



LAW ENFORCEMENT AT MTA BRIDGES & TUNNELS: ADAPTATION AND TRANSPARENCY – FINAL

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I. EXECUTIVE SUMMARY

In the summer of 2020, public protests across the U.S. called for more accountability and transparency in police agencies' handling of excessive force cases and racially motivated misconduct. New York State leaders responded by passing a variety of measures that increased citizens' ability to hold police officers accountable for their actions, required greater transparency of police agencies' activities and decision-making processes, directed every police force to engage more closely with its local constituency, and changed the process by which police misconduct is investigated.

While not directly subject to the new state measures, Metropolitan Transportation Authority (MTA) Bridges and Tunnels (B&T) was indirectly affected because the agency employs several hundred Bridge & Tunnel Officers (BTOs or officers) who can carry guns as peace officers licensed by the State of New York and are responsible for patrolling B&T facilities, enforcing vehicle and traffic laws, and performing other safety-related duties. In recent years, BTOs have also been tasked with helping prevent fare evasion on buses, bringing them into closer contact with members of the public on a more regular basis.

To assist B&T in adapting to its customers' expectations of law enforcement personnel, the Office of the MTA Inspector General (OIG) evaluated B&T's process for managing complaints about officers' conduct. OIG compiled best practices from industry sources, compared agency policies and practices to those standards, and reviewed recent complaint case files. The overall number of complaints from mid-2017 to mid-2020 was low, and over half of them addressed driving conditions at a bridge or tunnel. Slightly more than 1 complaint per month concerned officers' behavior, and while this is a gratifyingly low level, every complaint represents an opportunity for B&T to improve the interactions between BTOs and the public.

The MTA Police Department (MTAPD) also needed to take steps to comply with the new laws and changing public expectations. OIG evaluated MTAPD's efforts and in a separate report¹ recommended the adoption of several best practices to improve that department's handling of complaints.

¹ See Reform and Transparency at the MTA Police Department ([MTA/OIG #2021-08](#)).

As this Report describes, we identified ways for B&T to enhance its methods of receiving, investigating, and reporting on complaints from motorists, transit riders, and other members of the public.

In May 2021, we shared our Draft Report with B&T for comment. The Report contained 15 recommendations intended to improve the complaint-management process. In its June 28, 2021 response, the agency fully accepted 14 of the OIG’s recommendations with expected implementation dates no later than December 2022. B&T indicated partial agreement with 1 recommendation, noting that collective bargaining considerations constrain the department from fully implementing the recommendation. The response stated, “Allowing for enhanced transparency will assist in maintaining the high and appropriate standards in which B&T operates, and allow us to provide the service our public deserves.” The agency’s specific responses appear in the Recommendations section at the end of this Report.

A. Summary of Findings and Recommendations

- **B&T should establish formal standards for key aspects of its complaint investigations, including expected timelines and communication with the individual who made the complaint.** While the agency employs deeply knowledgeable and experienced investigators, management has not developed a consistent agency-wide process for responding to complaints, which are handled either by Operations personnel at a B&T facility, the central Community Affairs group, or – for the most serious allegations – its Special Investigations (S.I.) Division. Also, the agency has not shared with the public the disciplinary and corrective actions that are available to agency leadership when an allegation of misconduct is substantiated. While each case is unique, according to best practices, management should disclose the actions that might be taken at varying levels of severity and considering officers’ prior disciplinary history. (See pp. 7-10.)
- **B&T should improve its procedures for communicating with an officer who is the subject of a complaint** (the Subject Officer) when an allegation might lead to criminal charges. In accordance with best practices, such procedures are designed to protect both the officer’s constitutional rights and the agency’s interests. (See pp. 10-11.)
- **B&T must improve the consistency, quality, and timeliness of complaint investigations across the agency to ensure that complaints are handled correctly and documented well.** Our review of detailed case materials revealed that some case files did not include critical documents, and investigative reports did not always present a thorough description of the investigation. In addition, some cases showed no activity for

long periods with no apparent explanation. These deficiencies were likely caused by the lack of formal standards noted above, the varied training and experience levels of the investigative personnel across the 3 separate units, and the lack of managerial accountability for quality and timeliness. (See pp. 11-15.)

- **B&T should establish an early intervention system to readily detect multiple complaints about an officer's conduct.** The lack of such a system reduces management's ability to identify an employee in need of assistance, retraining, or managerial intervention. (See p. 16.)
- **B&T should be more transparent about its complaint procedures and outcomes.** The agency has not created a public document describing the steps it typically follows upon receiving a complaint about its officers' conduct. It also does not share with the public or the MTA Board summary information about the complaints it has received, whether the allegations were substantiated, and what disciplinary actions or corrective measures were taken. Further, the agency's ability to respond timely to a growing number of requests under the Freedom of Information Law – a key disclosure duty – might be hindered by limited administrative and legal support. (See pp. 16-18.)
- **B&T should develop a plan for equipping its law enforcement personnel with body cameras.** In recent years police agencies of all sizes have found body cameras extremely useful, both in exonerating officers accused of misconduct and in substantiating complaint allegations. Vehicle stops and efforts to prevent fare evasion on buses – 2 key duties for BTOs – bring officers into close interaction with members of the public, when body camera footage can prove helpful. MTAPD has begun implementing body cameras, and B&T should prepare to do so as well. (See pp. 18-19.)
- **B&T should modernize its case-management system.** The agency's current information technology (I.T.) and administrative systems are inadequate for its needs. These weaknesses impede the agency's ability to manage investigative records securely and efficiently, track the progress of complex cases, and create analytical reports to facilitate managerial oversight. (See pp. 19-20.)

Our detailed suggestions for improvement appear in the Recommendations section at the end of this Report. (See pp. 20-25.)

II. BACKGROUND

A. The Community's Rising Expectations

After the murder of George Floyd at the hands of a Minneapolis police officer on May 25, 2020, a nationwide protest movement called for action in 3 key areas, as widely publicized in [news reports](#) and statements by [government leaders](#) and [community advocates](#):

1. Police **accountability**, especially in cases when an officer uses force against an unarmed person.
2. **Transparency** into police actions. Members of the public want to see regular reports on the complaints against officers and the corrective or disciplinary actions that an agency has taken in response to proven allegations.
3. **Community involvement** in setting the standards for a local police force's work and in holding them accountable for meeting those standards. This requires open channels of communication and a commitment to regular dialogue.

B. Changes to New York State Law

In response to the calls for change, 3 key laws were revised or promulgated in New York:

1. On June 12, 2020, [Section 50-a](#) of the New York State Civil Rights Law was repealed. As a result of the 2020 change, police disciplinary records are no longer shielded from public disclosure as a matter of course; they now fall within the scope of New York's Freedom of Information Law (FOIL).
2. Also on June 12, 2020, Gov. Cuomo signed [Executive Order 203](#), the *New York State Police Reform and Reinvention Collaborative*. This order required every local police agency to collaborate closely with stakeholders to "perform a comprehensive review of current police force deployments, strategies, policies, procedures, and practices" and develop a plan to meet the needs and expectations of its community members.
3. And on June 16, 2020, Public Authorities Law [Section 1279](#) (4)(a-1), the statute authorizing the OIG, was amended. Effective April 1, 2021, the MTA Inspector General shall "receive and investigate complaints from any source, or upon his or her own initiative, concerning allegations of corruption, fraud, use of excessive force, criminal activity, conflicts of interest or abuse by any police officer under the

jurisdiction of the office of the metropolitan transportation authority.” The OIG Legal and Investigations units have collaborated with B&T to create procedures to review allegations against officers, identify concerning patterns of behavior, determine appropriate investigative steps, and make referrals as required.

Because BTOs are not police officers, new legal mandates concerning police agencies do not require B&T to change its protocols. Similarly, because the MTA is a New York State Public Authority, not a local government entity, EO 203 does not apply to B&T. However, to a member of the public, these uniformed Peace Officers – many of whom carry weapons – are indistinguishable from police officers. For these reasons, we believe that it is deeply worthwhile for B&T to take steps to comply with the laws’ key directives in 2 areas: (1) reviewing and improving how the agency responds to complaints about the conduct of its law enforcement personnel, and (2) increasing the transparency of its complaint-management process. As we describe in our Findings, we have identified opportunities for B&T to improve its practices in both of these important areas.

C. The Changing Role of Law Enforcement at B&T

Since its founding in 1933 as the Triborough Bridge Authority, B&T has experienced many significant organizational changes, including the expansion of its jurisdiction to include 7 bridges and 2 tunnels and its merger with the MTA in 1968. For decades, a key task for the majority of BTOs was to collect cash tolls from motorists, but over the past 25 years the toll-collection function has been increasingly performed by new technologies: E-ZPass beginning in early 1997, cashless tolling in 2012, and Open Road Tolling in 2017. BTOs’ primary duties at the bridges and tunnels now include enforcing state [vehicle and traffic laws](#) and B&T’s [rules and regulations](#), assisting motorists, performing emergency rescues, and responding to hazardous material spills.

Reflecting this organizational evolution, the number of BTOs is decreasing: Between November 2016 and April 2021, the number fell from 528 to 362, a 31% decrease in 5 years. (In 2009, B&T employed approximately 700 BTOs.) The law enforcement function also includes about 100 sergeants and 30 lieutenants.

To respond to the changing needs of its customers, in recent years MTA has expanded and adjusted the duties assigned to 3 key groups: Bridge & Tunnel Officers, MTAPD officers, and NYC Transit Eagle Team personnel.² For example, to combat fare evasion, BTOs and the

² The [Eagle Team](#) was established in 2007 and focuses on preventing fare evasion, vandalism, and graffiti. Members of this unit are not police or peace officers and do not carry weapons.

Eagle Teams patrol bus lines across the 5 boroughs, while some MTAPD officers now help patrol the subway system. In early March 2021, about 140 BTOs – approximately 38% of the BTO force – were assigned to bus fare-evasion duties. And while the officers' 2 main priorities are to encourage riders to pay the fare and to improve bus operators' safety, they also enforce mask compliance during the Covid-19 pandemic and provide other services as needed.

These deployments clearly benefit the MTA but also carry a risk: they require officers to interact with members of the public in new ways – perhaps more directly, in more restricted spaces, and in more intense situations. For these reasons, the likelihood of negative interactions might increase, an important consideration for leaders of law enforcement units.

D. Complaints about Officers' Conduct

B&T receives complaints about officers' conduct via a wide variety of channels, such as the MTA website complaint form; calls to the MTA Customer Service center and B&T's Command Center; and U.S. postal mail. The agency also receives referrals from OIG, the New York State Inspector General, New York State Police, New York Police Department (NYPD), New York City Civilian Complaint Review Board, and other sources. Such referrals are quite common, because members of the public often have difficulty discerning which agency employs the police officer they have interacted with.

B&T's Community Affairs and Customer Relations (Community Affairs), a unit in the Operations Department (Operations), primarily manages outreach and notifications to the community but also receives complaints from the public, typically via the MTA website.

The Special Investigations (S.I.) Division of B&T's Internal Security Department is the unit with primary responsibility for investigating serious complaints against BTOs, thus serving as a *de facto* internal affairs bureau. In addition to investigating complaints from members of the public, S.I. responds to employees' allegations about their colleagues' actions. Although it is approved for 6 full-time positions, it currently includes just 3: its director and 2 investigators.

The S.I. Director is ultimately responsible for determining who will investigate a specific complaint. Complaints concerning BTOs' conduct are assigned either to Community Affairs, officers working at the 9 B&T facilities, or S.I. We learned that S.I. always handles cases involving employee actions that could result in potential criminal sanctions, e.g., allegations of the use of excessive force or potentially discriminatory behavior. Operations staff members at the facilities handle more routine cases, such as complaints involving disputed summonses for

traffic violations. And Community Affairs personnel manage cases involving minor violations that would be unlikely to lead to disciplinary action; they do so by consulting with Operations management and the Subject Officer's supervisor.

B&T received 115 complaints from July 1, 2017 to June 30, 2020. Most of these concerned operating matters, e.g., signage or pavement conditions at a B&T facility. Fifty complaints concerned officers' behavior, an average of about 16 complaints per year, or slightly more than 1 per month; these are the focus of the current review. The 50 cases were distributed across the 3 investigating units: 21 were managed by S.I., 19 by Operations personnel at the facilities, and 10 by Community Affairs. While the overall level of complaints was low during the 3-year period, each case has the potential to present significant challenges to the agency. In addition, as societal expectations rise, B&T must adapt accordingly, both to protect the agency's interests and to better serve the public.

III. FINDINGS

A. B&T Lacks Comprehensive, Formal Standards for Complaint Investigations

To facilitate our review of B&T's policies and protocols, OIG compiled a set of industry best practices drawn from 2 main sources: a [Best Practices Guide](#) (*Chiefs Best Practices*) for smaller police departments published by the International Association of Chiefs of Police (IACP), and a guide entitled [Building Trust Between the Police and the Citizens They Serve](#) (*Building Trust*) from the U.S. Department of Justice (DOJ), Office of Community Oriented Policing Services. OIG selected what appeared to be best practices at all stages of the complaint-management process:

- Establishing policies and procedures
- Receipt and initial processing of the complaint
- Triage: assignment to the appropriate party for follow-up
- Investigation: the fact-finding phase
- Determining the appropriate disposition: the investigator's conclusion about the validity of each allegation after evaluating the available evidence
- Reporting the conclusion to the appropriate party for action
- Implementing any necessary corrective action(s) or remedial measures
- Communicating with the Complainant and the officer who is the subject of the complaint
- Documenting, analyzing, and tracking complaints
- Reporting to management and the public about this process.

Although New York State Peace Officers' qualifications, training, and legal authority differ from those of police officers in the state, OIG found that the standards established in these industry sources were applicable to the work of BTOs. For example, the best practices do not assume that the law enforcement officers in question have received police-level training. And because BTOs can carry lethal weapons, issue summonses, and take individuals into custody, applying the same standards to the MTA's peace and police officers seemed appropriate.

Based on our comparison between the best practices and B&T's policies and protocols, we identified deficiencies in the following areas:

1. B&T has developed **separate sets of policies** for S.I. investigators and for the Operations personnel investigating complaints; OIG received no policy governing the specific process followed by Community Affairs. In addition, the S.I. and Operations policies **have not been updated** recently. Of the 7 policies OIG reviewed, 5 were dated 2001; the others were from 2013 and 2017.
2. The standards do not consistently address key elements of a standard investigative process, including the **expected timelines** for opening a complaint case file, investigating the allegations, and communicating with the Complainant and the Subject Officer. In fact, the policies include no guidance about communicating with Complainants at all. With the caveat that each case is unique, best practices indicate that agencies should establish baseline expectations for how long cases should remain open. One common guideline is that an investigation should be completed within 30 days of the original complaint; however, if the investigation is very complex, a policy provision should state that it can take longer than 30 days with written approval by the Chief of Police. [*Chiefs Best Practices, 6*]

In addition, key investigative steps are often given timelines of their own; a suggested practice is that the Complainant and witnesses should be interviewed within 24 hours of filing the complaint. [*Chiefs Best Practices, 5*] While B&T officials confirmed that such a tight timeframe is often infeasible – it can take more than a day for a complaint to arrive at the appropriate police agency – OIG believes setting reasonable timelines can help an agency manage complaints efficiently.

3. The policies do not outline the topics that an **investigative report** must address. To ensure that each report tells the full story of an incident, best practices suggest that it should describe the complaint allegations, identify the subject officer and all witnesses, state which policies and procedures were allegedly violated, and include a narrative about the substance and process of the investigation. [*Building Trust, 26*]

4. No policy delineates the possible **corrective and/or disciplinary actions** that can be taken against officers found to have violated agency standards in the areas of discourtesy, abuse of authority, racial/ethnic discrimination, and use of force. To facilitate consistent treatment of Subject Officers, and to inform the public about corrective actions that might be taken when complaint allegations have been substantiated, some agencies use a disciplinary matrix or guidelines describing the available responses for specific actions. Notably, such guidelines also allow for discretion and judgment on the part of the decision-maker. This is intended to ensure that agency actions are consistent and not arbitrary, while remaining flexible to take into account the particular conditions of a given case. [*Building Trust, 28*]

B&T officials told us that the primary purpose of an investigation is to determine the facts of a case; neither S.I. nor Operations takes action on the basis of that determination. Instead, when an investigation substantiates an allegation, Labor Relations officials are responsible for taking the necessary action, taking the Subject Officer's disciplinary history into account. Depending on the severity of the infraction, the agency will implement corrective actions or remedial measures to prevent similar misconduct or situations from recurring. Such measures might include *systemic* changes – such as adjusting policies and practices or instituting new training – as well as actions *specific to the Subject Officer*, such as a letter to the officer's supervisor, an oral reprimand, suspension, or termination.

In all of these areas, B&T officials agreed that documenting the relevant standards in writing would help clarify roles and expectations, improve consistency, and enhance communication both within the agency and with the public. They acknowledged that having a single set of guidelines for S.I. and Operations personnel would reduce the likelihood that the agency's actions might be perceived as arbitrary or inconsistent. They also explained that they would need to work with Labor Relations officials to develop the corrective action matrix.

OIG Recommendations: Considerations

In developing recommendations to address these deficiencies, OIG considered the significant changes underway at B&T and MTA as a whole. B&T is the smallest of MTA's operating agencies and, in light of MTA's financial constraints, has operated with staffing limitations for years. In addition, consolidation and modernization efforts – under the umbrella of the MTA transformation initiative – have centralized in MTA Headquarters (MTAHQ) certain functions related to safety and security, labor relations, legal services, training, communications, customer service, and information technology. Thus B&T's ability to improve its complaint-management process will largely depend on assistance from MTAHQ colleagues. In discussing

this challenging situation with B&T officials, OIG explained that B&T can take advantage of existing resources as it seeks to update its current standards. MTAPD, a larger agency with more experience in performing traditional policing functions, recently reviewed all of its policies and procedures as part of its successful 2021 re-accreditation by the NYS Division of Criminal Justice Services. B&T would benefit from consulting with MTAPD and, when possible, should use MTAPD's policies as models while developing protocols to meet its unique needs and the requirements of its own collective bargaining agreements. In addition, B&T can consult industry standards, including guidelines produced by the IACP and DOJ, to modernize and formalize its complaint-management process efficiently. MTA's training professionals will be a valuable resource. And MTAHQ officials responsible for safety and security and the agency's transformation efforts will have practical insights to share. (We discuss efforts related to communications, customer service, and I.T. system improvements below.)

For all of these reasons, and as noted in the Recommendations section, our first recommendation is that B&T establish an interdepartmental working group of B&T personnel to improve the consistency, accountability, and transparency of the agency's procedures for handling complaints against its law enforcement officers. As needed, the group should seek input from MTAPD officials and MTAHQ personnel. Because this effort represents a strategic shift for B&T – an agency well accustomed to adapting over the years – it will require a significant dedication of resources to succeed.

B. The Admissibility of Employee Statements Requires Attention

OIG found that B&T's policy and practice do not adequately address matters related to an important guideline for public employers, **the Garrity Rule** (Garrity). This [1967 U.S. Supreme Court ruling](#) limits the ability of employers to use public employees' statements against them when an administrative infraction might also lead to a criminal prosecution. While employers may compel employees to provide information for internal investigations, the ruling determined that using such compelled statements in criminal proceedings would violate employees' 5th Amendment right against self-incrimination. Because an instance of police misconduct might represent a violation of both departmental policy and criminal law, every police agency must take steps to comply with Garrity's restrictions.

Best practices suggest that when a complaint allegation raises a potential criminal issue, an agency can pursue 1 of 3 strategies: (1) complete the criminal investigation before beginning the administrative inquiry; (2) separate the matter into 2 cases, 1 administrative and 1 criminal, and assign a separate investigator to each; or (3) pursue a single investigation but interview the Subject Officer only at its very end, giving either a Garrity warning or the [Miranda warning](#). Regardless of its chosen protocol, the agency should have written guidelines regarding which

approach it will follow under various circumstances. [*Chiefs Best Practices, 4; Building Trust, 24.*] In addition, some agencies require a Garrity warning in every investigation. [*Chiefs Best Practices, 4.*]

At B&T, all such serious cases are handled by Special Investigations rather than Operations personnel. However, OIG found that the policy governing S.I. investigations does not mention Garrity provisions and also does not describe which of the above 3 strategies S.I. will follow, and under what circumstances. In discussions with B&T officials, OIG learned that they typically follow option 1, suspending an internal investigation until a criminal case is completed (often by a local district attorney). B&T officials agreed that the current policy did not adequately address the Garrity issue.

In a more positive finding, we learned that S.I. uses an interview form that includes this clear and accurate warning to Subject Officers and other employees: “*Neither your statements nor any information or evidence which is gained by reason of such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in relation to subsequent departmental charges.*” Because employees who refuse to speak might face sanctions, the law considers these interviews to be compelled – even if the employee has volunteered to make a statement. Thus, the Garrity warning is necessary.

C. Several Units Handle Complaints, Resulting in Inconsistent Procedures and Limited Managerial Oversight

As noted above, B&T has created separate policies governing the work of S.I. investigators, who report to the Chief Security Officer/V.P. of Internal Security, and personnel in the 9 B&T facilities and Community Affairs, who report to the V.P. of Operations. While this is reasonable, when a common function is assigned to multiple units, the likelihood of inconsistency increases. Such decentralization can also prevent management from developing an accurate understanding of the agency’s efforts. To counteract these risks, agency leaders must set common standards and communicate their expectations to all affected personnel whenever a critical duty is shared across organizational lines.

OIG reviewed 9 B&T complaint cases, dating from 2018 to 2020, that encompassed a range of complaint types: discourtesy (4), use of force (2), missing property (2), and safety (1). The sample included cases with varying dispositions, such as substantiated and unfounded. Senior OIG investigative staff with prior experience in prosecuting police misconduct matters assisted in this review.

S.I. officials had investigated 4 of the 9 cases, Operations personnel at the facilities handled 3, and Community Affairs managed the remaining 2. We found that the depth and breadth of the investigations varied widely, in part depending on the complexity of the allegations. In addition, investigations conducted by Operations and Community Affairs personnel were less closely aligned with best practices than those S.I. had conducted. Our significant conclusions from this case review are below:

1. **The 2 cases that were investigated most thoroughly and whose case files were most complete were handled by S.I. investigators.**
 - a. In a 2019 case at the Throgs Neck Bridge, a BTO mistakenly retained a motorist's driver's license and vehicle registration after the motorist was arrested and his car towed to an impound lot. The case materials showed that S.I. investigators interviewed all pertinent witnesses and reviewed key documents including the vehicle inventory form, NYPD arrest documents, and the Subject Officer's memo book. After the Complainant's allegation was substantiated, the agency issued a memo reminding the BTOs involved of proper procedures concerning motorists' identification documents and other property.
 - b. In a 2018 case concerning a complaint from a taxi driver at the Queens Midtown Tunnel, S.I. interviewed all witnesses and requested and reviewed camera footage of the incident. The case materials appeared complete and the progress of the investigation was relatively easy to follow – an important consideration. The investigation found that the BTO had used profanity, failed to safeguard her radio, and had not complied with B&T's training and policies. The officer was first suspended and eventually terminated from her position after a hearing before an administrative law judge.
2. **Inconsistencies were quite apparent, and concerning.** None of the 5 cases investigated by Operations or Community Affairs personnel were conducted as thoroughly as the 2 mentioned above, and the other 2 S.I. case files were not documented as completely. Weaknesses included the following:
 - a. Case files did not contain adequate **supporting documentation**. OIG learned that personnel maintain some records related to complaint follow-up in Operations' electronic Facility Log System (FLOGS), but other key material is not accessible there – and may not exist at all. We found several cases in which critical evidence was not included in the files that OIG received from the agency:

- i. In a 2020 case, the Complainant said that while he was in the Hugh L. Carey Tunnel changing a tire for another motorist, a BTO began rudely yelling at him to leave immediately. The only documentation provided to OIG was an email from Community Affairs to the Complainant explaining that the BTO had acted “according to protocol” because the situation was unsafe, and the safety of B&T customers and employees was the top priority. Though Community Affairs spoke with other B&T personnel, there was no evidence of any discussion about this incident with the Subject Officer or of other contact with the Complainant.
 - ii. In a 2020 case at the Robert F. Kennedy Bridge, a Complainant alleged that he was stopped and issued a summons by a BTO who did not wear a face mask properly when speaking to the Complainant through the open window of the Complainant’s car. Aside from the FLOGS entry outlining this allegation – and although S.I. told us the BTO had been interviewed – the case file contains no investigative memoranda or other relevant information.
 - iii. In a 2019 S.I. case, a Complainant alleged that \$50 went missing from her purse after BTOs arrested her. Later, she purportedly recanted that accusation, but there was no evidence of this in the case file. To protect the agency’s interests and to communicate persuasively to the public, such key documents should appear in every relevant case file.
- b. **Investigative reports**, when they existed, often lacked key information. In several cases, the summary reports did not consistently describe the evidence the investigator had reviewed. Furthermore, some investigative reports did not clearly outline what communication had occurred with the Subject Officer and the Complainant, and others did not explain how the investigators had arrived at their conclusions. These reports are important documents because they present the overall narrative of a case and often give the clearest explanation of B&T’s efforts to determine the facts of an incident.

OIG learned that B&T has neither created nor distributed a checklist of potential sources for investigators to consider, a lack of guidance that is concerning. All investigators, at every level of the organization, need to know what types of evidence to consider and where to find it. Completed steps can then be briefly summarized in the investigative report.

- c. **Administrative documents** required by 2 of B&T's own policies were missing in some case files. An S.I. policy states that the file should include memos showing that the Subject Officer has been informed of key details such as the person in charge of the investigation, the nature of the investigation, and the persons to be present at an interview. One 2018 S.I. case file included such a letter, but 3 others did not.

Another S.I. policy requires an investigator to prepare an **initial memo** within 5 business days of assignment to the case, describing the allegation, a brief synopsis of the incident and its location, and the identification of the Subject Officer. It then requires a **follow-up memo** within 10 working days of the initial memo, indicating the current status of the case. And finally, the policy states that if the case is not closed after the 21st day from the initial memo, the investigator should prepare a memo every 10 business days until the case is closed.

We did see an initial memo for a 2018 S.I. case, but no follow-up memos, although the case remained open for 18 months. And the case files for the 3 other S.I. cases included no initial or follow-up memos.

If S.I. managers determine that such communication is an effective and efficient use of staff resources, they should remind investigators to comply with the standard. However, if the process is too onerous, or if the agency can develop a more modern electronic method to accomplish the same goal, S.I. should update its policies accordingly.

- d. Lastly, **basic administrative details** were incorrect or missing. In several cases, we found erroneous dates, typographical errors, and handwritten memos containing insufficient detail to show who had written them or when. This occurred in cases that had been investigated by S.I., Operations personnel at the facilities, and Community Affairs personnel. While such oversights do not necessarily cast doubt on the quality of an investigation itself, they do indicate that B&T lacks a process for someone other than the investigator to review the case file and perform a quality-assurance check. In addition, when files become public, errors can undermine the community's confidence in the investigators' attention to critical details.

3. **Accountability for timeliness was lacking** for Operations investigations. The cases investigated by facilities personnel showed significant delays. Specifically, for a 2019 case, the case file included no evidence of interviews or any other communication between the investigator and the Complainant, Subject Officer, or any witnesses for 4 months. In another case that year, the file showed no evidence of any work completed for nearly 3 months. The files did include, however, internal emails showing that B&T administrative staff frequently had to request updates from the investigative personnel – sometimes repeatedly. This labor-intensive process is far from optimal: It does not give management the ability to identify stalled cases, discuss the causes of delay with investigators, and take necessary steps to address obstacles.

We learned from B&T officials that an officer may be suspended for 30 or more days after a serious incident, making it difficult to complete a timely investigation because the BTO is unavailable for an interview. This is a reasonable cause of delay, which could be readily noted in a case file or computer system. In addition, S.I.'s current staffing constraints cause investigations to take longer than they otherwise might.

B&T's decentralized organizational structure makes it difficult for agency leadership to fully understand how B&T is handling complaints about the conduct of law enforcement officers and to act quickly when concerns arise. OIG found that no single unit at B&T is responsible for conducting this oversight or for providing reports to management that consolidate complaint information from S.I., Operations, and Community Affairs. This concern is related to weaknesses we identified regarding B&T's I.T. system, as we discuss in Finding F, below.

As a likely cause of these deficiencies – and another reflection of the decentralized process – OIG learned that B&T has not developed a common training program for the personnel across the agency who investigate complaints.

In our discussions about these findings, B&T officials agreed that, while Operations generally does not receive many complaints about BTOs' conduct, it is important for all investigative personnel to have the proper training and an investigative checklist so they can know what to look for. (An Operations official suggested that it might be most efficient to train just a select group of BTOs in this function, which would facilitate quality control and enable efficient oversight.) Officials also agreed that B&T would benefit from updating its policies and increasing management's review of the complaint investigation process in a consistent manner across the agency.

D. B&T Lacks a Formal Early Intervention System

We learned that B&T does not have a formal process for detecting multiple complaints about an officer's conduct. Such a system, designed to be positive and non-disciplinary, offers several benefits: (1) it provides a way to determine whether an officer might need personal support, assistance, or managerial intervention; (2) it can identify a squad or other work unit that needs refresher training or other reinstruction; and (3) it can help management evaluate the types of offenses that are the most frequent subject of complaints. [*Chiefs Best Practices*, 7; *Building Trust*, 32.] To be effective, the system must facilitate regular review and analysis, and for a small agency like B&T, this should not require a complex database. One best practice suggests that such review should occur at least annually to detect patterns. [*Chiefs Best Practices*, 7.]

B&T officials explained that given the small number of complaints B&T receives about BTOs – and the decreasing number of officers – managers can remember which officers have multiple complaints against them without having a structured system in place. However, this informal tradition does not lend itself to timely analysis and review, and management is at risk of missing key information. In addition, OIG's expanded oversight duties under Public Authorities Law [Section 1279](#), mentioned above, depend on B&T's ability to identify BTOs exhibiting potentially concerning patterns of behavior. (Since the passage of that amendment, B&T officials have been collaborating closely with OIG legal and investigative executives, and the group will continue to hold quarterly meetings.)

E. B&T Should Improve the Transparency of Its Activities Related to Law Enforcement

The best practices OIG reviewed emphasize that to maintain an open channel of communication with the community it serves, each law enforcement agency should enable members of the public to express their concerns about its officers' conduct and should also report on the agency's response to those concerns. As 1 clear guideline states, "It is incumbent on the police department to make its citizens aware that a complaint process exists, how to file a complaint, and how the agency processes and investigates complaints." [*Building Trust*, 20.]

OIG found 5 areas in which B&T could make its law enforcement function more transparent.

1. **How to file a complaint.** B&T receives complaints via several channels, most significantly the MTA's customer service phone numbers and the complaint form on the MTA website. To assess the visibility of B&T's complaint process, OIG reviewed the webpages for both B&T and MTA as a whole and also met with MTA customer service personnel and website designers.

We found that while it was reasonably easy to find the MTA's general form for complaints and comments, each *new.mta.info* page could more prominently feature information about how to complain about BTOs' actions and provide the methods to do so (online form, phone numbers, office locations). For example, on *new.mta.info*, there is a link to Bridges & Tunnels: <https://new.mta.info/bridges-and-tunnels>, but at the time of OIG's review the page did not mention BTOs and had no button or apparent link for complaints to B&T. In addition, B&T's public website did not have a complaint form clearly designated for complaints by members of the public against BTOs.

In a positive development, the agency has begun taking steps to improve this situation. In mid-March, we learned that B&T planned to post its law enforcement complaint form on its website. B&T was working closely with MTA-IT and MTA Communications staff to get it finalized and was using MTAPD's own form and webpage as models.

Regarding contacts by phone, we learned that prospective Complainants who call the NYS Traveler Information System (511) will hear a prompt for B&T, allowing them an automatic connection directly to the agency. OIG learned that the vast majority of 511 callers have questions or concerns about the E-ZPass system.

In addition to advertising complaint channels clearly on its website, another best practice suggests that an agency should publicize the complaint process through *proactive* measures, e.g., media announcements, materials in multiple languages, and community presentations. [*Building Trust*, 21.] B&T does not currently conduct such outreach.

- 2. How B&T handles the complaints it receives.** The agency has not created a public document describing its general process for managing complaints about officers' conduct. This would set forth such basic steps as the initial review of a complaint to ensure that it did, in fact, involve a BTO; the assignment to an investigator; the typical steps and estimated timeline for an investigation (depending on its complexity); the possible dispositions; and what a Complainant could reasonably expect to learn once an investigation was concluded.
- 3. Summary information about prior complaints and investigative outcomes.** B&T does not have a process for publicly reporting the overall number of complaints, the types of allegations, and the dispositions assigned to completed cases. And while the agency does produce an annual report, it does not mention complaints.

Such a report need not be onerous or overly detailed; a best practice states, “A simple chart excluding names, but including the types of offenses, is appropriate, which will allow the public to compare yearly stats.” [*Chiefs Best Practices*, 7.] Another guideline explains that such summary reports should be widely disseminated to send a message of transparency and accountability. [*Building Trust*, 32.] As noted earlier, it is critical that all such information be adequately reviewed for accuracy, so the public can be confident that B&T is presenting a true picture of its complaint-management process each year.

4. **The agency’s ability to respond to information requests.** OIG learned that as part of MTA’s transformation initiative, MTAHQ legal personnel are now responsible for responding to external requests for records related to officers’ conduct. However, they rely on B&T to obtain access to the necessary records and information. In our discussions with both MTAPD and B&T, OIG learned that 3 key factors might drive a significant increase in this workload: (1) FOIL requests are rising, given increased public interest in the actions of police officers; (2) the repeal of NYS Civil Rights Law § 50-a has opened officers’ disciplinary records to public scrutiny; and (3) local district attorneys are requesting documents from police agencies more often.

Publicizing B&T’s protocol for responding to inquiries will be even more important as requests increase in the future. Because B&T has limited staff capacity, the agency will need to assess the appropriate level of administrative and legal resources to dedicate to this critical function.

5. **Body Cameras.** We learned from B&T officials that the agency is not currently planning to equip its law enforcement personnel with body cameras, worn as part of the standard uniform. However, vehicle stops – a primary activity of the BTOs on duty at B&T facilities – always present some level of risk to the parties involved, especially if emotions run high. In addition, because one-third of all BTOs are now directly supporting NYC Transit’s efforts to prevent fare evasion on buses, body cameras would be helpful in documenting those interactions.

In recent years, as increasing numbers of police forces have adopted the technology, body cameras have proven to be extremely useful in providing objective information about interactions between members of the public and law enforcement officers. While camera footage is not perfect – and each camera can never provide more than 1 additional view of an incident – it has both exonerated officers wrongly accused of misconduct *and* substantiated valid complaints about officers’ behavior. Both of these outcomes are key to strengthening the level of trust between officers and their communities and increasing

law enforcement accountability. In addition, the goal of transparency is served every time an agency shares camera footage with the public, allowing community members to witness with their own eyes the actions police officers have taken.

We believe that B&T should begin formally planning to equip BTOs with body camera technology in the near future. This is a significant undertaking, with ramifications for officer training, data privacy, I.T. storage capacity, responsiveness to public requests for information, and other topics requiring thoughtful attention by management. Fortunately, a role model is close at hand: MTAPD has begun equipping its police officers with body cameras. MTAPD's experience will be a helpful guide, and B&T should seek to build on lessons learned from the police department's rollout of this powerful modern technology to improve both accountability and transparency.

B&T officials told OIG that while they would support the rollout of body cameras, the agency's financial constraints would make it a challenging proposal. While the fiscal challenge is real, we believe that the overall benefit of a body camera program will outweigh its cost.

F. B&T Should Improve its Case-Management System

Underlying many of the critical matters this Report has described is the need for a robust management information system. To meet the needs of B&T managers and members of the public, the agency must have a modern system to help it manage investigative cases efficiently, report on its activities in a timely manner, and maintain the records of that work securely and in a conveniently accessible form. During our review, OIG found that B&T's current I.T. systems do not meet this standard; rather, they reduce the agency's efficiency, accountability, and transparency. Specifically, we identified 3 key areas of weakness:

1. **Separate data systems.** Complaints about BTOs' conduct are documented in 3 different ways, overseen by the different B&T units responsible for following up on those complaints:
 - Operations staff at the facilities use FLOGS;
 - The Community Affairs staff uses the 511 system, otherwise known as the MTA Now system, which receives information from the MTA website complaint form; and
 - S.I. does not maintain its own system – that is, S.I. officials handle each case individually without entering them into any program or database.

These systems do not interconnect, which, as noted earlier, impedes management's ability to analyze the data and gain an overall understanding of the case-management landscape. Because S.I. cases are highly sensitive and confidential, access to those records must be restricted only to authorized personnel; OIG learned that this is a reason S.I. does not enter that data into an existing program. However, modern I.T. systems are designed to allow for such access control, and case-management programs designed expressly for law enforcement purposes are available.

2. **Arduous information retrieval.** Because the systems are separate, B&T personnel must compile summary reports manually – a time-consuming process – and retrieve records of varying quality and held in multiple locations. OIG staff experienced these deficiencies directly after requesting a summary of complaints for the 3-year period we reviewed and the specific complaint files we evaluated. It took well over a month for OIG to receive the summary of complaints, and some of the case-related documents were simply inadequate, as mentioned in Finding C. These weaknesses take staff time away from more critical duties and might prevent the agency from responding to FOIL requests in accordance with the required timelines.
3. **Insufficient analysis and reporting.** The current I.T. deficiencies have been allowed to persist because no B&T unit is responsible for analyzing complaint data or reporting to management, as noted above. The creation of a more reliable, consistent system would improve data quality, support the identification of any officers with multiple complaints against them, and help identify any meaningful differences in the complaints received at the agencies' 9 facilities. A better I.T. system would also allow B&T officials to produce accurate statistics about complaints and management reports about the timeliness of investigations.

B&T officials should consult with their counterparts at MTAPD to determine whether that agency's planned improvements to its own case management system would be applicable to B&T's needs or could serve as a useful model.

IV. RECOMMENDATIONS

To respond to society's call for increased officer accountability and greater transparency, the leadership of MTA Bridges & Tunnels should take the following actions:

- **Establish formal policies governing complaint investigations in accordance with industry best practices:**
 1. Establish an interdepartmental working group within B&T to improve the consistency, accountability, and transparency of the agency's procedures for handling complaints against its law enforcement officers. As needed, the group should seek input from MTAPD officials and MTAHQ personnel.

Agency Response: Agreement. B&T expects to implement this recommendation by Q4 of 2021.

2. Create formal policies describing how a complaint investigation should proceed, including key steps, desired timelines, communication with the Complainant and Subject Officer, and the topics to address in an investigative report.

Agency Response: Agreement. B&T expects to implement this recommendation by Q2 of 2022.

3. Develop and publicize a matrix outlining possible corrective actions and disciplinary protocols to address substantiated complaint allegations at varying levels of severity.

Agency Response in full: "Partially Agree. While we understand the recommendation, there are reasons why B&T cannot publish a penalty matrix. B&T employees are covered under the New York State Civil Service Law. All disciplinary actions are in accordance with procedures outlined in Section 75 of the Civil Service Law and include processes up to and including a full evidentiary trial at the New York City Office of Administrative Trials and Hearings. The collective bargaining agreements between the agency and its unions state that the employer shall handle disciplinary matters pursuant to Section 75 of the Civil Service Law.

Having said that, the Labor Relations Department uses guidelines in determining the offer of penalties that include, among others, the following aggravating/mitigating factors: severity of misconduct (including danger to the public and/or employees);

prior discipline record; tenure with the agency; assessment of the strengths/weaknesses of the case including availability of employee and civilian witnesses; settlements and penalties achieved after trial in like cases, operational impact of penalty, etc.

When a discipline matter is referred to Labor Relations by the Operations Department, after an investigation and findings made by the Internal Security Department, any complaints made by a member of the public concerning the employee's misconduct are addressed by Labor Relations. This includes speaking with the complainant, preparing them to testify at trial if necessary and keeping them apprised of the status of the matter up to and including the imposition of penalty.

Regarding the publicizing of this information, we will review this as part of our response to [recommendation] eleven (11)."

4. Address matters related to the Garrity rule:
 - a. Establish written policy and procedures to follow when a case might result in both a criminal inquiry and an administrative investigation.
 - b. In consultation with legal counsel, evaluate the language related to potential criminal matters that appears on any B&T forms to ensure it is accurate and appropriate.

Agency Response: Agreement. B&T expects to implement both parts of this recommendation by Q3 of 2022.

- **Improve the consistency and managerial oversight of complaint investigations across the agency:**

5. Create detailed baseline standards for all B&T investigations, whether conducted by personnel in Special Investigations, Operations, or Community Affairs.

Agency Response: Agreement. B&T expects to implement this recommendation by Q4 of 2022.

6. Provide training to all personnel with responsibility for investigating complaints about the conduct of law enforcement officers and their supervisors. This training should be led by individuals with the appropriate skills and expertise and should include the topics mentioned in Recommendations 2 and 4: investigative protocols and Garrity matters.

Agency Response: Agreement. The agency expects to implement this recommendation by Q4 of 2022.

7. Establish a method for supervisors to regularly review the quality of complaint case work and to provide feedback to investigative personnel as needed.

Agency Response: Agreement. The agency expects to implement this recommendation by Q4 of 2022.

8. Create a process to improve B&T management's ability to understand the overall status of complaints being investigated by Special Investigations, Operations, and Community Affairs personnel. At a minimum, this effort should include these steps:

- a. Assign to an organizational unit the responsibility for reporting to management on the complaints received, via any channel, about the conduct of law enforcement officers. Define the unit's responsibility for: (1) analyzing the information to detect patterns or trends and (2) reporting regularly to management on the results of the analysis, and ensure that it has adequate analytical support to carry out this function.

Agency Response: Agreement. B&T will "create a process where an organizational unit will report to management on the law enforcement complaints received." The agency expects to implement this recommendation by Q4 of 2022.

- b. Establish a regular schedule for managers to discuss the complaint-management process, including a review of the status of any complaints about law enforcement officers that have remained open for more than 60 days.

Agency Response: Agreement. B&T will "conduct a review of law enforcement officer complaints open in excess of 60 days." The agency expects to implement this recommendation by Q4 of 2022.

- **Create an early intervention system:**

9. Create an efficient, reliable method to identify officers who have been the subject of multiple complaints.

Agency Response: Agreement. B&T “will implement [this recommendation] in conjunction with recommendation fifteen (15).”

10. Define the Internal Security Department’s responsibility for collaborating with the OIG under Public Authorities Law Section 1279.

Agency Response: Agreement. The agency expects to implement this recommendation by Q3 of 2022.

- **Provide more information to the public and the MTA Board about the agency’s complaint-management process and outcomes:**

11. In consultation with MTA-IT and MTAHQ, finalize the improvements to the MTA and B&T webpages to include descriptions of:
 - a. How to file a complaint about the conduct of a B&T law enforcement officer.
 - b. The agency’s complaint-management process, including how B&T receives, reviews, and investigates complaints, and how the agency implements any necessary corrective action.
 - c. The agency’s procedures for receiving and responding to FOIL requests.

Agency Response: Agreement. B&T expects to implement this recommendation “after the policy is implemented by Q4 2022.”

12. Create a process to produce a public report summarizing the complaints the agency received in the prior year, including types of complaint, dispositions, and corrective actions taken. This report should be available on the MTA’s website and presented to the MTA Board in the first quarter of the following year.

Agency Response: Agreement. B&T stated that the first report will be published by Q4 of 2022.

13. Develop a plan to manage the growing number of information requests. As part of this planning process, evaluate the benefits and costs of adding administrative and legal staff to work on matters related to law enforcement transparency and accountability.

Agency Response: Agreement. "B&T will discuss with the committee developed in conjunction with recommendation #1. B&T does not currently have a large number of said requests." The agency expects to implement this recommendation by Q1 2022.

14. Develop a formal plan to equip B&T law enforcement personnel with body cameras – including such considerations as managerial roles and responsibilities, training needs, I.T. considerations, and budget impact – and provide the written plan to appropriate executive managers.

Agency Response: Agreement. B&T expects to implement this recommendation by Q1 of 2022.

- **Improve its case-management I.T. system:**

15. Design an integrated information system to facilitate and support management oversight of the complaints B&T receives about the conduct of its law enforcement officers. The system should allow agency officials to identify complaint trends or patterns; produce reports to support timely managerial action when needed; and respond to Freedom of Information requests efficiently and accurately.

Agency Response: Agreement. "B&T will develop a plan to implement a case management system depending on executive approval due to the potential cost of the system and its maintenance. An implementation date will be determined if the project is approved."