

2021 Annual Report



**Office of the MTA
Inspector General**



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Online report availability

The Office of the MTA Inspector General's (OIG) audits, evaluations, inspections, special review reports, investigations, press releases, and ongoing work are available at <https://MTAIG.state.ny.us>

Announcements of the latest reports, multimedia, and news from OIG are also available on the OIG's social media accounts:



Twitter, Instagram: @MTAOIG



Facebook, LinkedIn: @MTA Inspector General



One word we continually heard in 2021 was “unprecedented.” The country, not just the New York area, was grappling with an ongoing pandemic, extreme weather, and public cries for police reform and transparency. These issues, along with New York City’s homelessness crisis and the ever-present risk of crooked actors attempting to steal from New York’s taxpayers and riders, were all key areas of focus for the Office of the Metropolitan Transportation Authority Inspector General (OIG) over the last 12 months.

In this new era of uncertainty, OIG remains firmly committed to its core mission to make recommendations for action when we find fraud, waste, and abuse. We work on behalf of the millions of riders, taxpayers, and a workforce of more than 70,000 devoted public servants. And this focus has not changed.

Our new normal is one rich with possibility and opportunity. We salute our frontline MTA colleagues who became “heroes moving heroes” and kept our great transit system running through some of its darkest days. Now, as residents and visitors continue returning to this vast public transportation network, we have a critical role in building riders’ trust in the system that is vital to the lives of millions and the economy of the region.

We are proud to embrace our work with a strong sense of transparency, honesty, and communication. These qualities serve as our guides and have never been more important.

Over the last year our office has:

- Promoted safety by uncovering the irresponsibility of 7 track inspectors who put New Yorkers in harm’s way by ignoring their duties. OIG recommended ways for NYC Transit to increase its oversight and detect such conduct in the future.
- Restored trust by auditing agency-issued credit cards used by employees for work-related purchases, finding that NYC Transit did not provide adequate oversight for nearly \$2 million of procurement purchases in early 2020, when the agency was making more purchases on an emergency basis due to the COVID-19 pandemic than it normally would.
- Offered a path forward with twin audits of the MTA Police Department and Bridge and Tunnel peace officers that revealed flaws in how each agency tracked complaints against its law enforcement personnel and helped both organizations establish deeper trust with the public they are sworn to protect and serve.

These cases, and many more, are why our office has been committed to creating an increased level of openness. In 2021 alone we publicly issued over 100 recommendations for best practices throughout all agencies within the MTA.

Our transparency throughout the past year has strengthened our most precious resource: the public’s trust. It promotes efficiency and effectiveness in government, and with each audit or investigation we’ve shared in 2021, we offer new proof of this truth.

It cannot be overstated: Such trust is not easily earned, and it remains a foundational component to restoring our riders’ faith in the safety and efficiency of the MTA. Count on OIG to never cease in our pursuit of the public’s trust and respect.

– The work reflected in the 2021 Annual Report was done under the leadership of former MTA Inspector General Carolyn Pokorny –

2021 Statistical Highlights



2021 Statistical Highlights

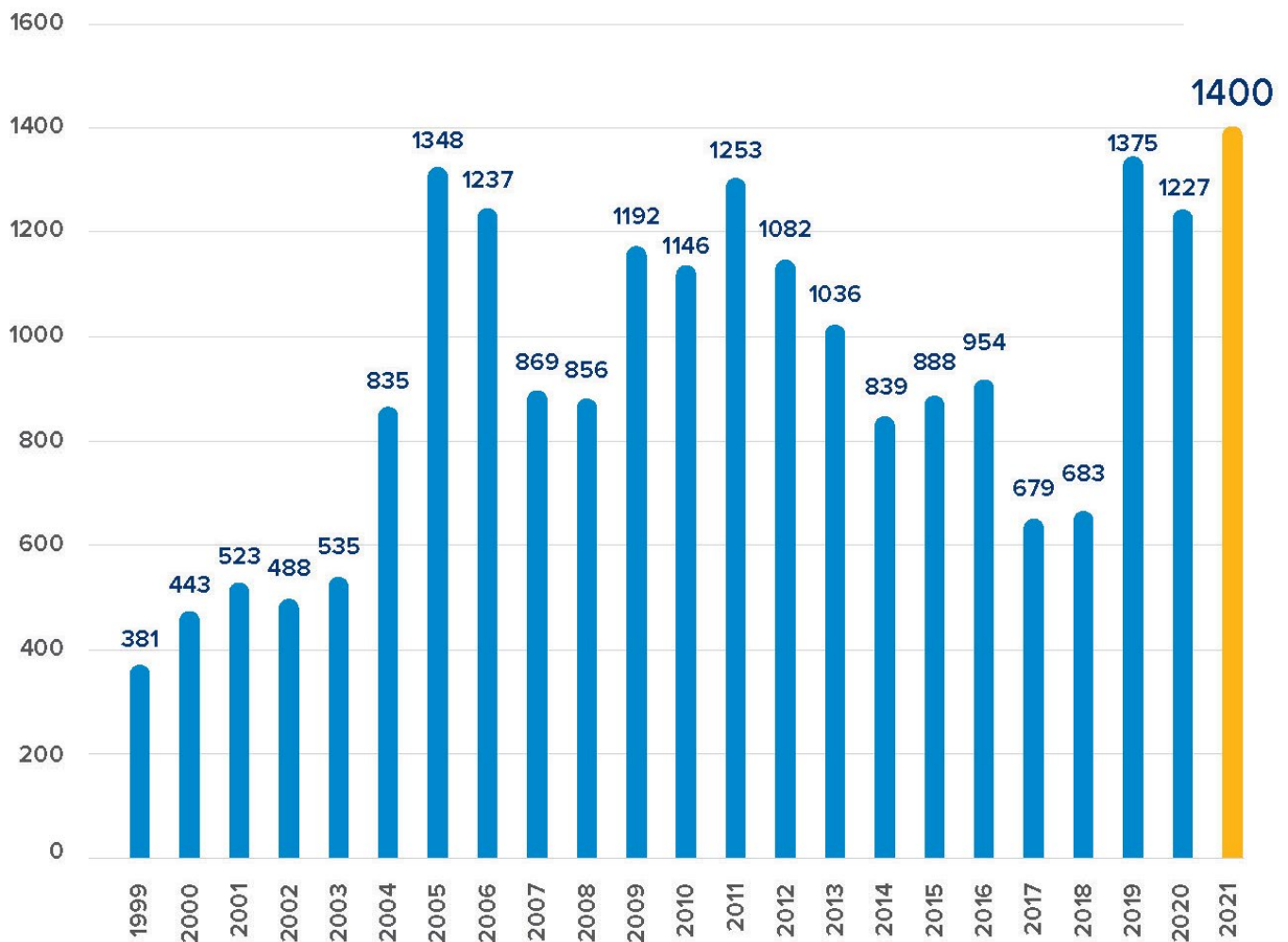
At the request of good government and transit advocacy groups, for the third year in a row, OIG is reporting on its year-end statistical highlights, as detailed below.

2021 marked another impressive year for OIG’s work in support of the MTA, its affiliates, and subsidiaries including MTA New York City Transit (NYC Transit), MTA Long Island Rail Road (LIRR), MTA Metro-North Railroad (MNR), MTA Bridges and Tunnels (B&T), MTA Headquarters (MTAHQ), MTA Police Department (MTAPD), MTA Bus Company (MTA Bus), and MTA Construction & Development (C&D).¹

In 2021, OIG Intake staff processed 1,400 complaints from individuals both inside and outside the MTA. This breaks the all-time record for most complaints received by OIG in a single year.

¹As used in this report, unless the context indicates otherwise, the term “MTA” includes its affiliates and all subsidiaries.

Total Number of Complaints



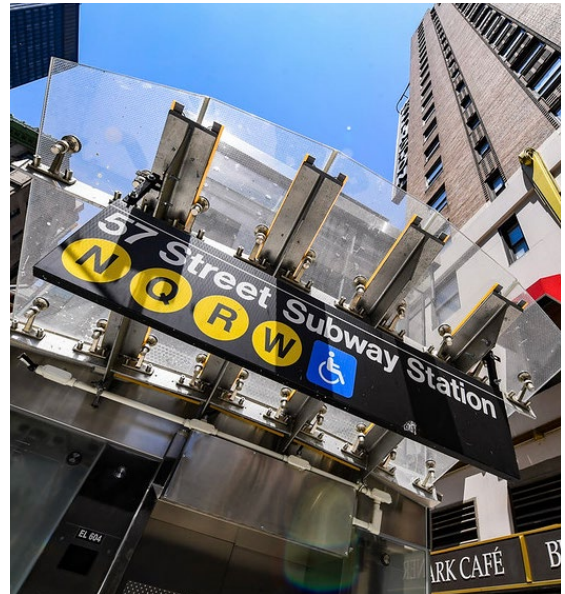
Complaints by Source

Total complaints	1,400
Members of the Public	565
Anonymous	400
MTA Employee / Former Employee	283
Other Governmental Agency	70
Other	37
Confidential Source	31
MTA Agency	14

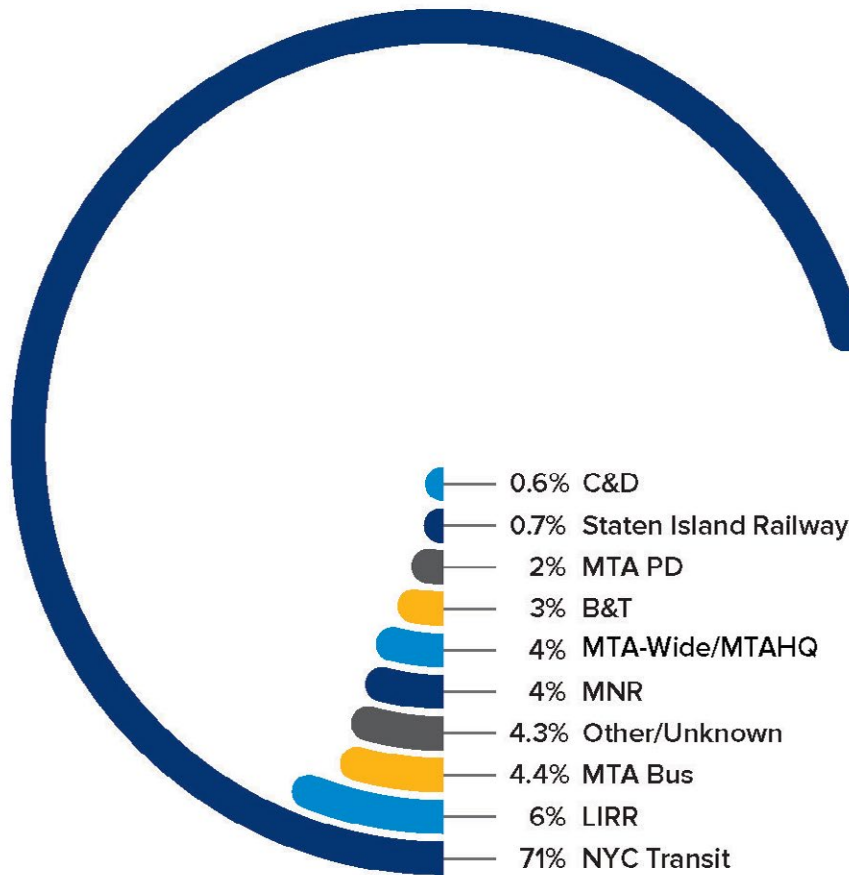


Complaint Disposition & Resolution

TOTAL COMPLAINTS	1,400
Referred to Agency	598
Closed	344
Open	335
Assigned to Investigations	115
Resolved By Intake	8

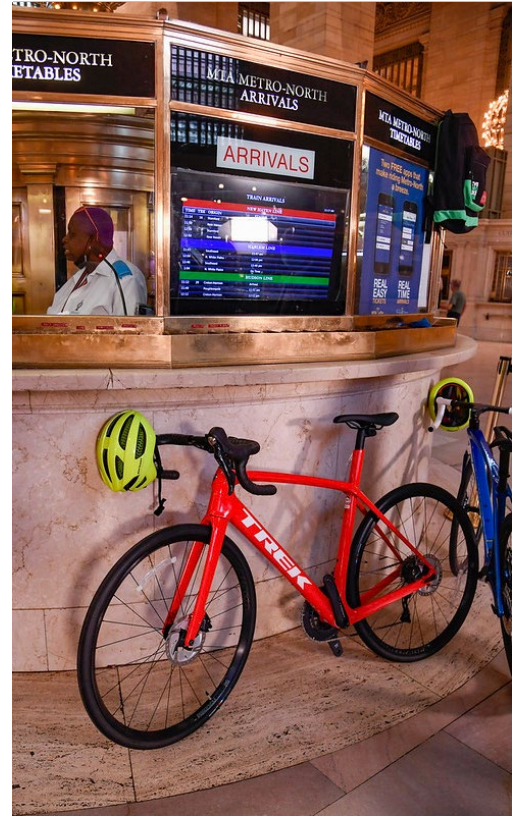


Complaints by Agency Involved



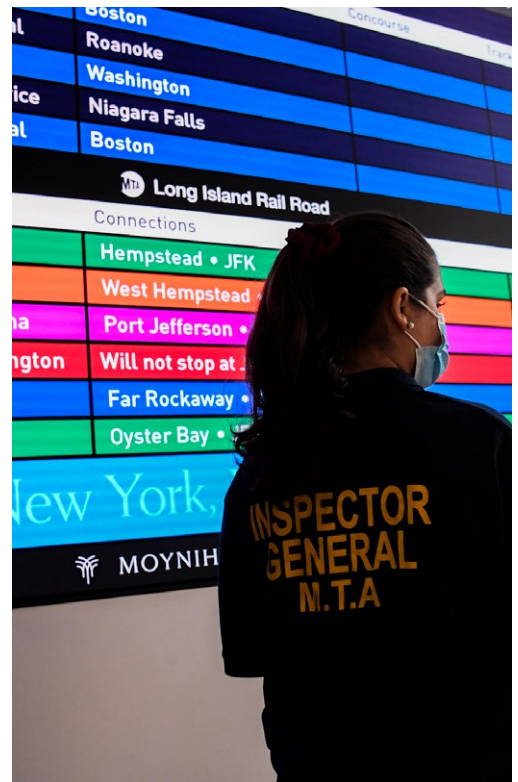
Complaints by Method Received

TOTAL COMPLAINTS	1,400
Email Complaint / Website	1,004
Hotline	184
Other	99
Letter	67
External Agency Referral	46



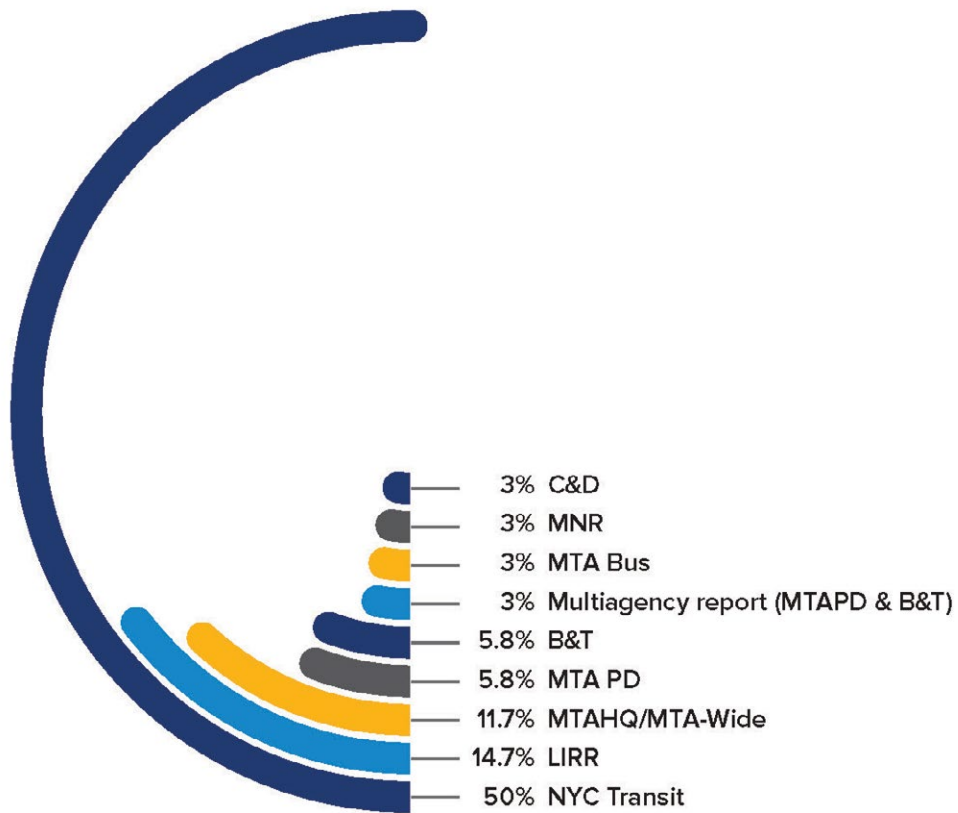
Complaints by Category

TOTAL COMPLAINTS	1,400
Employee Misconduct	759
Service Issues	295
Agency Operations	274
Contract/Procurement	36
Criminal	19
Construction	6
Other	11

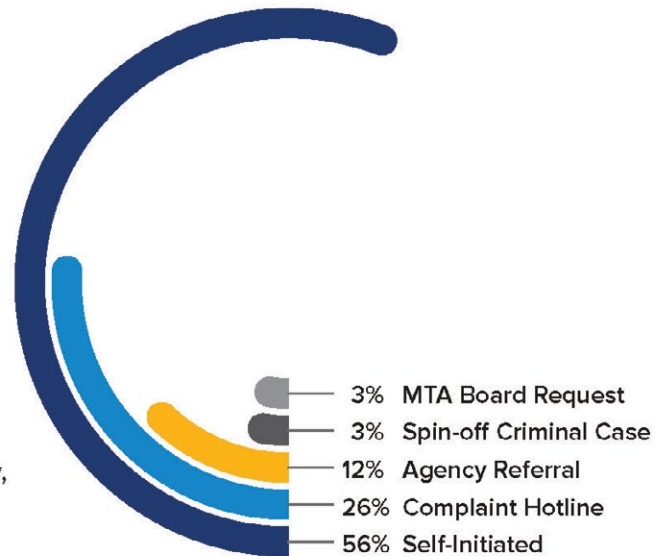


OIG ISSUED 34 REPORTS IN 2021

20 Disciplinary Letters | 14 Audits



Origin of Reports



OIG ISSUED 116 RECOMMENDATIONS

64 Implemented | 52 Pending

OIG'S WORK LED TO 2 RESPONSIBILITY HEARINGS FOR MTA VENDORS.

OIG'S WORK FOCUSED ON 67 EMPLOYEES, 36% OF WHOM WERE SUPERVISOR-LEVEL OR ABOVE.



OIG'S WORK RESULTED IN 38 DISCIPLINARY ACTIONS

90% increase from 2020 | 280% increase from 2019



OIG'S WORK LED TO: 9 PROBLEMATIC EMPLOYEES AND MANAGERS RETIRING, RESIGNING, OR BEING TERMINATED

2 Supervisor-level or Above | 33% Increase from 2020 | 100% increase from 2019



OIG AUDIT UNIT

14 audits initiated | 14 audit reports issued



OIG LEGAL & INVESTIGATIONS UNIT

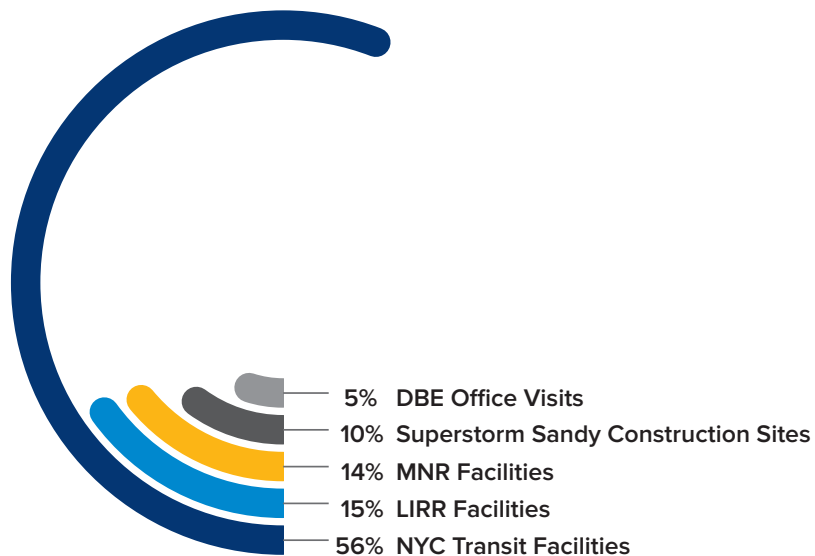
20 Letter Reports Issued

124 Investigations open as of end of 2021 | 137 Investigations closed in 2021



307 Site Inspections

14% increase from 2020 | 24% increase from 2019



FINANCIAL IMPACT

Questioned Costs/Lost Revenue/Expenditure Reviewed/Cost Avoidance¹: \$695,483,600

Money Recouped²: \$2,541,597

Money Saved, Including on Outside Superstorm Sandy Monitors to Date³: \$20,453,829



¹Expenditure reviewed and/or cost/lost revenue is questioned by OIG based on the possibility of: (1) an alleged violation of a provision of law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds; (2) a finding that, at the time of the audit, such cost is not supported by adequate documentation; (3) a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable; (4) a finding that a lost revenue could be prevented or addressed in a more efficient or effective manner; or (5) amount of expenditure reviewed.

²Includes OIG's, joint task forces', and joint matters with law enforcement partners' civil and/or criminal restitution, recoupment, settlement, and forfeiture.

³ In response to a Federal Transit Administration requirement to provide monitors for the projects funded by the \$4.8 billion Superstorm Sandy Recovery Grants, the MTA established a monitoring oversight committee, which includes OIG. By having OIG and other MTA agencies do this monitoring work, instead of third-party monitors, internal MTA estimates show the MTA saving \$20 million for current construction projects, and up to \$48 million for total construction projects.

Audit and Investigative Highlights



Audit and Investigative Highlights

In 2021, OIG published reports, monitored initiatives, and worked on criminal matters with law enforcement partners.

Brief summaries of many of OIG's activities have been organized into areas of:

Management Best Practices

Transparency, Accountability, and Deterrence

Waste, Fraud, and Abuse



Marc A. Hermann / MTA

Management Best Practices



Reform and Transparency at the MTA Police Department #2021-08
Law Enforcement at MTA Bridges & Tunnels: Adaptation and Transparency #2021-09
NYS Public Authorities Law §1279(4)(a-1)(2021) #2021-12

In 2020, in the wake of the murder of George Floyd at the hands of a Minneapolis police officer and other similarly tragic deaths, a movement swept the country to bring more accountability and transparency to police agencies' handling of excessive force cases and other forms of abuse and misconduct. New York State leaders joined the effort by quickly 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. One of the new measures included amendments to Public Authorities Law Section 1279 that took effect April 1, 2021, granting OIG oversight jurisdiction over "allegations of corruption, fraud, use of excessive force, criminal activity, conflicts of interest or abuse" concerning MTAPD and B&T Officers.

In summer 2021, OIG released 2 reports analyzing the processes that MTAPD and B&T created to manage complaints about their law enforcement officers' conduct. The reports also compared those processes to industry best practices related to police officer accountability and the communication between law enforcement agencies and community members. In doing so, OIG found multiple opportunities for the MTAPD and B&T to increase their transparency and reform the way in which they receive, investigate, and report on complaints related to officers' behavior from transit riders and other members of the public. Additionally, OIG released a letter memorializing OIG's collaboration with MTAPD and B&T to create procedures to review allegations against officers, identify concerning patterns of behavior, determine appropriate investigative steps, and make referrals to other investigative and prosecutorial offices as required.

In the audit reports, OIG issued 15 recommendations each for MTAPD and B&T to increase transparency and accountability while also modernizing their procedures. These include: establishing an early intervention system to readily detect multiple complaints about an officer's conduct, formalizing standards for complaint investigations such as expected timelines and communication with the complainant, and improving the computer systems supporting the complaint-management function. OIG will continue to monitor MTAPD and B&T's activities to ensure continued and increased levels of transparency and accountability to the public. OIG has given presentations on the work in these reports to advocacy groups, Inspector General offices, and other stakeholders.



Subway Drain Cleaning: NYC Transit Must Maintain Effort #2021-05

In January 2006, OIG conducted a review in response to flooding caused by heavy rainfall from Tropical Storm Frances, which resulted in the cancellation of over 1,000 trains and stranded thousands of riders onboard subways. OIG found drains leading to the pump rooms were blocked by trash and mud and issued a report on numerous issues that affected subway flooding, including the need for proactive subway drain cleaning along with drain and pump room maintenance to prevent flooding conditions.

In its 2021 report, OIG followed up on the 2006 recommendations and learned that while many of the recommendations had been implemented, those pertaining to cleaning and maintenance of the drains and drain boxes had not been addressed until 2017, when the 2-year emergency maintenance program, the Subway Action Plan (SAP), was put into motion. OIG found that as a result of SAP, NYC Transit made significant progress in mapping the location of drain boxes, which catch debris and help maintain the flow of water; cleaning the drain system; and tracking the effectiveness of NYC Transit Infrastructure Department's work utilizing the mapped locations and computer-generated work orders.

Given NYC Transit's history of inattention to drain cleaning, and to maintain the momentum that is now apparent, OIG recommended the maintenance schedule and inspection plans should be committed to writing and departmental management should track the program's progress. NYC Transit agreed to the recommendations, and has already developed a proactive maintenance plan, set improved goals for inspecting and cleaning drains, and put in place internal controls to test that drains are inspected as scheduled. OIG will continue to monitor this issue.



Pump Trucks at NYC Transit Bus Depots: A Maintenance Plan and Training Needed #2021-15

During Superstorm Sandy, several bus depots experienced significant flooding. Afterwards, NYC Transit bought 12 trailer-mounted 8-inch diesel pumps using part of a grant to the MTA from the Federal Transit Administration's Hurricane Sandy Emergency Relief Program. OIG found that NYC Transit Department of Buses had not maintained these 12 diesel pump trucks – which cost nearly \$1.5 million – as required to keep them operational. Additionally, OIG's review uncovered that depot maintenance personnel had not been adequately trained on how to perform maintenance on the equipment or how to operate the pumps in case of a flood. This inexplicable lack of training left critical facilities at risk of flooding and has potential safety implications for MTA workers operating the pumps.

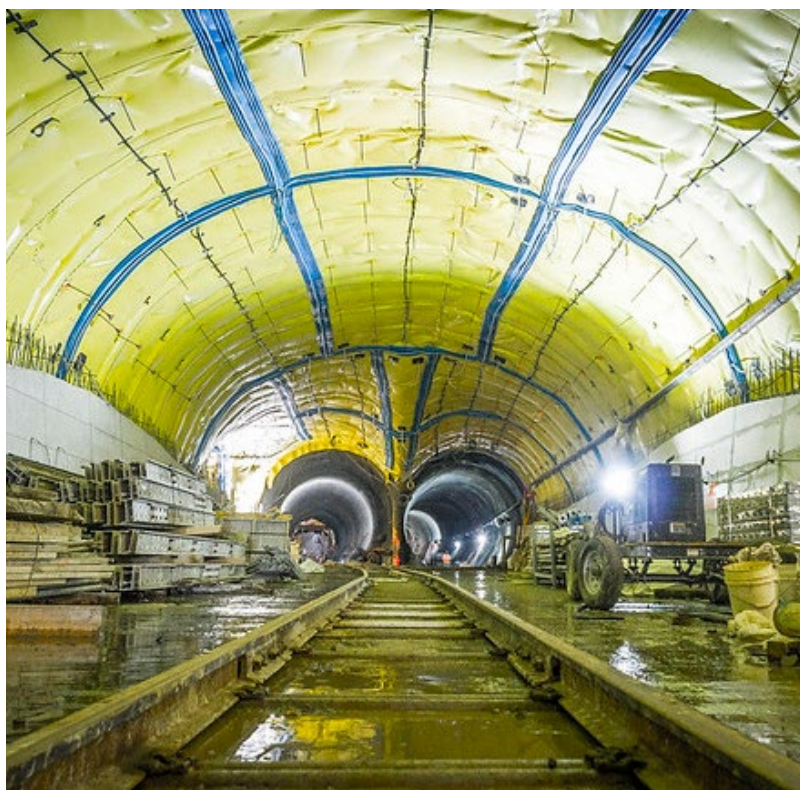
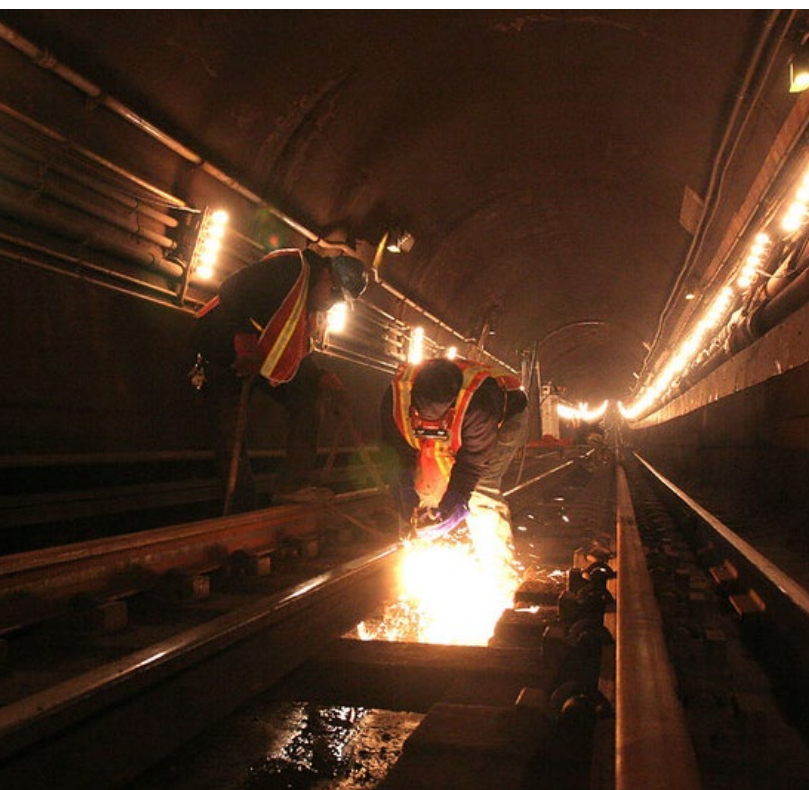
OIG found that while Buses' Capital Construction Engineering correctly oversaw delivery, acceptance, and payment for the pumps, the group did not provide a Preventive Maintenance Procedure (PMP) – which includes a critical checklist of the necessary inspection tasks and associated frequencies – until OIG began asking questions in August 2020, 2 years after receipt of the pumps.

OIG investigators visited all 12 locations with trailer-mounted pumps and interviewed the maintenance staff. According to depot staff responsible for operating the pumps should a flooding condition occur; they had not been trained on pump operation – nor had they even seen a pump being operated. This inexplicable lack of instruction not only leaves critical facilities at risk of flooding; it also likely has safety implications.

To ensure this situation is not repeated, OIG issued 6 recommendations to NYC Transit, which the agency accepted. OIG is also ensuring that the maintenance and training shortfalls identified with these pumps are not occurring with other equipment procured with Sandy grant funds.



Marc A. Hermann / MTA



MTA Must Improve Construction Management System #2021-22

OIG released an audit of the use of the new electronic project management system and database used by NYC Transit for capital construction projects. OIG identified opportunities to improve how the system is utilized to better support effective oversight of MTA's critical and expensive capital projects.

Internal and external stakeholders use the system to manage the design and construction of projects, collaborate on day-to-day workflows, and share critical documents. OIG's audit found that filing and retrieval of project documents in both the old and new software is onerous. Contractors and MTA staff were allowed too much discretion in how to file documentation, and an overly complex, daunting, 64-page filing protocol slows the process.

In fact, OIG could not find nearly half the documents searched for that should have been filed on a sample of construction projects. The documents had not been loaded into the new system, nor its predecessor project management system, as required by agency policy and contract terms.

OIG also found that no one, neither MTA employees nor contractors, is held accountable for failing to comply with document retention requirements, in part because no one is checking. In addition, the audit revealed that no mechanism exists to link documents from the preconstruction design phase to the construction phase documents of a project to create a complete project record. The absence of complete project records significantly diminishes the database's value and reduces the overall efficiency of the project management process.

C&D conducted its own evaluation and came to similar conclusions. The agency accepted OIG's recommendations and provided a timeline for when implementation will be accomplished.



Transparency on Overtime and Program Spending at the MTA Police Department #2021-23

Between 2018 and 2020, MTAPD’s total payroll grew by 11.3% – from \$103.9 million to \$115.6 million – and overtime expenditures for the same period grew by almost 21%, from \$27.5 million to \$33.3 million, averaging \$29.5 million per year.

In response to MTA Board members’ concerns, OIG conducted a review to determine the reasons for the significant increase in MTAPD’s payroll and overtime spending. OIG noted that the growth in overtime resulted primarily from several “special projects” from the Governor’s Office and MTA senior leadership undertaken by MTAPD: homeless assistance outreach, reducing fare evasion, and ensuring an orderly overnight shutdown of the system during the height of the COVID-19 pandemic.

OIG found that MTAPD did not fully track the cost for the projects that were staffed by officers on both overtime and regular pay. Specifically, MTAPD reported spending a total of \$19.1 million to implement all 3 special projects. However, this represents solely the overtime cost. OIG estimates that these special projects cost MTAPD an additional \$12.5 million in regular time pay for a total cost of \$31.6 million. OIG issued 2 recommendations that MTAPD estimate and track the cost of future projects, which MTAPD has accepted.

Destruction of the Perfect Storm #2021-30

OIG found 2 untrained and inexperienced NYC Transit employees literally jumped ship when they were forced to abandon an MTA boat, a 25-foot Steiger Craft named Perfect Storm (the Boat), on a rocky shore near Coney Island. Once abandoned, the derelict vessel subsequently crashed against the shore and was destroyed.

Alarming,ly, OIG found the employees operating the Boat were untrained, inexperienced boaters who abandoned ship believing their lives were in danger. Overnight, the Boat crashed into the rocky shoreline and capsized. The incident raises serious questions about the responsibility and care of the Boat, and, more importantly, the safety of its crew. Investigators found there was not even consensus among MTA officials interviewed as to the general purpose of the Boat or even whether it was needed to begin with.

OIG found that on the day of the accident, the Boat captain believed his assignment was to observe fellow MTA employees who were replacing anodes near a bridge around Roosevelt Island and to perform search and rescue if needed — despite having virtually no training or experience in piloting a boat or water rescue. His sole crewmate onboard lacked any boating or rescue experience or training — and was a poor swimmer. Despite the crew's lack of qualifications, they were allowed to take on the assignment and on occasion, earn overtime.

OIG's investigation determined that NYC Transit lacked:

- Policies and guidelines as to what type of regular maintenance should have been performed on the Boat;
- Standards as to which employees were qualified to pilot or otherwise staff the Boat;
- Procedures for staff to follow once on board;
- Standards for appropriate uses of the Boat; and
- Training for the staff who were on board.

Rather, the employees who supervised the Boat were at times unclear as to its purpose, and left to manage the care and usage of the Boat completely on their own.

Following OIG's investigation, the MTA has determined not to replace the Boat, calling into question whether it was even needed to begin with.



MTA Bridges and Tunnels Needs Better Information on Tolling Complaints #2021-31

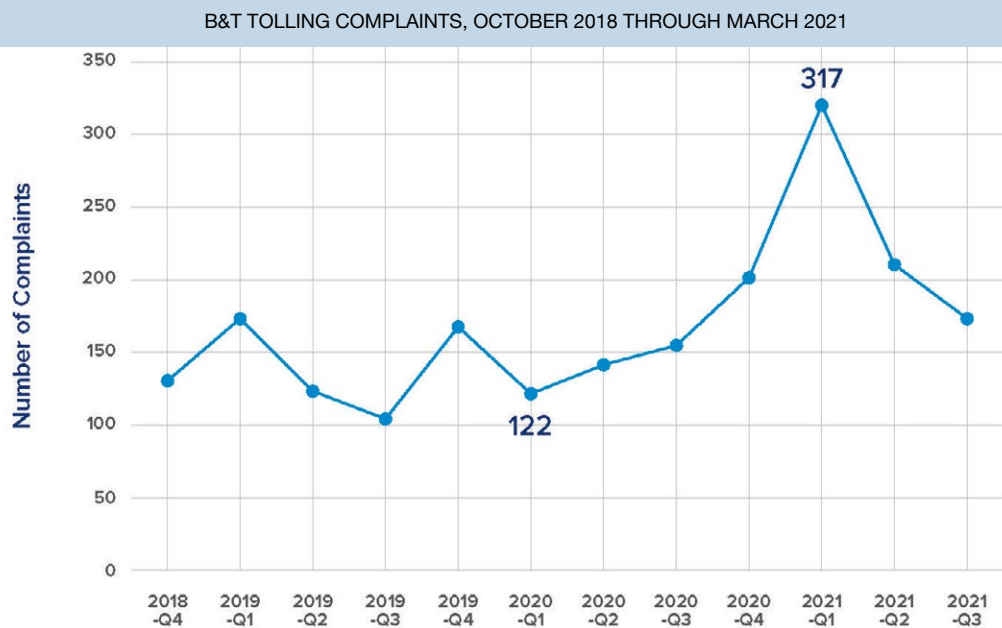
In early 2021, OIG's complaint hotline received a surge in complaints from B&T customers related to tolls and violation fees. Notably, B&T waived a number of these customers' charges after OIG intake staff conducted initial research and referred the matters to the agency. Prompted by OIG, B&T found that the charges were made in error.

To identify trends and determine why customers were being charged incorrectly, OIG analyzed complaint data and interviewed B&T officials to better understand their processes for addressing customer complaints, working with contractors if problems are found with the violation process, and implementing any necessary corrective actions. OIG also considered whether B&T's internal information system and contract-oversight processes would be adequate to handle an expected increase in complaints when the Central Business District (CBD) tolling program begins.

Regarding the agency's oversight of contractors, OIG identified some positive developments. B&T has created a robust set of key performance indicators for the agency's 3 new tolling-related contracts which should strengthen its ability to provide meaningful oversight of the contractors' work.

The audit also found a significant weakness. OIG learned that the agency could not readily conduct analyses to identify specific reasons for increases (or decreases) in the volume of complaints, nor could it produce management reports to identify trends or patterns, because the information systems used by B&T and its contractor lacked adequate analytical and reporting capabilities. Thus, B&T does not have a reliable way to detect systemic issues or service deficiencies. For example, OIG found that several complaints stemmed from a contractor's failure to record license plate numbers correctly, but the prevalence of human error was not captured in any summary report for follow-up by management. This shortcoming also puts the agency at risk of being ill-prepared to handle future CBD tolling complaints efficiently.

B&T accepted OIG's recommendation that B&T should design and implement a modern information system to allow management to readily identify the causes, and potential financial impact, of tolling-related complaints before CBD tolling begins in 2023.



Safety



Timeliness of NYC Transit's Post-Accident Alcohol Testing #2020-21

In OIG's fourth report on the subject, OIG revealed that the logistical obstacles to timely alcohol-testing of employees involved in accidents, as well as agency management's lack of urgency to improve the situation, have both persisted for 20 years. Following a serious accident involving a bus or subway, NYC Transit tests the safety-sensitive employees who were directly involved to determine whether their performance might have been impaired by the use of alcohol and/or drugs. Recognizing that alcohol is eliminated by the body fairly rapidly, the Federal Transit Administration requires that alcohol tests be conducted as soon as practicable for accidents involving significant injury to people or property, ideally within 2 hours of the accident.

OIG found that the vast majority of post-accident alcohol tests were delayed, and the problem has gotten worse even as OIG issued multiple reports on this same topic since 1999. On average, during 2017–2019, 90.0% of alcohol tests for MTA Buses employees and 88.5% for MTA Subways employees were completed more than 2 hours after an accident. OIG issued several recommendations intended to improve the timeliness of the testing process. OIG will continue to monitor NYC Transit's alcohol testing practices to ensure that NYC Transit meets the federal guidelines, holds safety-sensitive employees accountable, and enables MTA riders, workers, and infrastructure to be as safe as possible.



Seven Track Inspectors' Failure to Inspect Tracks, False Claims of Inspections, and Dereliction of Duties #2020-29
Insufficient Supervision of Track Inspectors at NYC Transit #2021-03

OIG first opened an inquiry into the NYC Transit Track division in January 2020 in response to news reports that track debris was raining down on cars below the elevated tracks. Some of the debris was large enough to cause damage and injury. These events led NYC Transit to spend \$15.9 million dollars to attach netting on the underside of elevated tracks to protect the public and employees.

An 11-month investigation found 7 NYC Transit Track Inspectors were skipping inspections and falsifying inspection reports, which led to their suspension. Track Inspectors and especially their supervisors are among the most vital safety-sensitive members of the MTA who serve as the first line of defense against dangerous railway conditions, costly repairs, customer and employee injuries, and fatal accidents.

As a result of OIG's investigation, all 7 Track Inspectors were suspended, and, following arbitration, 6 of the Track Inspectors received a final warning that similar future conduct could result in termination. These 6 employees were also prohibited from performing track inspections for 5 years. As a result of their suspensions, the 7 Track Inspectors forfeited an aggregate \$145,115 in pay.

In addition to the investigation, OIG performed an audit to determine how management failed to discover such widespread deception. The audit revealed significant, systemic issues with NYC Transit's supervisors' and managers' oversight of the track inspectors' work. This failure exposed riders, MTA employees, and especially pedestrians and drivers passing below the elevated tracks to significant safety risks.



Transparency, Accountability, and Deterrence

5



Inadequate Oversight of NYC Transit's Procurement Card Usage #2021-07

OIG's audit of the agency-issued credit cards (P-Cards) used by employees for work-related purchases found NYC Transit did not provide adequate oversight for nearly \$2 million of purchases during the height of the COVID-19 pandemic in early 2020, when the agency was making more purchases on an emergency basis than it normally would. The audit revealed that among the most substantial flaws in the system was NYC Transit's continued reliance on paper records to track P-Card use, an outdated and far more difficult medium to organize and monitor than digital records.

OIG found troubling inconsistencies in the way different NYCT departments monitored their Cardholders' purchases. Different operating units used a variety of methods to review and approve purchases – or provided no such review at all. Additionally, OIG found that the MTA Headquarters Procurement Department was nearly a year behind in performing quarterly P-Card compliance reviews, did not maintain a list of Cardholders, and was unaware of many instances when P-Card usage deviated from MTA policy. Overall, OIG found that LIRR and MNR Cardholders had exercised adequate review of P-Card purchases during the earliest, and most challenging, days of the pandemic. OIG's review revealed that LIRR and MNR followed standard practices for departmental P-Card review that could serve as a model for NYCT. To rectify these weaknesses, NYC Transit accepted all of OIG's recommendations.



Fraud Controls in the NYC Transit Paratransit E-Hail Program #2021-24

OIG released an audit report finding inadequate fraud control measures in the NYC Transit Paratransit Division's (Paratransit's) electronic hailing (E-hail) program. The audit grew out of the joint criminal investigation by OIG and the Queens District Attorney's Office of an alleged E-hail fraud (see page 38) and was part of OIG's periodic reviews of Paratransit's programs.

In 2017, in an effort to reduce costs and improve customer service, Paratransit started the E-hail program which uses cellphone applications to match customers needing rides with drivers from 3 main vendors. At the time of the audit, Curb Mobility (Curb) provided about 95% of all E-hail trips for NYC Transit.

In 2017 and 2018, Paratransit developed an anti-fraud plan for its E-hail program which split anti-fraud analysis responsibilities between Curb and Paratransit Command Center staff. However, Paratransit did not inquire until after OIG's ongoing fraud investigation began in mid-2020 as to whether the contractor was actually performing all the agreed upon analyses.

OIG uncovered that Curb had not conducted 3 of the required analyses for more than 2 years before 2021. As a result, unfortunately, OIG found that the program's fraud controls, as implemented, did not sufficiently detect many cases of possible fraud including the criminal investigation with the Queens District Attorney's Office. When Curb finally performed some of these analyses in early 2021, the results identified significant suspicious activity and led Curb to suspend at least 3 drivers from participating in the company's services.

Additionally, OIG noted that Paratransit's internal efforts to control abuse in the E-hail program were largely limited to reviews for ensuring the quality of the monthly Curb bills. As a result of its limited focus, Paratransit did not identify some more complex, potentially fraudulent patterns that could have warranted an investigation, such as a driver claiming an excessive number of trips with the same few clients throughout a day.

In response to previous OIG audits on anti-fraud topics, Paratransit created the Fraud Detection Unit (FDU). This audit found that there are opportunities for the FDU to use additional, improved analytical tools and methods that could potentially lead to a significant increase in the efficiency, effectiveness, and thoroughness of the investigations. OIG issued several recommendations to address fraud controls within the E-hail program, which Paratransit accepted. OIG will continue to monitor Paratransit programs to reduce waste, fraud, and abuse.



Overtime Reforms at the MTA – Monitoring Reports

In November 2019, MTA Inspector General Carolyn Pokorny pledged to rigorously monitor overtime efforts at the MTA and apprise the public and MTA board of OIG’s findings periodically to ensure MTA agencies meaningfully rein in overtime spending and safeguard against fraud and abuse by fully implementing the 19 recommendations from the Morrison & Foerster (M&F) LLP report and OIG’s audit report highlighting MTA’s deficient overtime verification procedures.

OIG expressed concern that the overtime reform effort is at risk due to turnover in project leads and shifts in organizational priorities. This is an unfortunate development as the MTA has already invested significant resources, including more than \$31 million, to take the first step in modernizing its timekeeping system by making the Kronos biometric clock the primarily MTA-wide timekeeping system.

OIG noted that if the MTA is to reap all the benefits of a modern timekeeping-payroll system that it has already made a significant investment in of both time and money, MTA management must continue to commit to the timekeeping-payroll integration. Alternatively, if management plans to abandon the effort this far into the project, then it should be transparent about that decision with the Board and the public.

OIG will continue to monitor and provide updates on the MTA’s commitment to the timekeeping-payroll integration. In 2021, OIG published monitoring reports on the fourth quarter of 2020, second quarter of 2021, and the third quarter of 2021; select highlights from each report are below.



Overtime Reforms at the MTA Monitoring Report – Fourth Quarter 2020 #2021-01

OIG commended LIRR and NYC Transit for their notable work in addressing some overtime reform recommendations:

- Among others, LIRR created a matrix to track OIG concerns and the progress of deliverables on overtime reform and holds monthly discussions with LIRR President to discuss the matrix.
- NYC Transit has developed, and is in the process of fine-tuning, a dashboard showing employee compliance with using the time clocks. This dashboard provides management with detailed employee swipe card information for individuals and departments. With this information, managers are in a better position to identify potential problems and focus their efforts on improving compliance.

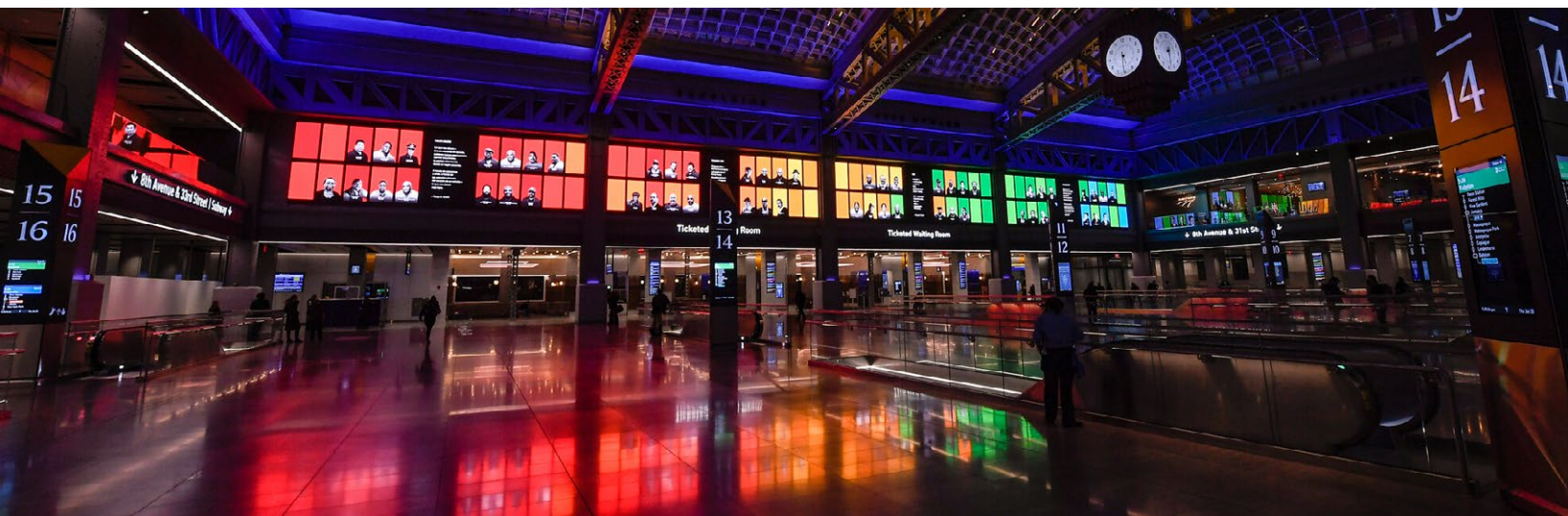
OIG noted that the other agencies would benefit from a Kronos swipe dashboard with capabilities similar to the NYC Transit dashboard.

Overtime Reforms at the MTA Monitoring Report – Second Quarter 2021 #2021-16

OIG was encouraged that each MTA operating agency uses an electronic dashboard to monitor employees' compliance with the time swipe requirement.

However, OIG learned that nearly 2 years after the MTA has installed the Kronos time clocks, there are some employees who do not fully utilize the system. These problem areas included train crews who were contesting the requirement through their labor unions, as well as by those who did not have access to a time clock at their work locations. Other employees were still not swiping when required for no obvious reason.

OIG believes that the Overtime Task Force and MTA management should prioritize development of interim controls for organizational areas of the MTA that have been shown to be at highest risk for time and attendance abuse and for which controls are still weak.



Overtime Monitoring Report – Third Quarter 2021 #2021-29

As of Q3 2021, 15 of the 19 recommendations have been implemented. The next step is to address the remaining 4 recommendations, specifically 2 recommendations calling for the full integration of timekeeping and payroll into 1 electronically connected system across the MTA.

The full integration represents the largest and most complex task the MTA agencies must work on to bring about reform. Full integration is expected to take several years; getting it over the finish line will require sustained managerial attention, financial investment, and ongoing collaboration with the agency's many labor organizations. However, OIG believes these challenges are surmountable, especially considering that these recommendations are crucial to maximizing MTA's return on investment in Kronos clocks.

OIG also found that during this past quarter, employees' compliance with clocking in before and after each work shift declined at 3 of 5 operating agencies (B&T, LIRR, and NYC Transit Subways) and showed a slight improvement at the remaining 2 agencies (MNR and NYC Transit Bus). The decline in compliance could be partially attributed to a calculation error that OIG uncovered during its review, which was corrected when OIG brought it to management attention.

However, management needs to fully analyze and address the reason for any substantial decline in compliance going forward. As the MTA continues moving forward with using Kronos for timekeeping across all agencies, it's important that accurate information be provided to allow agency management to continue to monitor employees' compliance and enforce the time clock swipe requirement.



Superstorm Sandy Recovery & Resiliency Monitoring

In response to a Federal Transit Administration requirement to provide monitors for the projects funded by the \$4.8 billion Superstorm Sandy Recovery Grants, the MTA established a monitoring oversight committee, which includes the OIG. By having OIG and MTA's internal audit division do this monitoring work, instead of third-party monitors, internal MTA estimates show the MTA could avoid costs of up to \$48 million which could be used for other construction projects.

There were 15 Sandy projects monitored:

12 NYC Transit projects | 2 MNR projects | 1 LIRR project

In 2021, OIG performed the following Sandy monitoring activities:

- Developed a new Fraud Awareness video training program to be rolled-out by MTA in 2022 with quarterly live Q&A sessions held by OIG.
- Conducted 46 background checks of vendors and contractors working on Sandy grant funded projects.
- Attended 222 construction progress meetings and 4 project kick-off meetings. While participating in progress meetings, OIG staff pay close attention to how workers and projects are being affected by the COVID-19 pandemic in order to document conditions in support of possible future delay claims.
- Conducted 32 site visits (either using OIG staff or consultants).
- Conducted 16 disadvantaged business enterprise (DBE) home office visits to assess the current validity of their DBE certifications.
- Reviewed 39 change orders that increased project costs by \$8.9 million to verify that they were clearly and thoroughly documented per MTA policies and procedures.

Third Party Monitors for LIRR Third Track and East Side Access

For 2 megaprojects, LIRR Third Track and East Side Access, OIG reviews third party monitor reports, attends the quarterly compliance monitors' meetings run by the MTA Deputy Chief Risk Officer, and shares, receives, and acts upon information with the appropriate compliance monitor oversight group as necessary.

LIRR Third Track is a \$2.6 billion expansion effort which includes 50 projects to modernize 9.8 miles along the congested Main Line of the LIRR between Floral Park and Hicksville.

East Side Access is an over \$11 billion project to provide new LIRR service to the east side of Manhattan, supplementing existing service to Penn Station on Manhattan's west side and Atlantic Terminal in Brooklyn. The East Side Access megaproject is one of the largest transportation infrastructure projects currently underway in the United States.

NYC Transit Vendor Relations

OIG assists NYC Transit Vendor Relations in a wide range of activities, from reviewing independent private sector inspector general reports and sharing intelligence regarding "Significant Adverse Information," to attending and participating in responsibility hearings before, during, and after contract award. OIG consults with NYC Transit Vendor Relations on vendors who have Significant Adverse Information to determine if the imposition of an independent monitor is warranted. These consultations may include, where appropriate, the sharing of information obtained from OIG's investigative partners on certain vendors. OIG coordinates with its investigative and regulatory partners when it becomes aware of relevant adverse information about vendors.

Waste, Fraud, and Abuse



Criminal and Enforcement Matters

The criminal charges and the descriptions of them here, absent a conviction, constitute only allegations.

US v. Stuart Conklin

In March 2021, the United States Attorney's Office for the Eastern District of New York, U.S. Department of Transportation Office of Inspector General, and OIG, announced that a criminal complaint was unsealed in federal court in Brooklyn charging a former LIRR Signaller with making a false entry in a railroad inspection report required to be maintained by the LIRR under United States Department of Transportation regulations. Specifically, the LIRR Signaller falsely reported that on April 26, 2019, he inspected a rail bond and that it passed inspection. However, video from an LIRR camera revealed he did not conduct the reported inspection.

On May 25, 2019, at approximately 3 a.m., a westbound LIRR train collided with the rear of an eastbound train that had pulled onto a sidetrack to permit the westbound train to pass, resulting in a derailment. The LIRR's subsequent investigation determined that the rail bond the LIRR Signaller had falsely reported he inspected on April 26, 2019, was broken and was the cause of the derailment. The LIRR Signaller submitted a handwritten letter of resignation 6 days after the derailment.

US, et al v. VJ Associates of Suffolk, et al.

In March 2021, New York Attorney General and OIG announced the recovery of \$1,875,000 from V.J. Associates Inc. of Suffolk and its affiliates for falsely inflating bills for cost estimating and scheduling services on public-works projects in New York, Massachusetts, and New Jersey. The Hicksville, New York-based companies performed services as subcontractors to prime contractors on public works projects for the MTA, Port Authority of New York and New Jersey, New York City's School Construction Authority, and other government entities throughout New York, Massachusetts, and New Jersey.





People v. Robert Anderson

In July 2021, the Suffolk County District Attorney’s Office and OIG announced the guilty plea of a former LIRR conductor for allegedly engaging in a scheme to defraud the MTA out of ticket revenue. The LIRR Conductor pleaded guilty to Official Misconduct, a class A misdemeanor, and was sentenced to a \$1,000 fine.

Between April 2019 and September 2020, the LIRR Conductor engaged in a scheme in which he would collect train tickets but not punch them as required by his official duties. He would then provide the un-punched tickets to his acquaintances to either use or submit for refunds. In furtherance of the scheme, the LIRR Conductor would submit collection revenue reports falsely claiming that he had remitted all of the tickets that he collected during his shift. Further investigation by the MTA OIG and the Suffolk County District Attorney’s Office revealed evidence that the LIRR Conductor failed to include train tickets submitted by investigators in his signed revenue reports on 8 separate occasions in 2019 and 2020.

US v. Spectrum Painting **US v. Tower Maintenance Corp.**

In July 2021, the United States Attorney’s Office for the Southern District of New York, United States Department of Transportation Office of Inspector General, the New York City Department of Investigation, and OIG announced that the United States had settled civil fraud claims against New York-area painting contractor Spectrum Painting Corp (Spectrum) and in August 2021, the United States had settled civil fraud claims against Tower Maintenance Corp. (Tower).

The settlements resolved the United States’ allegations stemming from 2 federally funded contracts that were awarded to Ahern Painting Contractors Co. (Ahern) to renovate the Brooklyn Bridge and perform work for the MTA at Queens Plaza. Spectrum was a subcontractor hired by Ahern that performed steel painting work on the two federally funded projects. Contracts for both projects required Ahern to hire DBEs to perform a percentage of the work and to adhere to the DBE regulations. Spectrum is not a certified DBE. Tower is a certified DBE. Spectrum and Tower used Tower’s status as a DBE to take credit for work that was performed, managed, and supervised by Spectrum. Further, to conceal this scheme, Spectrum employees represented themselves as Tower employees in project documents. The case against Ahern was resolved in 2019 with a settlement for \$3 million. Spectrum and Tower subsequently entered into settlements. As part of the settlements, Spectrum and Tower each admitted and accepted responsibility for the conduct alleged in the Government’s amended complaint. Spectrum and Tower agreed to pay \$400,000 and \$150,000 respectively to the United States.

People v. Desmond Stanislaus

In August 2021, the Brooklyn District Attorney's office and OIG announced that an MTA Bus Worker had been charged with stealing almost \$40,000 in unpaid taxes from his unauthorized dual employment operating an auto body repair shop in Brooklyn. Between February 2014 and February 2020, the Bus Worker earned \$597,354 in gross sales, but allegedly failed to report \$409,071. During the same time frame he also failed to pay more than \$3,000 in taxes each year. The case began with a complaint to OIG who referred, and provided assistance to, the Brooklyn District Attorney's Office.

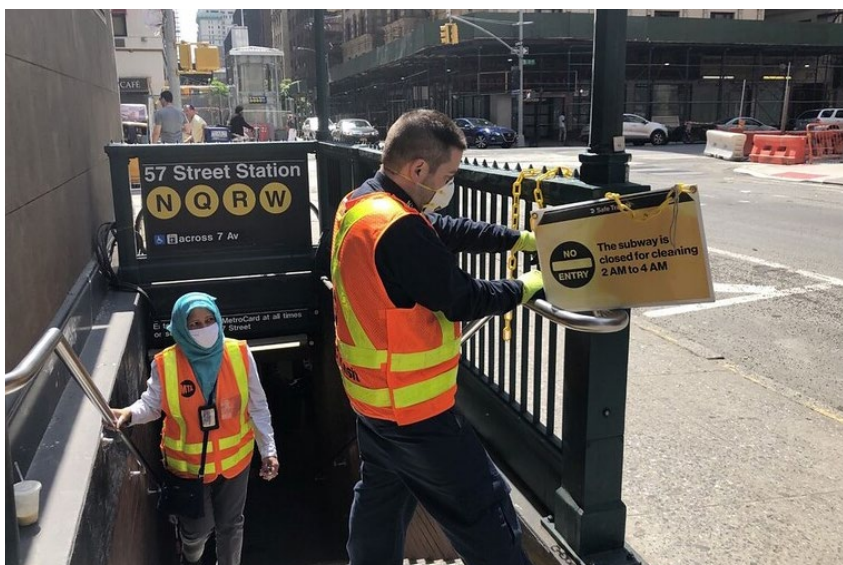
US v. Domingo Valle

The United States Attorney's Office for the Southern District of New York (SDNY), the New York Field Division of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), and the New York City Police Department (NYPD), announced the arrest of a MTA employee, an NYC Transit Car Inspector, for being a felon in possession of a firearm and ammunition. On October 4, 2021, agents recovered a pistol and 5 rounds of ammunition from his residence in the Bronx, New York. Inside the residence, agents also found 2 privately made AR-style rifles, 3 privately made pistols, body armor, which was loaded with rifle and pistol magazines, and numerous bullets. In an effort to conceal the firearms, the employee stored 3 of the privately made firearms in a concealed wall-mounted shelf in the residence. SDNY thanked OIG for its assistance in the investigation.

Fraudulent Use of AAR Curb App Trips

In November, Queens District Attorney's Office and OIG announced that an Access-a-Ride (AAR) Driver has been charged with grand larceny and other crimes for allegedly bilking the MTA out of nearly \$70,000. The Driver allegedly submitted bogus claims for rides requested using a mobile phone app between September 2020 and March 2021 661 times. OIG investigators observed the Driver driving his own wheelchair-accessible TLC yellow taxi on numerous occasions within the borough of Queens and elsewhere. On these trips in which the Driver was supposed to be driving a passenger, there was actually no one else in the vehicle. If convicted, he faces up to 15 years in prison.

For OIG's related audit on how this fraud occurred undetected, see page 30.

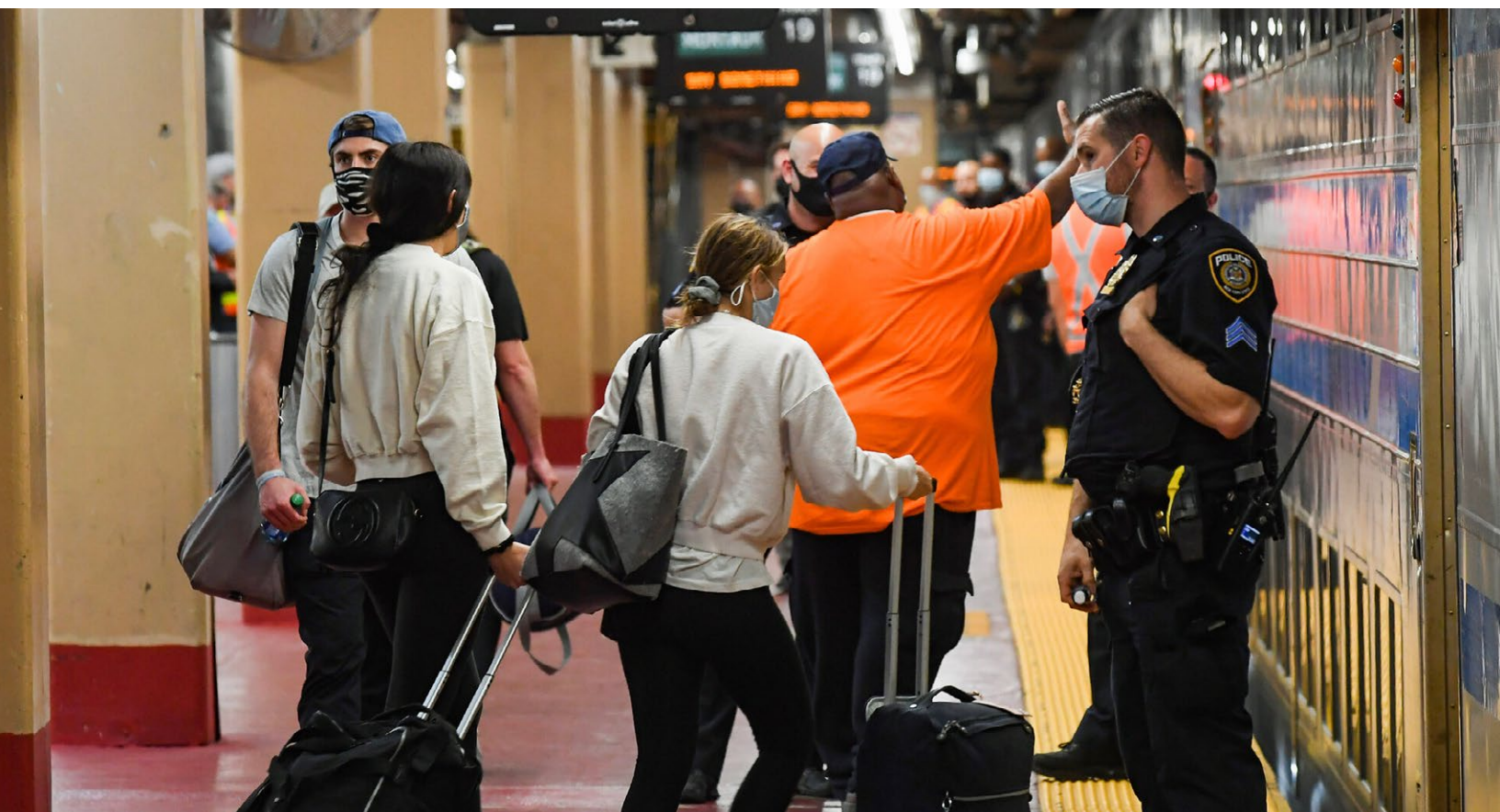


People v. Giovanni Seminerio – Case Update

In October 2020, OIG, the Brooklyn District Attorney’s Office, and NYC Transit announced that a former NYC Transit subway conductor had been arraigned on an indictment charged with grand larceny and other crimes for allegedly stealing approximately \$114,000 in Workers’ Compensation payments from NYC Transit.

On December 8, 2015, the then-Subway Conductor received notification that he would be terminated for disciplinary charges related to his operation of the trains. That same day, the Subway Conductor claimed he had been injured during his shift the day before and sought Workers’ Compensation benefits. It is alleged between October 2016 and August 2019, the individual periodically signed documents, as required by NYC Transit, falsely certifying that he was not employed in any capacity. In fact, from October 2016 to January 2020, the individual allegedly held a succession of salaried law enforcement positions out of state. NYC Transit’s Special Investigation Unit alerted OIG to the fraud during an internal review of Workers’ Compensation cases and suspended his payments in August 2019.

On October 27, 2021, Subway Conductor pleaded guilty to Grand Larceny in the 2nd Degree, a class C felony, and remitted \$48,000 in restitution to NYC Transit. As part of the plea bargain, he will serve 45 days imprisonment. He will surrender to the Court on January 7, 2022 and be remanded. After he serves his jail sentence, he will be brought back to Court and the Judge will sentence him to time served, 5 years probation, and issue NYC Transit a restitution judgment order for \$52,066 that represents the balance of restitution the defendant owes.



United States v. Caputo, et al. – Case Update

In December 2020, the United States Attorney's Office for the Southern District of New York, the Federal Bureau of Investigation, and OIG announced the unsealing of complaints charging 4 current and former longtime employees of the LIRR, and 1 current and longtime employee of NYC Transit, with federal program fraud for submitting paperwork on which they falsely claimed to have worked hundreds of hours of overtime that they did not in fact work.

All the defendants schemed to fraudulently receive thousands of dollars in compensation from the MTA by falsely claiming to have worked hundreds of overtime hours (and in the case of the NYC Transit employee, some regular-time hours as well) that in fact they did not work. The overtime pay the defendants received significantly increased their salary and led to them to being among the highest-paid MTA employees, and in the case of 1 LIRR employee, the highest-paid MTA employee in 2018. The defendants frequently volunteered for overtime and then claimed to have been working lucrative overtime shifts at times when they were in fact at home or at other non-work locations, such as at a bowling alley or on family vacations.

In 2021, there were several developments in the case:

- On July 27, 2021, one defendant pleaded guilty to Count One of the Indictment, Conspiracy to Commit Federal Program Fraud. He admitted that between 2017 and May 2010, he stole \$34,094.21 from the MTA by getting paid for overtime hours that he claimed to have worked, but in fact did not. On November 4, 2021, he was sentenced to 5 months incarceration to be followed by 5 months of home confinement, 3 years post-release supervision, 200 hours of Community Service, and restitution of \$34,094.21.
- On August 26, 2021, another defendant pleaded guilty to Count One of the Indictment, Conspiracy to Commit Federal Program Fraud.
- On September 10, 2021, a third defendant pleaded guilty to Count One of the Indictment, Conspiracy to Commit Federal Program Fraud.



Procurement Violations and Ethics

7



NYCT Executive's Disclosure of Confidential Information to Vendor During Procurement Process #2021-02

Pursuant to a referral from NYC Transit, OIG found that a former NYC Transit Senior Advisor based in MTA Headquarters (Senior Advisor) disclosed confidential selection committee information to Curb Mobility, LLC (Curb Mobility) during the procurement process in a failed attempt to help the vendor land a multi-million dollar contract award.

NYC Transit's Paratransit division provides transportation to riders with disabilities through its Access-A-Ride program which includes certified and ADA-compliant broker car services, taxis, and for-hire vehicles. As demand increased for broker-based car services for paratransit, NYC Transit issued a new Request for Proposal (RFP) in April 2020. The proposed contracts were for a 3-year term with an option for NYC Transit to extend the contract for up to 2 additional years totaling approximately \$579 million across all selected vendors.

OIG found that in August 2020, the Senior Advisor's subordinate, who also served as a member of the Selection Committee, told him that Curb Mobility was not going to be awarded a new contract because its prices were too high. The Senior Advisor attempted multiple times to persuade NYC Transit to allow Curb Mobility, and other candidates, to resubmit their bids and then disclosed this confidential information to a Vice President at Curb Mobility.

Fortunately, NYC Transit has stated there was no financial loss to the agency associated with this misconduct. A special responsibility hearing was held for Curb Mobility where they were found to be non-responsible. New York State law precludes New York State agencies and authorities from awarding contracts to a non-responsible bidder unless the agency or authority obtains a waiver from the Counsel to the Governor. Curb Mobility appealed the determination whereby the Court found NYC Transit's determination rational. The Senior Advisor resigned from NYC Transit in the Fall of 2020; the OIG's report will be placed in his personnel file. The subordinate has been counseled.

OIG referred this matter to the Joint Commission on Public Ethics (JCOPE). On November 4, 2021, JCOPE found the Senior Advisor failed to report outside income from his position as president of the board of a not-for-profit corporation and failed to accurately disclose this position on 3 years' of financial disclosure statements. As part of a settlement agreement, the Senior Advisor admitted to both the improper disclosure during a competitively-bid procurement and failure to disclose outside income on his financial disclosure statements. He also agreed to pay \$5,000 – the amount of outside income he did not report in 2019. He also agreed to file accurate amended financial disclosure statements for the 3 years in question.



[NYC Transit Senior Director of Labor Relations Violations Relating to Hiring #2021-04](#)

OIG substantiated that the Senior Director of Labor Relations (Senior Director) at MTA Bus hired 2 temporary employees without disclosing the fact that the temporary employees were his childhood friends. OIG found that despite being an experienced member of the Labor Relations management staff, the Senior Director disregarded the MTA's ethical rules governing conflicts of interest by hiring and supervising 2 childhood friends as temporary employees. Furthermore, his friends did not meet the required qualifications for the jobs which resulted in others who may have been qualified missing a job opportunity. The Senior Director also failed to notify his supervisor of his prior relationship with the temporary employees or to seek guidance from his Ethics Officer as to how to handle the potential conflict. In addition, OIG found that the Senior Director was not truthful in his OIG interview.

On May 13, 2021, NYC Transit issued disciplinary charges against the Senior Director for gross misconduct and incompetence. Subsequent to the issuance of the disciplinary charges, MTA Labor Relations (as part of the consolidated MTA People Office) recommended that the Senior Director be demoted, given a 30-day suspension without pay, be given a final warning, and be reassigned to a department outside of Labor Relations. The Senior Director accepted the penalty; the 30-day suspension without pay is worth approximately \$12,000.

[Unethical Conduct of CPM Computer Specialist #2020-12](#)

In March 2020, a former MTA Program Officer [pleaded guilty](#) in the Southern District of New York to obstructing a joint OIG/federal investigation into bid rigging and fraud in connection with contracts MTA awarded to the Consulting Firm for Superstorm Sandy-related subway repairs.

OIG found that an NYC Transit Computer Specialist improperly assisted the former MTA Program Officer to create a consulting engineering firm. The Computer Specialist used MTA resources to conduct business on behalf of the firm, which then won a \$1 million subcontract on an NYC Transit project.

In response to OIG's investigation and report, NYC Transit served disciplinary charges against the Computer Specialist. On August 6, 2021, prior to the scheduled hearing on the disciplinary charges at the Office of Administrative Trials and Hearings, the Computer Specialist resigned from NYC Transit.



Vendor Contact with SIRTOA Employee During Procurement Process #2021-27

As a part of OIG's ongoing investigations into MTA vendors and employees for potential gift and revolving door violations, OIG found that an MTA vendor had an improper communication with a Staten Island Rapid Transit Operating Authority (SIRTOA) executive while recruiting that same SIRTOA executive for a job. Specifically, while MTA vendor, Naik Consulting Group, P.C. (Naik), was negotiating employment with then SIRTOA Assistant Chief Officer (Assistant Chief Officer), a Naik Senior Vice President emailed the Assistant Chief Officer a copy of Naik's proposal for a Request For Proposal (RFP) that it recently submitted to NYC Transit for a contract worth over \$4 million. Naik sent the email during the open procurement period when procurement law restricts contacts between agency personnel and bidders, just 7 days before Naik was scheduled to make an oral presentation to the selection committee. Notably, the contract involved signals, the Assistant Chief Officer's area of expertise.

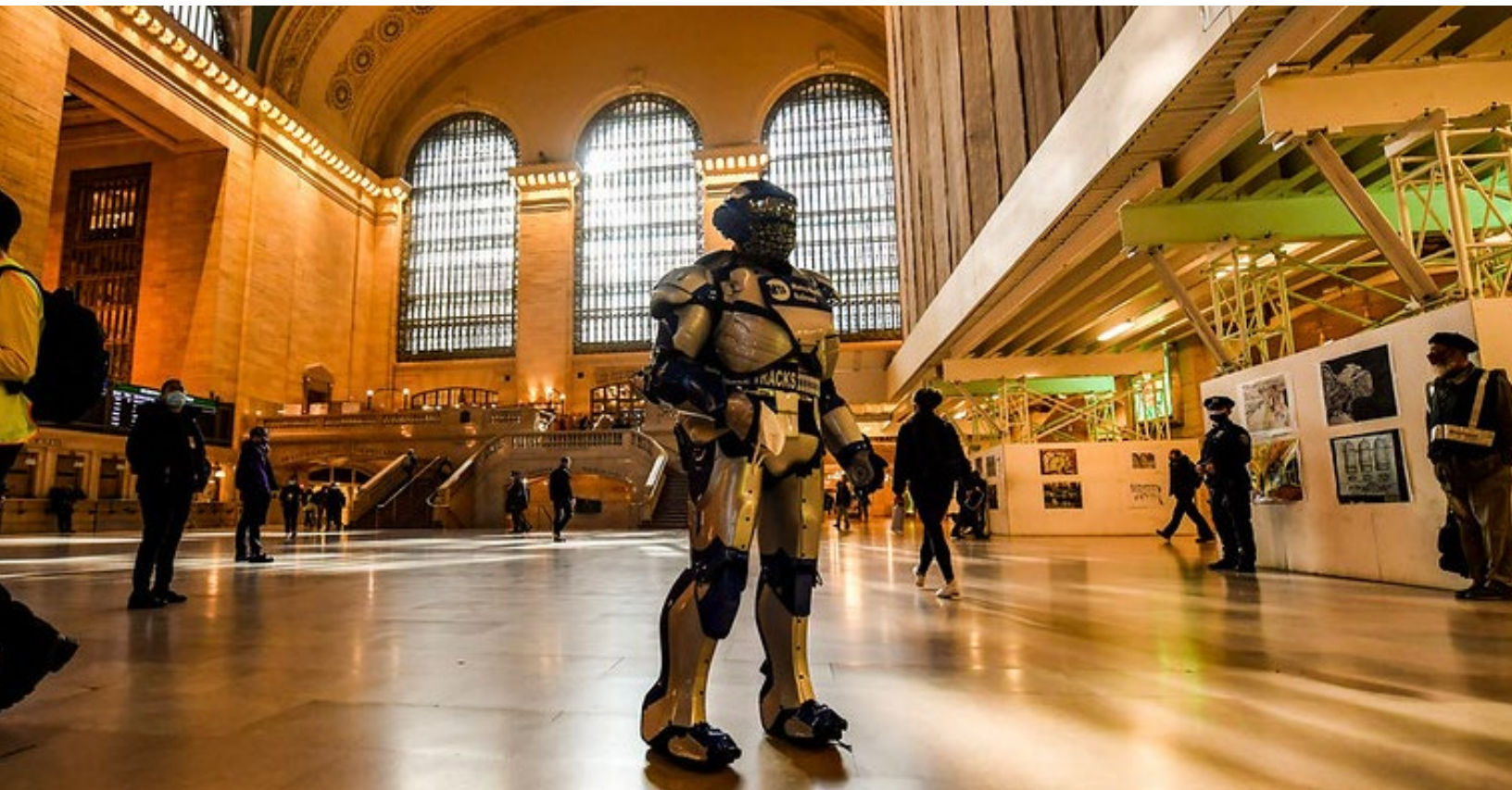
Naik argued, among other things, that the email in question was not intended to influence the procurement as there is no evidence that the Assistant Chief Officer contacted anyone involved in the procurement and that the emailed proposal was merely intended to convince the Assistant Chief Officer that Naik was a credible firm. While OIG agrees that there is no direct evidence that the Naik executive asked the Assistant Chief Officer to influence the procurement, the timing of their conduct raises concerns that Naik may have received advice that provided them with a technical advantage in preparing for their oral presentation. In addition, Naik and the Assistant Chief Officer's claims that the email at issue was used as a recruiting tool is belied by the documentary evidence.



On October 21, 2021, in response to OIG’s investigation and report, MTA conducted a Special Responsibility Hearing for Naik which found that on 2 separate occasions Naik employees “engaged in impermissible contact with an individual other than the designated MTA Procurement Point of Contact in violation of MTA’s Vendor Code of Ethics and New York State Finance Law.” However, it found that these violations were “not knowing and willful” and therefore Vendor Relations concluded a “determination of ‘non-responsibility’” was not required. The MTA has recommended that Naik strengthen its internal controls to include enhanced non-disclosure agreements, recusals, strict recruitment guidelines, and increased training for all management and employees regarding impermissible contact and conflicts of interest.

Within 3 months Naik must create and implement policies and perform training to prevent future improper contact with MTA employees. Naik will present a summary of its enhanced internal controls and training to C&D, the MTA Ethics Officer, and Vendor Relations (the MTA Panel). If the MTA Panel determines that the changes are inadequate, Naik may be required to engage a compliance monitor. If Naik fails to satisfy the MTA’s requirements, the MTA has reserved its right to find Naik “non-responsible” and ineligible to participate in future MTA contracts.

Finally, C&D has advised OIG that the Naik employee involved in both incidents is no longer the Project Chief Executive Officer. He is now C&D’s point of contact at Naik responsible for business-related matters such as staffing, billing, performance, and any project related issues. It should be noted that the outcome of the RFP was not influenced by the impermissible contacts and Naik was not awarded the contract that was the subject of the RFP. The subject MTA employee had no role in the procurement process as a selection team member.



Time, Attendance, and Dual Employment Abuse



NYC Transit Employee's Abuse of Family Medical Leave Act (FMLA) and Sick Time to Gamble in Atlantic City #2020-26

OIG found that an NYC Transit Traffic Checker abused FMLA and sick time to gamble in Atlantic City. Casino records reflect that on multiple occasions over 2 years, the Traffic Checker stayed overnight at the casino while on FMLA leave. In 1 instance, the Traffic Checker used his sick leave when he was clearly healthy enough to travel to Atlantic City and gamble. Additionally, when confronted with OIG's evidence, the Traffic Checker was dishonest in his statements. As a result, NYC Transit terminated the Traffic Checker.

NYC Transit Bus Operator's Abuse of Family Medical Leave Act and Sick Leave #2021-13

OIG substantiated allegations that an NYC Transit Bus Operator abused Family Medical Leave Act (FMLA) and sick leave over 90 times, sometimes going to Atlantic City, New Jersey & even Hershey Park, Pennsylvania. These instances equated to approximately 824 hours of pay (approximately \$24,909 in salary) to which he was not entitled. In response to OIG's investigation and report, NYC Transit placed the Bus Operator on suspension without pay and filed disciplinary charges against him. On October 25, 2021, the Bus Operator entered an agreement whereby he agreed to reimburse NYC Transit in the amount of \$24,909 for unearned pay. The employee's retirement is pending.

Misuse of MTA Vehicle, Bringing Civilian onto MNR Property, and Stealing Time #2020-27

Through surveillance and GPS records, OIG investigators found that an MNR Machinist brought a woman onto private or MNR property multiple times, including once for an intimate meeting, during his overtime shift. Additionally, the Machinist frequently took extended lunch breaks – sometimes stretching to over 2 hours – as well as misused his MTA vehicle for personal use, both frequently for visits with the woman. Most concerning to OIG is that the Machinist created a safety risk by bringing the woman and her vehicle into private areas. Additionally, as the Machinist is a safety-sensitive employee, MNR considers even a momentary lapse of attention able to have “disastrous or irreparable consequences to the employee or others.” The Machinist was also dishonest in his answers to OIG.

Immediately following the testimony of OIG investigators at his disciplinary hearing, the Machinist resigned. MNR was able to recoup 6.7 hours, worth about \$245, from his final vacation entitlement payout. MNR is in the process of obtaining additional GPS functionality and data monitoring capabilities.



Husband and Wife Conductors' Time and Attendance Abuse (LIRR Conductors) #2021-06

OIG substantiated allegations received from LIRR that husband and wife Conductors committed time theft and falsified records. Between September 2020 and November of 2020, the Conductors abused time by failing to show up for their shifts and covering for each other by not reporting their spouse's absence to the LIRR's Movement Bureau as required by LIRR policy; instead, they punched each other's timeclocks to create documentation that both were present on the train.

In April 2021, LIRR brought disciplinary charges against the LIRR Conductors, which included charges for Misrepresentation, Falsification of Timecard and Accepting Payment for Time Not Worked, and violating the Rules of the Operating Department. The Conductors waived their rights to trial and admitted to the charges. The Conductors each received a 30 calendar day suspension with 15 calendar days to be served and 15 days held in abeyance for 1 year. In lieu of serving the suspension time without pay, the Conductors were assessed a fine by LIRR of approximately \$1,637 total. In addition, the Conductors will also repay LIRR for time not worked on October 20 – 21, 2020. Finally, the Conductors cannot bid, select, or accept any regular assignment to any job/run that the other is assigned, for a period of 1 year.



Time, Attendance, and Dual Employment Abuse – Supervisors



Time, Attendance, and Dual Employment Abuse – Supervisors

The employees in these reports are supervisors who in addition to time, attendance, and dual employment abuse, failed in their supervisory responsibility. By being absent during their work hours, these employees left their crew unsupervised and disregarded their duty to oversee the employees' safety and work performance, including ensuring proper time and attendance.

LIRR Surfacing Foreman's Time Abuse and False Filings #2021-17

Over a 6-month period, OIG surveillance showed a LIRR Surfacing Foreman often arrived late to work and was observed at his residence or other non-work locations when he was supposed to be working. He was also at a casino in Atlantic City while on sick leave. Usually, the Surfacing Foreman then signed and submitted his own time records falsely indicating that he was at work. From 2018 through 2020, the Surfacing Foreman earned more than double his regular pay in overtime pay.

LIRR brought disciplinary charges against the Surfacing Foreman, who received a 30 calendar day suspension without pay, worth approximately \$8,100, to be served starting in December 2021. He also signed a last chance agreement noting that future violations of theft, theft of wages, or attempted theft of wages will subject him to dismissal, and agreed to make restitution in the amount of \$1,131.

Time Abuse and False Filings by Track Foreman and Surfacing Foreman #2021-21

OIG uncovered that an LIRR Track Foreman and Track Surfacing Foreman committed time abuse and filed false time records. Both were high overtime earners who from 2018 – 2020 earned double their regular pay in overtime, netting well over \$200,000 annually. Over a 5-month period, OIG surveillances of the Track Foreman showed that on 8 dates he arrived late to work and was observed at his residence or other non-work locations when he was supposed to be working. The Track Foreman also signed and submitted his own time records falsely indicating that he was at work. Likewise, OIG's surveillances of the Surfacing Foreman showed that on 4 dates he was observed at his residence when he was supposed to be working, and then also signed and submitted his own time records falsely indicating that he was at work. The Surfacing Foreman also failed to fully and honestly answer OIG's questions regarding the dates he was observed at home when he claimed he was at work

In response to OIG's investigation and report, LIRR brought disciplinary charges against the Track Foreman and the Surfacing Foreman. They each waived their rights to trial, admitted to the charges, and signed a last chance agreement noting that future violations of theft, theft of wages or attempted theft of wages will subject them to dismissal. Additionally, they each received a 30 calendar day suspension without pay, worth nearly \$16,000 total, and agreed to make restitution of over \$2,600.



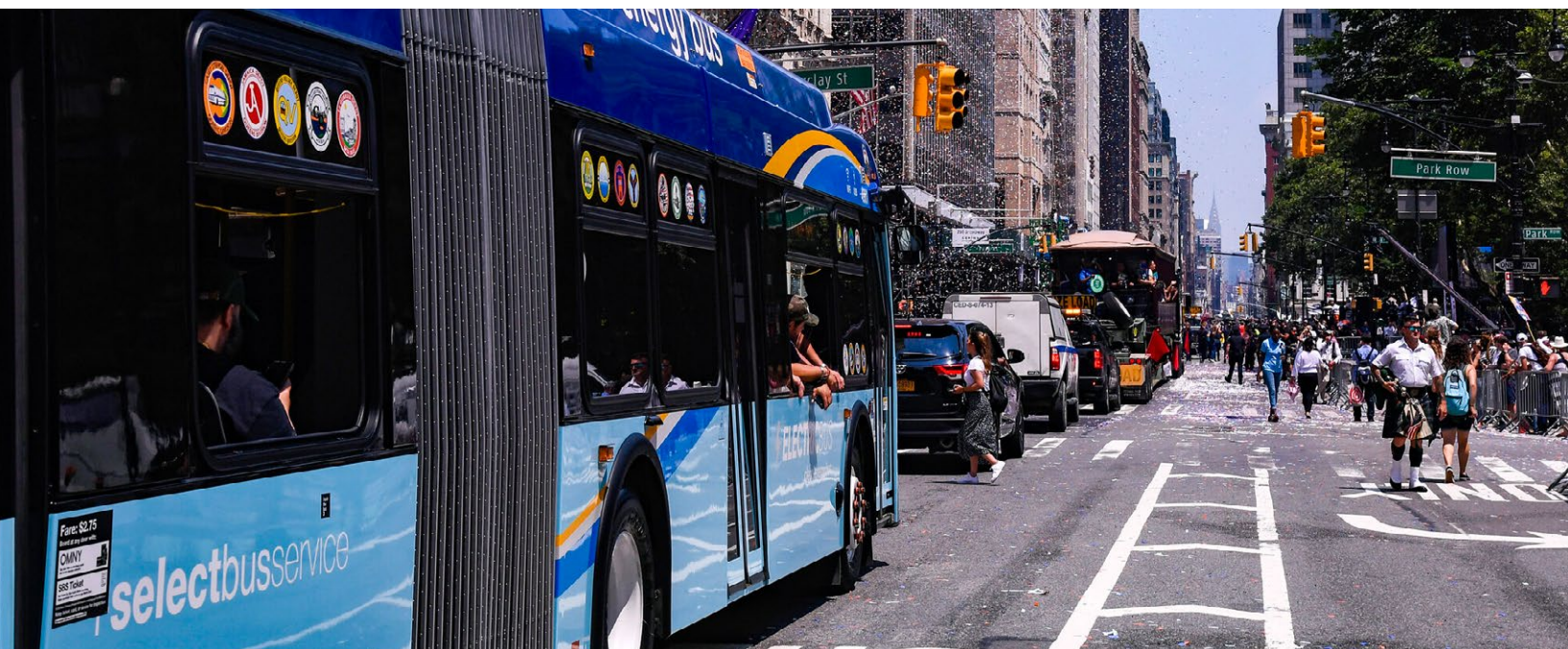
Management's Failure to Monitor Overtime and Travel Time of a NYC Transit Track Worker #2020-28

Pursuant to a referral from NYC Transit, OIG substantiated that an NYC Transit Track Worker routinely received overtime and travel time, which were improperly approved by different supervisors. The supervisors lacked a clear understanding of their own responsibilities as well as the terms of the employee's Collective Bargaining Agreement (CBA). Additionally, the supervisors above them failed to monitor the overtime and travel time hours. As a result of the lack of oversight and clarity on who was responsible for reviewing, monitoring, and approving overtime and travel time, NYC Transit paid the worker approximately \$79,000 over a 2 ½ year period in overtime and travel time that should not have been approved.

As a result of OIG's investigation, NYC Transit:

- created and distributed to all Track Supervisors MOW Bulletin #21-01, Positive Compliance Directive, which clarified roles and responsibilities when approving timesheets, overtime, and payment for travel time;
- developed a new supervisory training module that provides more substantive information regarding timesheet approval, which is now included as part of Track Supervisor Induction and Refresher trainings; and
- is in the process of developing a monthly report of Track Worker travel time payments which will allow management to identify and oversee all travel time payments exceeding the 2-month limitation in the CBA.

To confirm the effectiveness of NYC Transit's travel time corrective actions, OIG compared travel time hours before and after the issuance of the above bulletin. OIG found that employees' travel time hours decreased in the 5 months following the issuance of the bulletin by more than 63%. If NYC Transit management continues to consistently apply the corrective action initiated in January 2021, OIG estimates that NYC Transit will save approximately \$450,000 annually.





MTA BSC Finance Manager’s Unauthorized Dual Employment and Misuse of MTA Property #2021-18

OIG substantiated allegations to the OIG’s hotline against an MTA Business Service Center (BSC) Finance Manager (Finance Manager) for unauthorized dual employment for his financial services business, using MTA equipment for personal use, and underreporting his income on his financial disclosure statements. OIG also found that the supervisor, the Director, failed to adequately supervise his subordinates by dismissing concerns that another supervisor raised regarding the Finance Manager’s excessive use of leave to conduct his side business. The Finance Manager retired during the investigation, shortly after OIG interviewed him in February 2021.

In response to OIG’s investigation and report, the MTA terminated the Director. The MTA placed a copy of the OIG’s letter in the personnel file of the Finance Manager, in the event he seeks reemployment with MTA or another State agency.

Director Theft of Time and Chief Officer’s Failure to Supervise #2021-10

OIG substantiated an anonymous allegation that on 39 dates between January 2018 to February 2020, the Director, On-Board Technology, MTA Bus (Director), stole time by falsifying his timesheets. In addition, OIG found that the Director’s supervisor, Chief Officer of Bus Operations and Technology Systems (Chief Officer), failed to supervise the Director when he approved the Director’s false timesheets without comparing them to the Director’s leave requests. The Chief Officer also regularly failed to approve the Director’s timesheets in a timely manner, at times approving nearly an entire year’s worth of timesheets in 1 day. The Chief Officer also allowed the Director to work through his lunch hour as an “accommodation” for a medical issue without the Director making the required application to the NYC Transit Human Resources Department. OIG also found that both the Director and the Chief Officer were not truthful during their interviews.

In response to OIG’s investigation and report, MTA Bus Company suspended the Director and served him with disciplinary charges on May 24, 2021. The Office of Labor Relations sought the penalty of dismissal. On June 9, 2021, the Director informed the Hearing Officer that he filed for retirement, effective June 10, 2021. The Director did not receive a payout of his accumulated vacation leave after the agency deducted 309 hours from his vacation leave accruals for the 39 dates he did not work and the 6 dates that he reported late or left early, worth approximately \$21,336.45. In addition, the Chief Officer accepted a 30-day suspension, worth approximately \$21,584.40, and a final warning that the same or similar conduct will result in termination.

Unauthorized Dual Employment and Conflicts of Interest by NYCT Maintenance Supervisor #2021-14

OIG substantiated allegations that an NYC Transit Maintenance Supervisor Level II (Maintenance Supervisor) engaged in unauthorized outside employment at a glass manufacturing and repair shop (Glass Shop) since at least 2018. Egregiously, the Maintenance Supervisor conducted business for the Glass Shop while working his NYC Transit shift and used his NYC Transit email account for his unauthorized outside activity. In addition, the Maintenance Supervisor facilitated 2 purchases from the Glass Shop using a NYC Transit Procurement Card totaling approximately \$2,600. Finally, the Maintenance Supervisor was not truthful when asked about his dual employment, both in his OIG interview and in subsequent follow-up written communications with OIG. After his OIG interview, the Maintenance Supervisor sought to correct the record by submitting an outside activity approval form to NYC Transit. However, the Maintenance Supervisor still did not truthfully describe the terms of the outside activity on this most recent approval form.

In response to OIG's report, NYC Transit suspended the Maintenance Supervisor without pay and recommended termination. In December 2021, an arbitrator found that the Maintenance Supervisor improperly used his NYC Transit email account to send or receive emails on behalf of his alleged outside employer during work hours. The arbitrator did not sustain the remaining charges. The arbitrator decided that termination was not warranted but upheld his suspension without pay from June 2021 to December 2021, valued at approximately \$47,000.



General Misconduct



MaBSTOA Assistant General Superintendent Covering of His License Plate and Failure to Pay TBTA Tolls #2021-11

OIG substantiated that a Manhattan & Bronx Surface Transit Operating Authority (MaBSTOA) Assistant General Superintendent avoided paying B&T tolls by not having a front license plate and obscuring his rear license plate with a cloudy, semi-clear plastic cover, in violation of New York State Vehicle and Traffic laws. As a result, B&T toll cameras were unable to read his license plate and charge accordingly for numerous trips. OIG investigators found that the Assistant General Superintendent owed over \$101,000 to 3 New York tolling agencies – \$40,000 of which was owed to B&T. The investigation began with an anonymous tip to the OIG’s complaint hotline that the Assistant General Superintendent was bragging to his co-workers about how he avoided paying B&T tolls by engaging in this unlawful behavior.

As a result of OIG’s investigation, the Assistant General Superintendent was demoted to Superintendent, given a 12-week suspension without pay worth over \$32,000, and required to pay a settlement amount of over \$10,000 as restitution to B&T.

LIRR Conductors Violating Agency Policies #2021-20

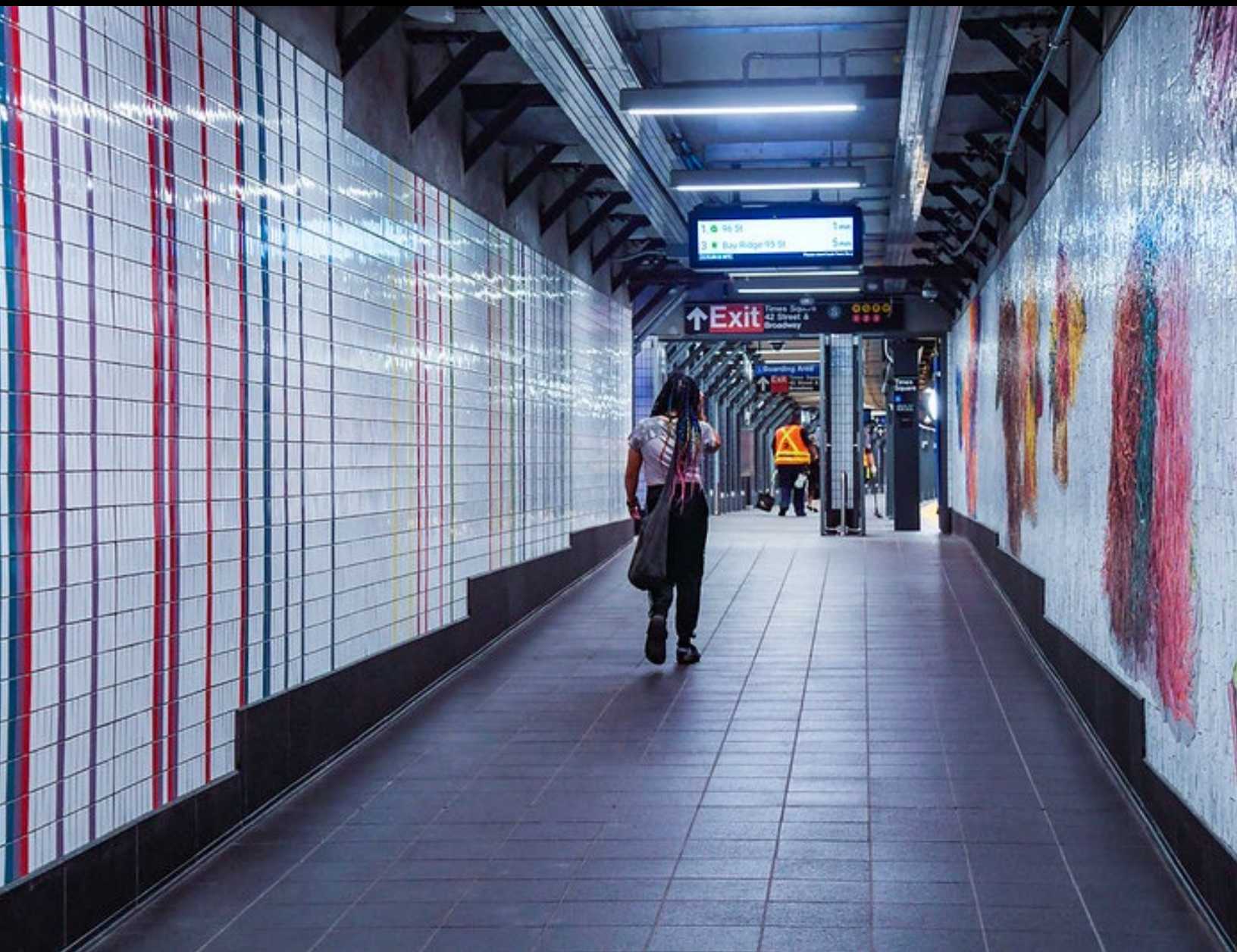
As a part of OIG’s investigation of People v. Robert Anderson (see page 37), OIG conducted a proactive investigation which found 8 LIRR Conductors (Conductors) violated agency policy designed to protect the agency’s revenue and employees from allegations of fraud. On 15 instances, OIG Investigators found that the Conductors did not submit tickets to LIRR nor cancel the tickets in the OIG’s presence. LIRR issued Letters of Caution to each of the 8 Conductors to serve as a warning regarding their failure to properly perform their duties as Conductors. The Conductors were also instructed to review the appropriate policies and told that any further violation of this nature will result in disciplinary action.

2 LIRR Employees Asleep While on Duty #2021-26

OIG found 2 LIRR employees — including a supervisor — asleep while on duty at the LIRR Transportation Crew Office in Jamaica, Queens. OIG investigators found the employees sound asleep with the lights turned off — to the point that they did not realize OIG had entered the office. The Supervisor was found on 2 chairs tied into a makeshift bed, completely unresponsive. Both employees had blankets over them.

These employees obviously would not have been capable of responding to dispatching requests via email while asleep, and OIG questions whether they would have heard vital dispatch calls. LIRR served the Supervisor and Crew Dispatcher a 15-day and 5-day suspension respectively.

Additional Disciplinary Matters



Unauthorized Dual Employment by LIRR Employee on Disabled/Accident Status

Pursuant to LIRR's referral, OIG found that an LIRR Communications Technician engaged in unauthorized dual employment while on paid leave following a work-related injury. The Communications Technician failed to obtain outside employment authorization and outside employment approval from the Assistant Director of Employee Services as an employee on Disabled/Accident status.

The Communications Technician resigned on October 27, 2020, during OIG's investigation. As a result, the LIRR recouped approximately \$1,026 from the Communications Technician by off-setting accrued vacation pay for 3 days he was observed performing the unauthorized activity.

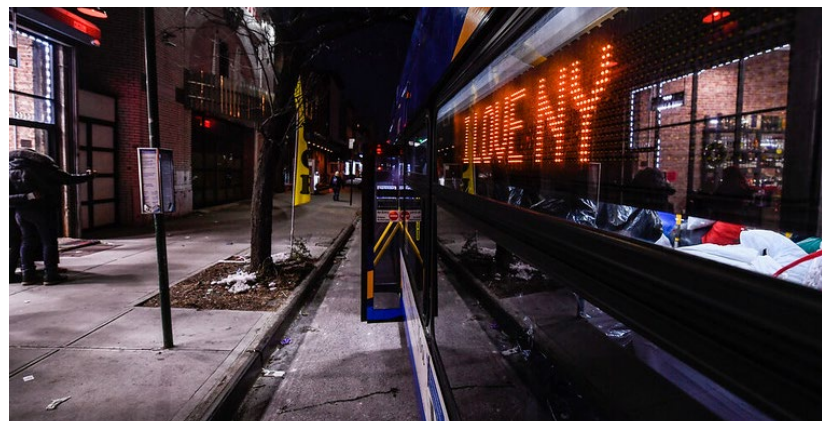
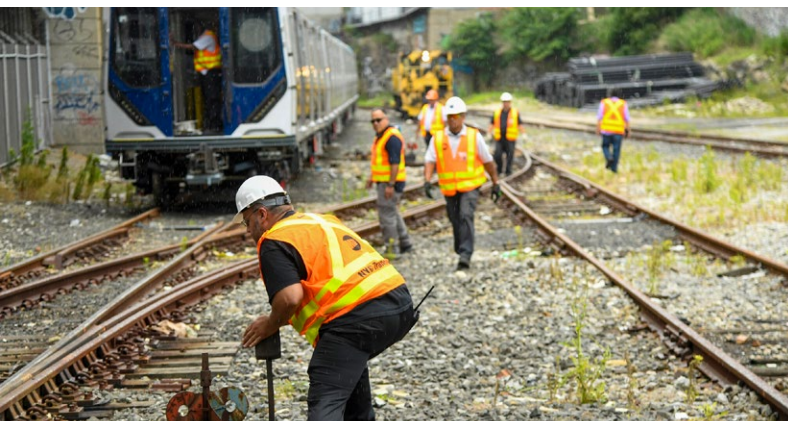
OIG also found that LIRR's Medical Facility Activity Questionnaire (Questionnaire) required updating and recommended revisions as a measure to safeguard against dual employment abuse by employees on paid leave following work-related injury claims. In response to OIG's recommendation, LIRR revised the Questionnaire in order to capture all activities that employees may be engaged in at home and outside the home while on leave, and added an attestation clause requiring employees to attest to the truthfulness of their submissions.

Sleeping MNR Employee in Personal Vehicle

OIG received an anonymous allegation that that a male MNR employee, a Customer Service Station Ambassador (the Station Ambassador), sleeps inside his vehicle during the morning hours at the Mount Kisco Station. OIG conducted surveillance at the Mount Kisco Station and found the Station Ambassador sitting in the driver's seat of his own vehicle. The Station Ambassador was observed for about 40 minutes and never exited his vehicle during that entire time despite North and Southbound trains stopping at the Mount Kisco Station.

Although the allegations regarding sleeping were not substantiated, the Station Ambassador did not appear to perform his duties during OIG's observation. Therefore, OIG referred this matter to MNR for review and action.

As a result of OIG's investigation, the MNR charged the Station Ambassador with Failure to Perform Duties as Assigned and Absenting Oneself from Assigned Work Location. The Station Ambassador received a 60-day deferred suspension as discipline.



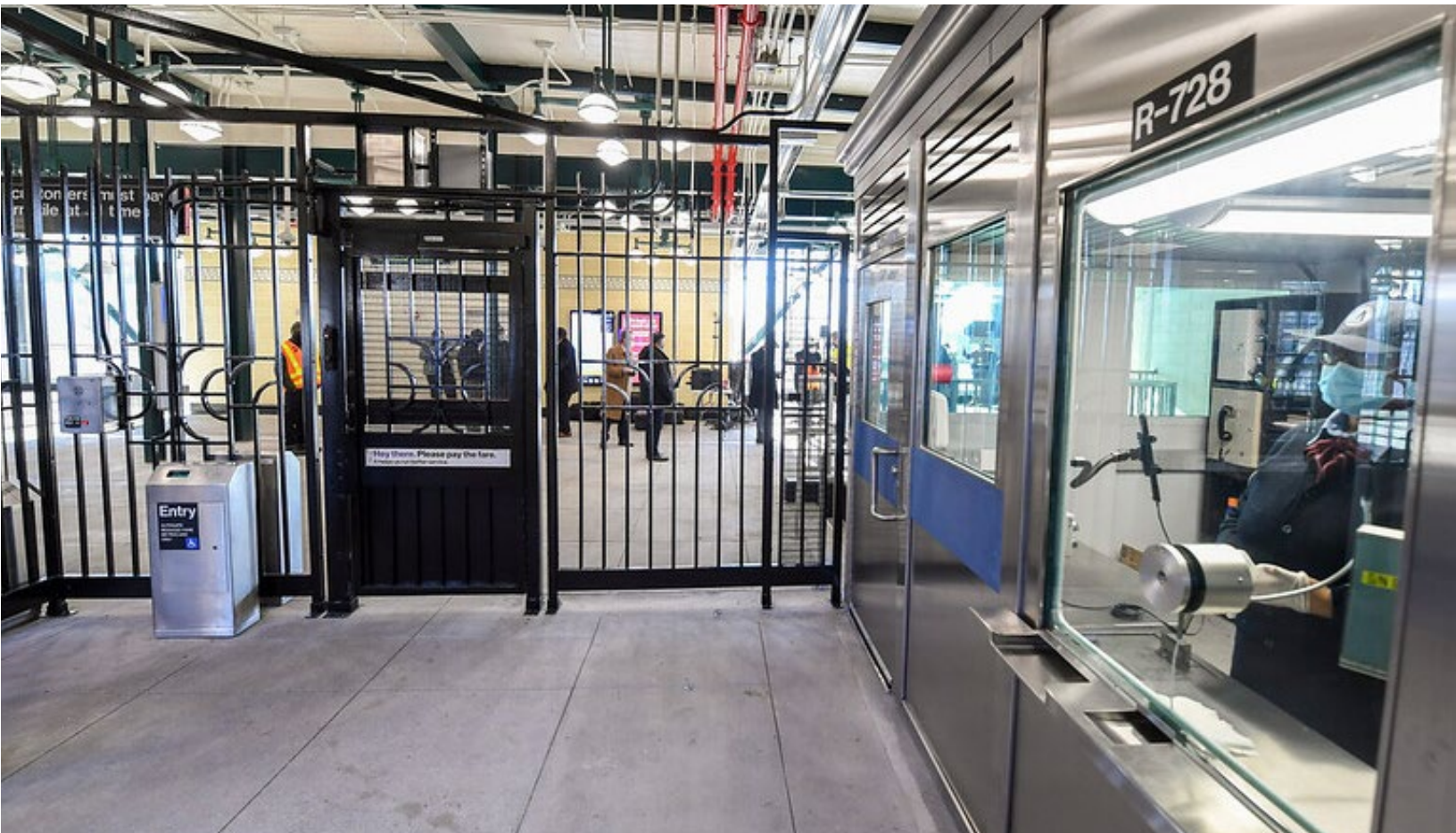
Temporary Workers Referral

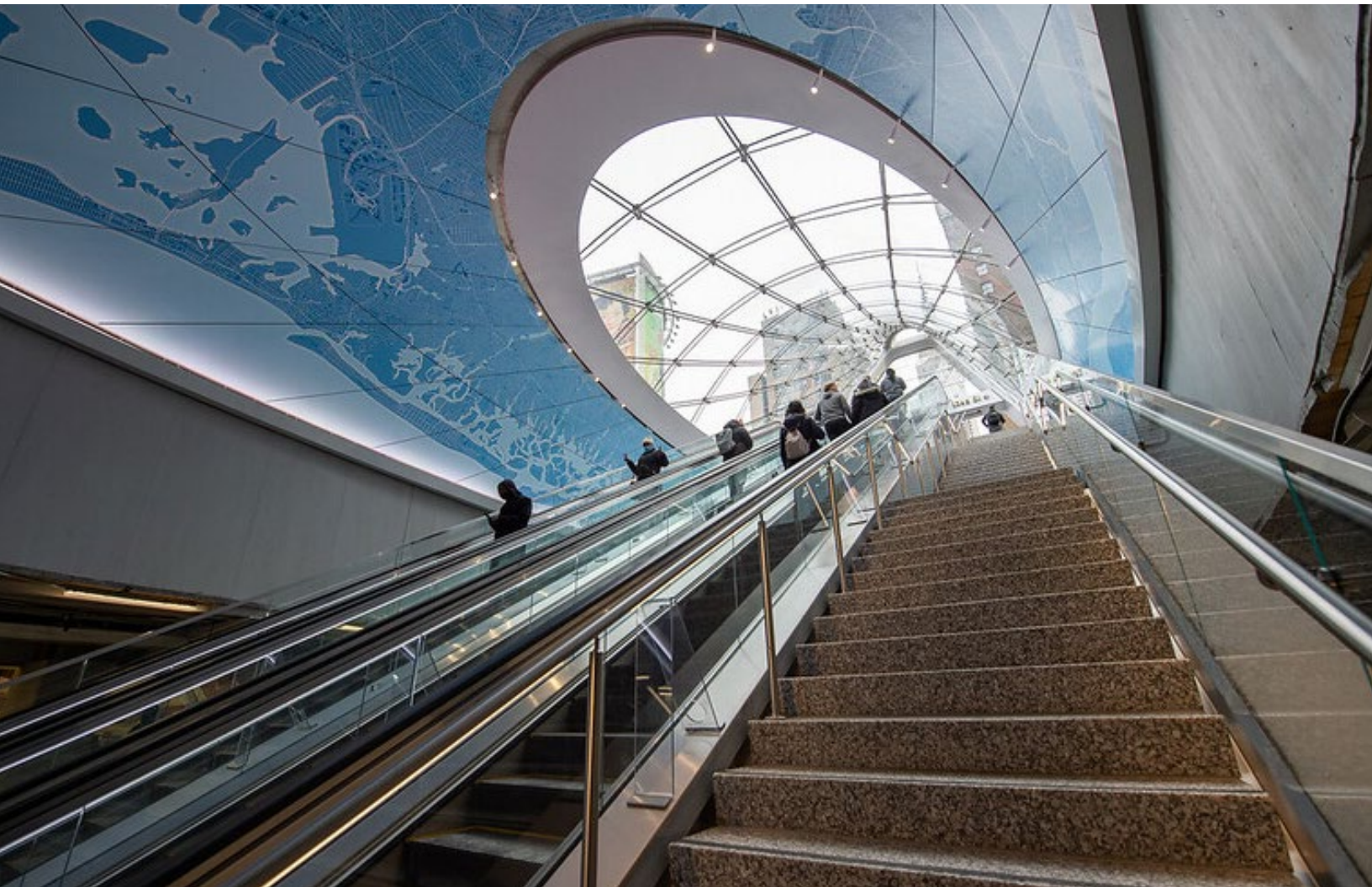
OIG received a referral from NYC Transit that a temporary worker (the Temp), may have falsely entered her time and attendance. It was alleged that the Temp may be arriving late to work but entering her regular start time on her timesheet. OIG did not substantiate this allegation. However, OIG found that NYC Transit had no policies relating to the onboarding, managing, and approving alternate work hours/ accommodations for temporary workers.

OIG interviewed the Temp's supervisor, Director of Human Resource Operations (the Director). According to the Director, she allowed the Temp the flexibility to work while commuting to work as a reasonable accommodation. The Director stated that she was not aware of any policies or procedures regarding temporary employees and did not document the accommodation regarding the Temp's schedule.

OIG also spoke with Human Resources (HR) at NYC Transit regarding the use of temporary employees. HR stated that if a department needs a temporary employee, the department handles the interviewing and selection process. HR is not involved. The candidate is not onboarded by HR, is paid via invoice by the individual department, and is not considered NYC Transit employees. Managing the temporary employee is done purely at the departmental level.

Based on the above, OIG referred this matter to NYC Transit for review and action.





NYC Transit High Pressure Plant Tender Provided Private Investigative Services to Law Firms Suing NYC Transit

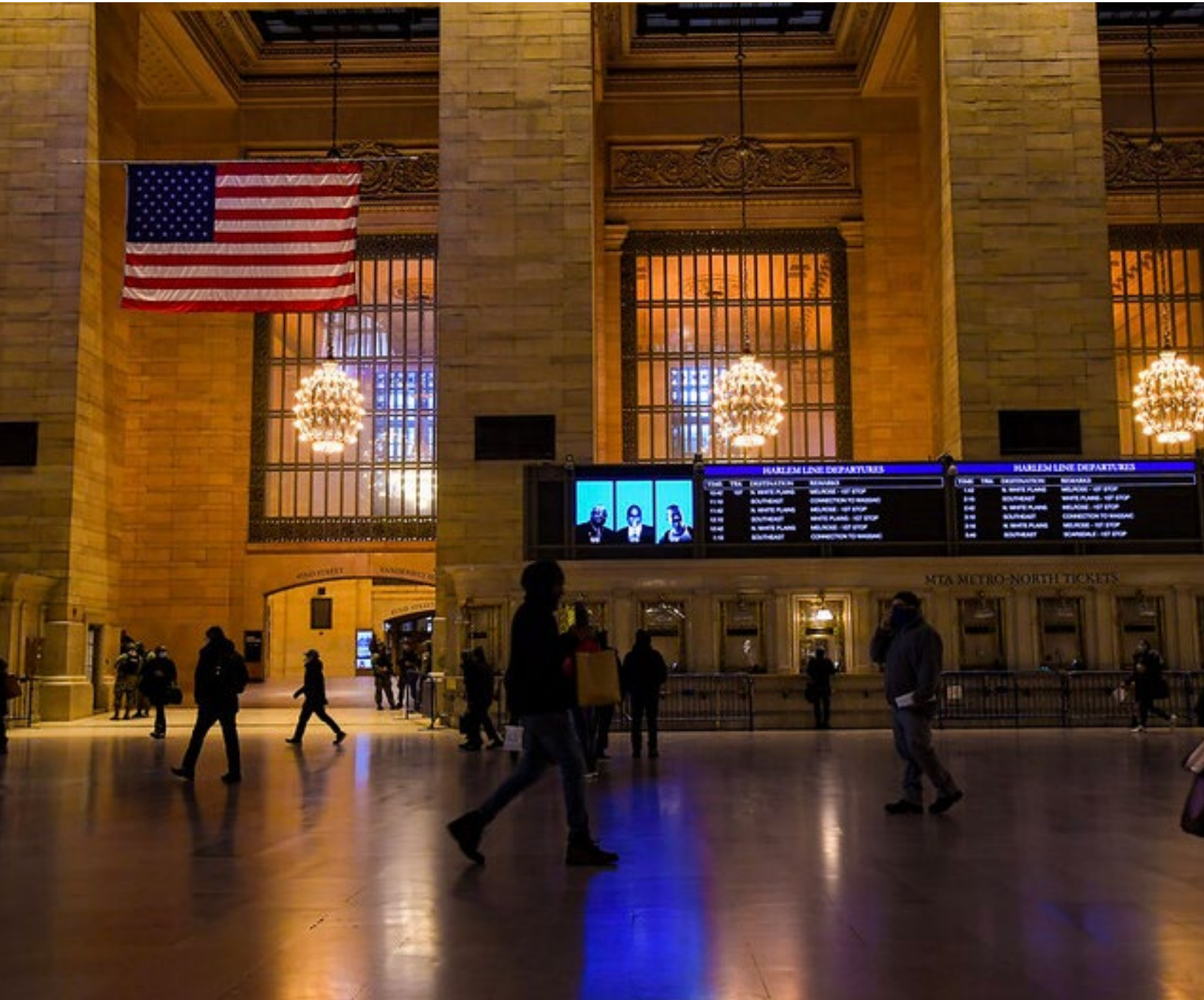
OIG received an anonymous complaint that a High Pressure Plant Tender was sleeping on the job and absent from his work location throughout the day. While investigating that allegation OIG learned that the employee, without dual employment authorization, was operating 2 businesses, including a private investigation firm that provided services to law firms representing plaintiffs suing NYC Transit. Shortly after OIG subpoenaed these law firms, the High Pressure Plant Tender resigned from NYC Transit. NYC Transit withheld 2 days of his terminal leave balance worth approximately \$560.

Referral to LIRR regarding time abuse at Bethpage HQ Facility

On January 14, 2021, OIG informed LIRR that on October 20, 2020, OIG investigators observed an LIRR employee leave the Bethpage HQ Facility prior to the end of the employee's shift. The investigation was initiated by an anonymous complaint to the OIG Hotline. LIRR served the employee with disciplinary charges whereby the employee admitted to the charges and agreed to forfeit 25% of his pay for 5 days, worth \$358.95.

NYC Transit Employees' Late Request for Dual Employment Approval for Volunteer Activities and Inadvertent Use of Sick Leave

Pursuant to anonymous complaints, OIG found that an NYC Transit Bus Operator and Supervising Investigator did not obtain outside activity approval for volunteer activities in a timely manner. In addition, OIG found that the Supervising Investigator inadvertently used sick leave improperly. The Bus Operator and Supervising Investigator's outside activities were subsequently approved by the agency. The Supervising Investigator was also charged for 2 vacation days for his improper use of sick leave. The agency also reinstructed employees to obtain outside activity approval even for volunteer positions.



Stay Connected



OIG is extremely proud of these achievements and continues to encourage all members of the public, including MTA employees, outside contractors, vendors, and management, to report their concerns about the MTA and its agencies to OIG's Intake and Intelligence Unit.

To submit a complaint, use OIG's confidential tip reporting portals:

Online: <https://mtaig.state.ny.us/Pages/ComplaintForm.aspx>

Phone: 1-800-MTA-IG4U (1-800-682-4448)

Email: Complaints@mtaig.org

Postal Mail or Walk-Ins: 1 Penn Plaza, 11th Floor, New York, NY 10119