector 3 was paid for conducting inspections.

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<sup>20</sup> Inspector 3 offered that on March 25, 2020 he might have finished his inspection by riding the train if the weather was bad, but his Inspection Report did not indicate that he had done that.

## APPENDIX IV

### Inspector 4

#### A. Background

Inspector 4, assigned to the Burnside Avenue Quarters, was hired by NYC Transit on November 25, 2013, and has worked as a full-rate track inspector since November 4, 2018. Inspector 4 received Track Walker Requalification training on March 5, 2020 and Track Flagging Refresher training on February 14, 2019. Inspector 4 was paid \$107,663 in 2019.

#### B. Investigation

On March 18 and 19, 2020, the OIG conducted surveillance on the elevated section of track on the number 4 line between the Kingsbridge Road Station and the Woodlawn Avenue Station from approximately 10:30 a.m. and concluding at 12:45 p.m. The OIG investigators did not observe an inspector conducting inspections on these tracks, although on both dates they observed track workers on the tracks.

##### 1. *March 18, 2020*

For March 18, 2020, Inspector 4 claimed on the Inspection Reporting Form that he completed an inspection of the tracks on the number 4 line between the Kingsbridge Road Station and the Woodlawn Avenue Station and the Jerome Lead. He claimed on the same report to have been deployed to address a trouble call.

First, as noted above, the OIG surveillance determined that neither Inspector 4, nor any other inspector, performed inspections in that vicinity during the OIG's surveillance.

Second, Inspector 4's Inspection Reporting Form states that he responded to a trouble call, which was corroborated by the MOW Incident Detail Report, but he was not dispatched to that call until nearly 1:50 p.m.

Third, as detailed below, Inspector 4's phone records reveal that his cellular phone usage while purportedly inspecting the tracks would have interfered with his work and created a dangerous distraction.

Time	Conduct
9:09 a.m.	Inspector 4 called the RCC
9:11 a.m. to 2:59 p.m.	Inspector 4 placed 11 calls and received 14 calls. He also sent 38 text messages and received 26 text messages. A total of 89 text messages and calls.
2:59 p.m.	Inspector 4 called the RCC

## 2. *March 19, 2020*

For March 19, 2020, Inspector 4 claimed on the Inspection Reporting Form that, due to inclement weather, he had completed a riding inspection of the tracks on an elevated section of track on the number 4 line between the Kingsbridge Road and the Woodlawn Avenue Stations.

First, the [weather report](#) for that date does not indicate that there was any precipitation.

Second, between 10 a.m. and 2:50 p.m., Inspector 4 made or received 21 telephone calls and was on the phone for more than 2 hours. He also sent 60 text messages and received 30 text messages, a total of 90 text messages, during the same time period. This cell phone use occurred at a time that Inspector 4 was expected to be inspecting the tracks.

## 3. *Additional Dates*

Because of concerns about the level of personal cellphone usage by the inspectors during the OIG's initial review, the OIG expanded its review to include additional dates. We found additional dates that Inspector 4 was using his cellular phone while purportedly inspecting the tracks (generally, between the time the inspector was granted access to the track and when the inspector was required to leave the tracks) as noted in the table below:

Date	Number of Calls: Placed	Number of Calls: Received	Text Messages: Sent	Text Messages: Received	Total number of Calls & Text Messages
4/1/2020	13	8	44	19	84
4/2/2020	4	10	28	13	55
4/3/2020	1	3	6	3	13
4/4/2020	10	13	12	3	38
4/8/2020	16	5	13	6	40
4/9/2020 (Riding)	5	8	20	10	43
4/10/2020	8	12	12	7	39
4/11/2020	8	10	7	5	30
4/19/2020	9	1	4	3	17
4/21/2020	14	10	10	6	40
4/22/2020	5	9	83	35	132
4/23/2020	8	6	7	1	22
4/24/2020	6	10	88	44	148
4/25/2020	9	7	20	11	47
4/28/2020	4	3	14	6	27
4/29/2020	9	6	16	6	37
4/30/2020	5	4	7	4	20
5/1/2020	4	1	-	-	5
5/2/2020	9	12	40	17	78
5/10/2020	14	6	13	9	42
5/12/2020	11	7	26	11	55
5/13/2020	19	8	25	10	62
5/18/2020	7	5	36	18	66
5/19/2020	9	5	15	5	34
5/20/2020	14	8	12	7	41
5/21/2020	12	12	13	8	45
5/22/2020	10	7	13	9	39
5/23/2020	11	10	3	-	24
6/2/2020	4	1	16	6	27
6/3/2020	10	3	6	2	21
6/4/2020	7	4	23	11	45
6/5/2020	6	10	12	6	34
6/6/2020	6	7	21	8	42
6/8/2020	6	5	6	2	19
6/9/2020	5	6	5	5	21
6/10/2020	9	5	4	3	21
6/12/2020	17	8	35	16	76
6/13/2020	4	5	7	6	22
6/23/2020	9	9	10	9	37
6/24/2020	6	12	11	10	39

#### 4. *Interview of Inspector 4*

On September 22, 2020, the OIG interviewed Inspector 4. Inspector 4 told us that he has been issued an MTA cellular phone but does not use it because he has not been trained to use it and prefers to use his personal cellular phone. He could not explain the extent to which he used his cellular phone while he was supposed to be working on the tracks. Inspector 4 could not explain why he was not seen on March 18, 2020 conducting inspections and was confident that he had completed his walking inspection that day, despite not being seen by the OIG.

Inspector 4 told the OIG that he has the discretion to decide whether he will perform a riding inspection. He explained that track workers are stationary when working on elevated tracks and thus may be performing track work in weather conditions that are too dangerous for walking track inspections. However, the Superintendent contradicted Inspector 4, and told the OIG that track inspectors do not have that discretion and explained that the decision must be made in consultation with the track inspector's supervisor, the maintenance supervisor II (MS II).

The 2 dates that the OIG surveilled Inspector 4 revealed that he did not devote proper attention to his work. On both dates he was engaged with his cellular phone to a degree entirely inconsistent with proper attention to his work. There is simply no possible explanation for spending approximately 43 minutes on the phone as he did on March 18, 2020. On March 19, 2020, Inspector 4 conducted a riding inspection, despite a historical weather report stating that there was no rain at the time he would have begun his inspection. In any event, even if his riding inspection was warranted, he simply could not have been devoting proper attention to his work while on the phone for 2 hours.

### **C. Conclusion**

Inspector 4 failed to conduct a track inspection on 1 date in March 2020 despite submitting a report falsely claiming that he had completed the inspection. On a second date in March 2020, Inspector 4 claimed he conducted a riding inspection but spent a significant amount of time on his personal cellular phone, thereby making a thorough inspection improbable. On both dates Inspector 4 frequently used his personal cellular phone despite claiming to be conducting inspections of busy elevated tracks. The weather report for that day did not appear to justify a riding inspection. The MTA paid Inspector 4 \$591 for these 2 dates alone. Moreover, during a limited review of Inspector 4's cellular phone records over a 3-month period, we identified 40 additional dates when he used his personal cellular phone while purportedly working on elevated tracks, leading us to conclude that he was, at best, distracted while conducting inspections, or at worst, not conducting them at all. We recommend that NYC Transit discipline Inspector 4 as it deems appropriate, up to and including termination, and seek to recover, at a minimum, the 42 days that Inspector 4 was paid for conducting inspections.

## APPENDIX V

### Inspector 5

#### A. Background

Inspector 5, assigned to the Burnside Avenue Quarters, was hired by NYC Transit in 2011, and has worked as a full-rate track inspector for 3 years. Inspector 5 received Trackwalker Requalification training on April 25, 2019 and Track Flagging Refresher training on April 4, 2019. Inspector 5 was paid \$82,267 in 2019.

#### B. Investigation

On June 10 and 11, 2020, between 10:30 a.m. and 2:30 p.m., the OIG conducted surveillance on the elevated section of track on the 4 line between the Jerome Portal and the Kingsbridge Road Station. During that time, the OIG observed incomplete inspections conducted by a track inspector. The OIG obtained the Inspection Reporting Forms for those dates on that section of track and found that Inspector 5 claimed to have completed these inspections.

##### 1. *June 10, 2020*

For June 10, 2020, Inspector 5 claimed on the Inspection Reporting Form that he completed an inspection of the tracks on the 4 line between the Jerome Portal and the Kingsbridge Road Station. However, the OIG observed that Inspector 5 failed to inspect the section south of the 167<sup>th</sup> Street to the 161<sup>st</sup> Street Stations or north of the Burnside Avenue Station to the Kingsbridge Road Station and was conducting inspections no longer than 2½ hours. His claim that the inspection was complete was proven false.

First, as noted above, the OIG surveillance determined that Inspector 5 did not conduct a complete inspection on this section of track.

Second, Inspector 5 used his personal cellular phone while on the tracks. Inspector 5 called the RCC at 9:42 a.m. Between 10:00 a.m. and 2:30 p.m., he placed 2 calls and received 4 calls. He also received 4 texts. In total, he used his phone 10 times. He called the Yard Office and the RCC at 2:35 p.m. and 2:39 p.m. respectively.

##### 2. *June 11, 2020*

For June 11, 2020, Inspector 5 claimed on the Inspection Reporting Form that he completed an inspection of the elevated tracks on the 4 line between the Jerome Portal and the Kingsbridge Road Station. However, Inspector 5's June 11, 2020 inspection was incomplete. The OIG investigators first saw Inspector 5 with his flaggers walking north from the 167<sup>th</sup> Street Station at 11:25 a.m. and all inspectors returned to the Burnside Avenue Quarters by 12:51 p.m. Although there was more than 1 inspector on the tracks that day, no inspector spent more than

1 ½ hours conducting inspections and no inspections were completed. Inspector 5's claim that he had completed his inspection was proven false.

As noted above, the OIG surveillance determined that Inspector 5 did not conduct a complete inspection on this section of track. In addition, he sent 4 outgoing texts and received 1 text and received 1 call when he was purportedly on the tracks.

### 3. *Additional Dates:*

Because of concerns about the level of personal cellphone usage by the inspectors during the OIG's initial review, the OIG expanded its review to include additional dates. We found additional dates that Inspector 5 was using his cellular phone while purportedly inspecting the tracks (generally, between the time the inspector was granted access to the track and when the inspector was required to leave the tracks) as noted in the table below:

Date	Number of Calls: Placed	Number of Calls: Received	Text Messages: Sent	Text Messages: Received	Total Calls & Text Messages
4/2/2020	5	4	-	-	9
5/3/2020	4	4	1	-	9
5/4/2020	1	1	-	-	2
5/5/2020	3	3	-	-	6
5/6/2020	2	3	5	-	10
5/7/2020	1	2	3	4	10
5/10/2020	2	-	-	2	2
5/11/2020	4	3	26	35	68
5/12/2020	8	7	3	1	19
5/13/2020	-	1	-	-	1
5/14/2020	4	2	4	1	11
5/24/2020	1	-	-	-	1
5/25/2020	-	1	-	-	1
5/26/2020	2	2	-	-	4
6/2/2020	-	-	1	-	1
6/3/2020	-	2	-	-	2
6/4/2020	2	4	3	-	9
6/14/2020	-	1	1	-	2
6/15/2020	1	1	1	-	3
6/16/2020	1	5	-	-	6
6/17/2020	2	2	7	3	14
6/18/2020	3	2	1	-	6

### 4. *Interview of Inspector 5*

On October 7, 2020 and November 23, 2020, Inspector 5 was interviewed by the OIG. Inspector 5 told the OIG that he is generally on the track between 10:00 a.m. to 10:15 a.m. and remains there for 3 ½ hours. Inspector 5 could not explain why he did not complete his inspections on June 10, 2020 and June 11, 2020. On both surveillance dates Inspector 5 was

observed by the OIG for no longer than 2 ½ hours, which by his own account, is simply not enough time to complete a full inspection.

### **C. Conclusion**

Inspector 5 did not conduct complete inspections on 2 dates in June 2020 despite submitting forms falsely claiming that he did. On these 2 dates Inspector 5 also used his personal cellular phone while he purportedly was busy inspecting elevated tracks with active train traffic. The MTA paid Inspector 5 \$604 for these 2 dates alone. Moreover, during a limited review of Inspector 5's cellular phone records over a 3-month period in 2020, we identified 22 additional dates that Inspector 5 used his personal cellular phone while purportedly working on elevated tracks, leading us to conclude that he was, at best, distracted while conducting inspections, or at worst, not conducting them at all. We recommend that NYC Transit discipline Inspector 5 as it deems appropriate, up to and including termination, and seek to recover, at a minimum, the 24 days that Inspector 5 was paid for conducting inspections.

## APPENDIX VI

### Inspector 6

#### A. Background

Inspector 6, assigned to the Burnside Avenue Quarters, was hired as a track worker on March 28, 2016. He has worked as a dual-rate track inspector for a year. Inspector 6 received Trackwalker training on March 22, 2019 and Track Flagger Refresher training on March 2, 2020. Inspector 6 was paid \$90,782 in 2019.

#### B. Investigation

On June 8, June 9, June 11, June 28, and June 29, 2020, the OIG conducted surveillance of the elevated section of track on the number 4 line between the Jerome Portal and the Kingsbridge Road Station, between 10:30 a.m. and 2:30 p.m. On 2 of the 5 dates, the OIG observed an inspector who conducted incomplete inspections. On 3 of the 5 dates, the OIG did not see an inspector conducting inspections at all. The OIG obtained the Inspection Reporting forms for those dates on that section of track and found that Inspector 6 claimed to have completed those inspections.

##### 1. *June 8, 2020*

For June 8, 2020, Inspector 6 claimed on his Inspection Reporting Form to have inspected the middle track from the Jerome portal to the Kingsbridge Road Station. He claimed on the same report to have tightened bolts at various locations, replaced bolts, and cleaned debris from baskets. The OIG surveillance determined that Inspector 6 did not perform inspections that day. There was another inspector seen with a supervisor, and that inspector noted that he walked his inspection with the supervisor that day.<sup>21</sup>

##### 2. *June 9, 2020*

For June 9, 2020, Inspector 6 claimed on his Inspection Reporting Form that he completed an inspection of the tracks on the number 4 line from the Jerome Portal to the Kingsbridge Road Station. He also claimed to replace 30 bolts between the 107<sup>th</sup> Street and the Mt. Eden Avenue Stations. Those claims are false as the OIG did not see any inspectors on the tracks that day.

##### 3. *June 11, 2020*

For June 11, 2020, Inspector 6 claimed on his Inspection Reporting Form that he completed an inspection of the elevated tracks on the number 4 line from Jerome Portal to the Kingsbridge Road station. He claimed on the same report that he tightened bolts from south of

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<sup>21</sup> Although Inspector 6 used his personal cellular phone on the tracks, all calls and text messages are between NYC Transit staff on June 8, June 9, and June 11, 2020.

the 161<sup>st</sup> Street Station through south of the 176<sup>th</sup> Street Station. The work that he reports is consistent with the OIG's observation of inspectors at 11:25 a.m. inspecting the tracks from the 167<sup>th</sup> Street Station. Nevertheless, none of the inspectors inspected north of the Burnside Avenue Station, and all of them returned to the Burnside Avenue Quarters by 12:45 p.m. Therefore, Inspector 6 did not conduct the complete inspection he reported on his Inspection Reporting Form.

#### 4. *June 28, 2020*

For June 28, 2020, Inspector 6 claimed on his Inspection Reporting Form that he completed an inspection from the Kingsbridge Road Station to the Jerome Portal. He claimed on the same report to have tightened bolts between the 170<sup>th</sup> Street and the 167<sup>th</sup> Street Stations. The OIG investigators did not see an inspector or flagger on the tracks on that date.

#### 5. *June 29, 2020*

For June 29, 2020, Inspector 6 claimed on his Inspection Reporting Form that he completed an inspection of the tracks on the number 4 line from the Jerome Portal to the Kingsbridge Road Station. He claimed on the same report to have tightened bolts, "cleaned debris from baskets" and noted defects. The OIG investigators observed Inspector 6 and a flagger travel between stations by train, then briefly walk on the tracks at those stations to inspect or tighten bolts. At no point during the inspection did Inspector 6 walk the track between stations, as the inspection requires. Inspector 6 and the flagger returned to the Burnside Avenue Quarters a little after 12 p.m. and did not return to the tracks.<sup>22</sup>

#### 6. *Additional Dates*

Because of concerns about the level of personal cellphone usage by the inspectors during the OIG's initial review, the OIG expanded its review to include additional dates. We found additional dates that Inspector 6 was using his cellular phone while purportedly inspecting the tracks (generally, between the time the inspector was granted access to the track and when the inspector was required to leave the tracks) as noted in the table below:

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<sup>22</sup> Inspector 6 had several incoming messages from a messaging application, but his records do not reflect that he responded to them.

<b>Date</b>	<b>Number of Calls: Placed</b>	<b>Number of Calls: Received</b>	<b>Text Messages: Sent</b>	<b>Text Messages: Received</b>	<b>Total Calls &amp; Text Messages</b>
4/12/2020	2	4	2	0	8
4/14/2020	0	0	3	2	5
4/15/2020	6	2	3	3	14
4/16/2020	0	1	24	20	45
4/17/2020	7	8	7	6	28
4/18/2020	0	1	0	0	1
4/21/2020	0	0	3	2	5
4/22/2020	0	3	0	2	5
4/23/2020	7	4	5	7	23
4/24/2020	0	1	0	0	1
4/25/2020	2	1	2	15	20
5/4/2020	2	1	0	0	3
5/5/2020	6	2	0	0	8
5/12/2020	0	0	3	3	6
5/14/2020	0	1	3	1	5
5/15/2020	0	2	12	0	14
5/24/2020	1	1	1	0	3
5/26/2020	0	3	1	3	7
5/27/2020	4	0	1	0	5
5/28/2020	10	7	1	2	20
6/1/2020	1	4	1	2	8
6/2/2020	0	3	0	2	5
6/3/2020	1	3	0	0	4
6/5/2020	2	5	0	1	8
6/21/2020	3	0	10	6	19
6/22/2020	1	1	0	0	2
6/23/2020	0	1	0	0	1
6/24/2020	1	0	6	1	8
6/25/2020	8	10	9	6	33
6/26/2020	3	2	1	0	6

### *7. Interview of Inspector 6*

On October 5, 2020, the OIG interviewed Inspector 6. Inspector 6 could not explain why he did not complete the inspections he reported as complete on his Inspection Reporting Forms. Inspector 6 said that if he returned to Burnside Avenue Quarters after only 2 hours on the tracks, he must have finished his inspection. He further asserted that if the Inspection Reporting Form stated that he had completed an inspection, he must have completed it. Inspector 6 could not tell us how long a complete inspection of the tracks should take, although the OIG had been told by Inspector 5 that a full inspection of that stretch of track should take 3 hours without stopping. Nor could Inspector 6 explain why he was not seen conducting inspections during the OIG surveillances on June 28 and June 29, 2020.

### **C. Conclusion**

Inspector 6 did not conduct inspections on 3 dates in June 2020, despite submitting forms falsely claiming he had. On 2 additional dates in June 2020, Inspector 6 did not conduct complete inspections despite submitting a form falsely claiming he had. The MTA paid Inspector 6 \$1,512 for these 5 dates. Moreover, during a limited review of Inspector 6's personal cellular phone records, we identified at least 30 dates that he used his personal cellular phone while purportedly working on elevated tracks, leading us to believe that he was, at best, distracted while conducting inspections, or at worst, not conducting them at all. We recommend that NYC Transit discipline Inspector 6 as it deems appropriate, up to and including termination, and seek to recover, at a minimum, the 35 dates that Inspector 6 was paid to conduct inspections.

## APPENDIX VII

### Inspector 7

#### A. Background

Inspector 7, assigned to the Concourse Yard, was hired as a track worker on September 16, 2016, and became a full-rate track inspector on July 26, 2020. He worked as a dual-rate track inspector for approximately 3 years. Inspector 7 received Trackwalker training on November 23, 2018 and Track Flagging on November 26, 2019. Inspector 7 was paid \$78,116 in 2019.

#### B. Investigation

On May 4, 2020, between 10:30 a.m. to 2 p.m., the OIG conducted surveillance of the elevated section of track on the number 6 line between the Parkchester-177<sup>th</sup> Street Station and the Westchester Square Station. During that time, the OIG did not see an inspector or flagger conducting inspections on the tracks. The OIG has not received Inspector 7's cellular phone records and will supplement that information upon receipt of the records.

On October 7, 2020, the OIG interviewed Inspector 7. Inspector 7 told the OIG that he generally walks the tracks for about 4 hours and completes a full inspection in a day. Inspector 7 was told that he was not seen on the tracks that day. When shown the Inspection Reporting Form he completed reflecting an inspection from the Parckchester-177<sup>th</sup> Street Station to the Westchester Square Station for May 4, 2020, he pointed out that it states he worked on an "IJ bolt" and would have returned to the yard to get the materials, estimating that this would have taken him 30 to 40 minutes. However, even if Inspector 7 left the tracks for the time he described, it would not explain why the OIG did not see him over the course of a 3 1/2 -hour surveillance.

#### C. Conclusion

Inspector 7 did not conduct an inspection on 1 date in May 2020, despite submitting forms falsely claiming he had. The MTA paid Inspector 7 \$295 for that date. We recommend that NYC Transit discipline Inspector 7 as it deems appropriate, up to and including termination, and seek to recover, at a minimum, the day that Inspector 7 was paid to conduct inspections.



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**Agency Response**  
**to**  
**MTA/OIG #2020-29**

**7 Track Inspectors' Failure to Inspect Track, False Claims of Inspections, and Dereliction of Duties**

In its January 2021 response, NYC Transit informed the OIG that the 7 Track Inspectors were suspended without pay and referred to Labor Relations for disciplinary action. NYC Transit additionally conducted a management-led walking inspection of the tracks, all 665 miles, to confirm that the system was completely safe for passengers and employees.

On April 2, 2021, the arbitrator who held the joint hearing for Track Inspectors 1, 2, 3, 5, 6, and 7 found that NYC Transit had just cause to discipline the Track Inspectors. The arbitrator imposed time-served suspensions for each Track Inspector (approximately 66 days), a final warning that the same or similar conduct could result in termination, and a directive that none of the 6 Track Inspectors shall perform track inspections for 5 years from the date they were restored to service. The suspension of the 6 Track Inspectors was worth approximately \$19,963 each to Inspectors 3, 5 and 7, and \$18,226 each to Inspectors 1, 2, and 6.

On May 17, 2021, following a separate hearing, the arbitrator issued a decision relating to Track Inspector 4 and found that NYC Transit had just cause to discipline Track Inspector 4. The arbitrator imposed a time-served suspension for a total of 101 days, worth approximately \$30,548.