

## ATTACHMENT

### Summary of allegations:

1. The Transit Bureau of the New York Police Department deliberately and automatically excludes the possibility of homicide whenever a person is killed on the subway tracks and there are no available civilian witnesses; there is no police investigation, no request for witnesses to come forward and the NYPD's hundreds of detectives are never asked to seek "tips" from their numerous confidential informants.
2. In order to ensure that unwitnessed violent deaths cannot possibly be classified as homicides the NYPD and the MTA have deliberately minimized the number of surveillance cameras that could record such crimes. As explained below, when it comes to anti-crime surveillance cameras New York's rail transit system (the world's largest) lags behind all others, nationally and internationally.
3. In 2012 and earlier years when the media was routinely informed of unwitnessed fatal incidents [press reports](#) frequently quoted the NYPD's Transit Bureau's disingenuous assertion that "there is no evidence of foul play" and the deaths were promptly classified as "accidents." Beginning in mid-2013 published reports of such incidents dropped precipitously from 2012's total of twenty-five; for the two years 2014 and 2015 the combined total of reported track deaths was in the low single digits, suggesting that the NYPD simply stopped notifying the media. (I scan daily the online news site [DNAinfo.com](#) which to this day continues to publicize MTA press releases on schedule changes and other mundane matters.) By routinely suppressing news of violent subway deaths the authorities deliberately mislead the public as to the danger of using the system at all hours thus enabling the commission of more acts of violence.

### Some history.

According to [Wikipedia](#) the NYPD Transit Bureau is—as was the completely independent New York Transit Police Department (NYTP) it replaced in 1995—the latest successor to the security guards originally employed by the BMT and IRT, privately-owned companies that operated New York's subways for many decades. Management of those companies enjoyed an employer-employee relationship with the guards and a similar relationship seems to have survived to the present day.

Signs that the managers of the MTA treat police as if they were MTA employees and the NYPD leadership accepts that totally inappropriate "loyal subordinate" role:

- In the early 1980s the Chief of the NYTP and the Major Case Squad of detectives were located in MTA Headquarters (130 Livingston Street, Brooklyn) and not in the nearby NYTP Headquarters.
- The present head of the NYPD's Transit Bureau (and a team of detectives?) is also located in the MTA Headquarters building, not in a separate police building.
- In the 1980s [Selwyn Raab](#), who was then an experienced New York Times Metro reporter, told me that NYTP detectives considered it one of their primary functions to protect the MTA in the event of a civil suit.

One would expect that the only attorneys that any police officials would interact with in performance of their duties would be those working in prosecutors' offices. If [Joseph Fox](#), the present head of NYPD Transit Bureau and detectives under his supervision do in fact routinely interact with MTA civil defense attorneys then Selwyn Raab's assertion about NYTP detectives could also be made about today's NYPD Transit Bureau. If law enforcement personnel are expected to function as "team players" then they are likely to adopt a "see no evil" approach to unwitnessed track deaths; MTA lawyers could never convince a jury that a *crime victim* was responsible for his or her own death.

In my opinion with the exception of a single person—the NYPD Commissioner, currently William Bratton, who reports to the Mayor—all members of the NYPD should report to (and only to) police officials. Any other arrangement automatically corrupts the NYPD’s responsibility to protect the public from criminals.

(It would be most interesting to know if senior MTA civilian-officials play any role in determining the compensation, including yearend bonuses, of Joseph Fox and other members of the NYPD Transit Bureau.)

### **“Walkers” and “Fallers”**

Published reports imply that, based on NYPD statements, most victims of unwitnessed track deaths were responsible for their own deaths because they were either walking on active tracks or they fell from moving trains while walking between cars. Many of those events occurred in the late-night hours when there are few potential witnesses. Here’s a [link to the Daily News](#) reporting an April 2016 fatality in the Bronx in which the police immediately rule out crime. (I also enclose a printed copy of that report.) In a recent variation a man was killed while supposedly lying on the tracks at 4:30 [in the morning](#).

### **Late-night track walkers?**

I am confident that if one had complete access to the MTA files the records for most unwitnessed “struck by train” fatal “accidents” would state that the deceased was “walking” on the tracks, not “sitting on a rail” or “leaning against the wall” or simply “standing.”

Consider what an MTA defense attorney could argue to a jury (or to the survivors’ attorney) if the sole witness—the MTA employee who operated the train—signed an official statement that the victim had been observed walking on the tracks: he was alone, he was conscious, he had deliberately placed himself in a dangerous location and was therefore entirely responsible for his own death. It is noteworthy that the MTA’s lawyers [claim](#) they seldom pay the survivors of victims.

(Although I spent thousands of hours in New York’s subway system I never saw a civilian walking on the tracks.)

### **Do people “fall” from trains?**

In March 2015 Lorraine O’Garro [was struck and killed](#) by a train in the Bronx. As reported in DNAinfo.com:

“A preliminary investigation revealed that she might have fallen onto the tracks while walking in between subway cars and losing her footing, according to the NYPD.

““Sadly, yesterday's incident provides a clear example of why riding between subway cars is dangerous and why it is prohibited,” said MTA spokesman Kevin Ortiz in an email.”

This is from a comment to that article:

“ ... I don't know how you can fall between the cars. I've walked through cars many times and ... I'm still around”

That commenter was correct. As even a perfunctory inspection would confirm, it is nearly impossible to fall from a moving train while moving from one car to the next: there are safety chains in place.

In June 1982 Tanya Middleton, a young mother, was killed in the Bronx subway and the NYTP quickly classified her death as “accident.” Unfortunately for the Transit Police, detectives from the (completely separate) NYPD got involved and quickly found *witnesses* who had seen a young man *unlatch the safety chain* and [throw her off the train](#).

(Not only is it unlikely that a live passenger can “fall” from a train, [a corpse](#) once remained between the cars on a moving train.)

If falling from a moving train while walking between cars is—physically— a near-impossibility any official reports that claim such “accidents” regularly occur, including any filed with Federal departments, are of questionable accuracy and could be deemed falsified.

### **How Many Were Killed?**

Using Tanya Middleton’s [1982 murder](#) and the [twenty-five “accidents” of 2012](#) as bookends enclosing thirty-year’s experience, the cumulative total of unwitnessed deaths (“walkers” and “fallers” combined) could easily exceed five hundred, an estimated average of less than twenty per year compared to 2012’s actual twenty-five. Because it is unlikely that subway criminals only commit “track homicides” when [witnesses are present](#), I believe the great majority of those deaths were homicides committed by people who were never even sought by New York City police.

If one is limited to media sources, information about the MTA’s body counts is difficult to find. However, this quotation from the [Daily Mail’s](#) on-line site is informative: “Over 50 people [were] killed by subway trains [in 2015] and 55 [in 2014].” Those totals would include suicides, witnessed accidents and witnessed homicides. It would be most helpful to determine how many of those one-hundred-and-five were not witnessed by civilians but, like the [twenty-five in 2012](#), were automatically called “accidents” by the NYPD. As has already been noted, the total number of unwitnessed deaths reported by media in 2014-2015 was in the single digits.

The Daily News reported the number of persons struck by trains in the year 2011 but without indicating how many were fatal. That published report further demonstrates the MTA’s deliberate opacity in providing, through the media, the riding public with essential information about the mortal danger inherent in using the subway: those 2011 statistics did not appear in The News until [March 2012](#).

### **Who Were the Victims?**

In the 1980’s following contact I had initiated, an investigative reporter with the local CBS News television channel travelled to Brooklyn, examined some files at MTA headquarters and promptly lost interest in the matter because, he told me, most people killed on subway tracks were homeless.

Contrary to what that reporter implied, homeless people are no more likely to stroll on active tracks than the average commuter. (How many of New York’s homeless, who spend most of their lives on surface streets, are killed by far-more-numerous cars, trucks and busses?)

But, according to the NYPD, homeless people are continually causing their own “accidental” track deaths. I recently recovered a news clipping describing a train “accident” that killed a homeless man who, supposedly, had been [walking barefoot](#) on an *elevated* track ... at 4:15am.

Here’s a [report](#) of another homeless man who was running, not walking, on the tracks also early in the morning. But his murder by the gang chasing him was observed by willing witnesses, so even NYTP detectives could not call it an “accident.”

The reality is that homeless people who sleep on subway *platforms* (they don’t sleep on tracks) are vulnerable to attack by murderous thugs. The commanders of the NYPD’s Transit Bureau know this but classifying such deaths as “accidents” pleases the MTA lawyers and minimizes transit crime statistics.

Of course not all victims of unwitnessed “accidents” were homeless and I am certain that investigators with unfettered access to the MTA’s files could gather a substantial list of victims and their next-of-kin. Despite the MTA’s tight control over news releases a few relatively recent victims have been identified in the media: [Lorraine O’Garro](#), [Michael Ice](#), and [Ryan Sims](#).

## **Why did the media ignore subway deaths?**

Before the NYPD initiated its current practice of not even informing the media of unwitnessed track deaths the press tended to under-report subway incidents. If the police assured a journalist that the death of a single (frequently homeless and unidentified) person was an “accident” the media would usually consider unworthy of mention. Moreover, those deaths occurred one-at-a-time, perhaps weeks apart, and, thanks to a natural tendency not to doubt police explanations the typical journalist had no reason to suspect disingenuousness.

## **The Paucity of Anti-Crime Surveillance Cameras**

An important and enduring sign that protecting the MTA takes precedence over protecting passengers is the lack of surveillance cameras that could record violent subway crimes and aid the authorities in prosecuting perpetrators. The lack of such cameras enables MTA attorneys, assisted by cooperative police, [to blame the victim](#) ... and allow criminals to go unpunished.

Other subway systems that are thoroughly surveilled by cameras have recorded, and released to the media, images of criminal violence in [Philadelphia](#), [Chicago](#), [Philadelphia](#) (again), [London](#), [Moscow](#), [Moscow](#) (again) and [Washington, DC](#).

Since the 9/11 attack, with the encouragement and financial support of the Federal government, the MTA has been installing anti-terrorist surveillance cameras. But even those cameras may threaten the MTA’s ability to blame victims; in at least one case plaintiff’s lawyers have asked the court to [order the release](#) of recordings by anti-terrorist cameras.

New York’s subways do not even have simple inexpensive dash-cams in motormen’s cabs that could have recorded all those post-midnight strollers who were struck by trains. Why didn’t the MTA install such cameras years ago? In my opinion, it’s because they would have risked losing the ability to blame those “walkers.” (If the victims had actually been walking on the tracks the MTA lawyers would *want* cameras.)

Privately-owned surveillance cameras have actually helped NYPD apprehend some subway killers, “crazies” who had pushed victims from platforms in front of witnesses. One “pusher” fled the scene and ran by a [bodega](#) which had a camera pointing toward the street and another was caught thanks to another [storefront camera](#).

Leaders of a truly independent police force dedicated to protecting the public and unconcerned with the MTA’s potential exposure to civil litigation, would be pounding the table urging the installation of anti-crime surveillance cameras throughout the system. The apparent lack of such advocacy seems to confirm the institutional corruption of NYPD’s Transit Bureau.

(To give the MTA and the NYPD credit, they have managed to install lots of cameras at turnstiles in order to minimize one type of crime: farebeating).

## **My Correspondence with Two Chiefs of Detectives**

Attached are copies of William H. Allee’s letter of March 24, 1998 and my letter of February 18, 2016 to Robert K Boyce to which I have not received a reply.

## **My Attempts to Interest New York Investigators**

In the 1980s I contacted the Director of Investigations at New York City Hall suggesting he investigate the NYTP’s handling of these events. He conducted no investigation, simply forwarding my letter to the Chief of the NYTP who denied any impropriety.

On March 14, 2016 I filed a complaint with the Public Integrity Bureau of the New York State Attorney General. On April 5 they advised me that my filing “does not warrant action by this office.”

## Summary

I am not an attorney and have not consulted one on this matter but I am convinced that, based on media reports, the NYPD Transit Bureau routinely fails to perform even rudimentary law enforcement duties in the handling of hundreds of violent deaths.

Having followed this subject, intermittently, since the 1980s (following direct personal experience) I strongly suspect, because the “blame the victim” mindset is so pervasive and the institutionalized routines fostered by that attitude have been so successful in protecting the MTA both from civil liability and, thanks to media inattention, from harsh judgment in “the court of public opinion,” that the police (with tacit encouragement from MTA lawyers) have probably resorted to encouraging falsification of official documents and the subornation of perjury. Interviews with operators of trains involved in fatal “accidents” might reveal that some of them were encouraged to sign statements and give sworn depositions that were substantively untruthful.

I believe the MTA files annual reports, including statistical summaries, with the Federal Department of Transportation. In my opinion because of the blatant unjustifiable classification of *all* unwitnessed track deaths as “accidents,” those reports include deliberate fabrications.

Having read of the current Federal investigations of more “normal” modes of corruption, i.e., bribery, at high levels of the NYPD, I would think that the practice by senior law enforcement personnel of directing their subordinates to place the interests of MTA managers ahead of their obligation to protect the lives of the riding public constitutes *de facto* systemic corruption. The fact that those practices are carried out with blatant unconcern for any adverse consequences suggests to this citizen that Federal intervention is necessary.

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