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**Acting MTA Inspector**  
**General**

**Office of the Inspector General**

**Metropolitan Transportation Authority**

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New York, NY 10119

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July 15, 2022

Via Electronic Mail

Richard Davey  
President  
New York City Transit  
2 Broadway, 30<sup>th</sup> Floor  
New York, NY 10004

**Re: NYC Transit Employees Violated**  
**Agency Rules & Policies**  
**MTA/OIG #2022-09**

Dear Mr. Davey:

The Office of the MTA Inspector General (OIG) received through its complaint hotline an allegation from a member of the public that New York City Transit Authority (NYC Transit) employees working in trailers outside 305 West 44th Street, Manhattan, were consuming alcohol while on duty and were purchasing stolen goods on the street from individuals, believed to be homeless. An investigation by the OIG confirmed that on multiple occasions while on duty, a NYC Transit Maintenance Supervisor I (Maintenance Supervisor) and a Structure Maintainer (collectively, the NYC Transit Employees) were observed on work premises exchanging money for goods of unknown origin from members of the public. Additionally, the OIG recovered alcohol from the Maintenance Supervisor's worksite locker. OIG investigators also observed the Maintenance Supervisor brandishing a knife and placing said knife against the neck of an individual during a potential sale of goods.

The NYC Transit Employees have been taken out of service by their supervisors. The Maintenance Supervisor was sent for a blood alcohol test.

We recommend that NYC Transit discipline these employees as it deems appropriate, up to and including termination.

## I. BACKGROUND

NYC Transit hired the Maintenance Supervisor on November 15, 1999. The Maintenance Supervisor was assigned to work from 7:00 AM-3:00 PM. In the Spring of 2022, he was tasked with overseeing the carpenters assigned to replace and repair subway grates along Eighth Avenue. As a supervisor, he was responsible for ensuring the work was performed efficiently and in accordance with the project's timeline. The base of operations for this project were the trailers outside of 305 West 44<sup>th</sup> Street, Manhattan.

NYC Transit hired the Structure Maintainer on February 19, 2019. The Structure Maintainer was assigned to work from 7:00 AM-3:00 PM and was working on-site at the 44<sup>th</sup> Street and Eighth Avenue project under the supervision of the Maintenance Supervisor. The Structure Maintainer performed general carpentry duties: cutting plywood, removing vents prior to the application of concrete, re-forming said vents to fit properly, and then reinstalling the vents following the use of concrete.

## II. INVESTIGATION

### A. Observations

On three (3) separate occasions in May 2022, OIG investigators conducted surveillance in the vicinity of 305 West 44<sup>th</sup> Street, in order to observe if the activity alleged in the complaint was taking place at the location. As detailed below, on May 18, 2022, the investigators repeatedly observed unknown individuals with unidentifiable goods<sup>1</sup> go directly to the trailers outside 305 West 44<sup>th</sup> Street. Two (2) NYC Transit employees were observed exchanging money for said goods. The OIG investigators identified these NYC Transit Employees who participated in these events as the Maintenance Supervisor and the Structure Maintainer. On May 25, 2022, at approximately 7:30 AM, OIG investigators visited the trailers when the identified NYC Transit Employees were on duty and interviewed them about the purchase of goods and alcohol consumption on premises. During these interviews both employees admitted to purchasing goods and the Maintenance Supervisor retrieved a 1.75-liter bottle of Dewar's White Label Blended Scotch Whiskey from his locker, which was approximately two-thirds empty. Below is a summary of the OIG investigators' surveillance.

#### *Surveillance outside 305 West 44<sup>th</sup> Street, Manhattan*

On May 18, 2022, at approximately 6:28 AM, OIG investigators observed an unknown individual knock on the door of the NYC Transit work trailer with a plastic bag full of unknown

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<sup>1</sup> The items were not clearly identifiable from the observation location.

items. A female employee, later identified as the Structure Maintainer, opened the door. A verbal exchange was observed, and the Structure Maintainer handed cash to the unknown individual who then exited the area. The Structure Maintainer took the bag of items into the trailer.

At approximately 7:34 AM, a second unknown individual approached the NYC Transit trailer and removed approximately three (3) items from a bag and placed them on the top of the trailer steps. The trailer door was already open, and a verbal exchanged took place between the unknown individual and the Maintenance Supervisor. The Maintenance Supervisor was seated in an office chair and wheeled himself into the doorway of the trailer and inspected the items. The Maintenance Supervisor brought each item into the trailer and then handed cash to the unknown individual, who then left the area.

At approximately 7:51 AM a third unknown individual arrived at the trailer with a large bag full of unknown items. The Structure Maintainer engaged in a conversation with the third unknown individual before taking the bag of items into the trailer. She then exited the trailer and left the area. The unknown individual who had brought the items stayed outside the trailer, and the Maintenance Supervisor was observed handing him cash as well as returning the empty bag. The unknown individual then exited the area.

At approximately 8:07 AM, the second unknown individual returned to the trailer with an unknown item. The Maintenance Supervisor took the item into the trailer. The Maintenance Supervisor then left the trailer holding what appeared to be a small knife. The Maintenance Supervisor was observed briefly placing the knife near the unknown individual's neck. The Maintenance Supervisor then lowered the knife, and the two walked away from the area together, with the Maintenance Supervisor holding the knife in his hand while on the busy sidewalk.

At approximately 8:39 AM, a fourth unknown individual arrived outside the trailers and placed two (2) cases of beer on a nearby partition. The fourth unknown individual then knocked on the trailer door but did not receive an answer. He loitered around the trailers momentarily, before he took the two (2) cases of beer and exited the area.

#### *Site Visit*

On May 25, 2022, OIG investigators conducted an unannounced visit to the construction trailers located in front of 305 W. 44<sup>th</sup> Street. The investigators identified the Maintenance Supervisor and the Structure Maintainer. The NYC Transit Employees initially denied the allegations of purchasing items from individuals off the street but confessed to these activities after the investigators confronted them with the above surveillance. When asked about alcohol consumption in the trailer,

the Maintenance Supervisor went into his locker and willingly handed over a 1.75-liter bottle of Dewar's White Label Blended Scotch Whiskey. The bottle was approximately two-thirds (2/3) empty. The Maintenance Supervisor admitted to drinking in the work trailer after 3:00 PM, when his shift ended.

OIG investigators then contacted the worksite Superintendent, who in turn contacted the General Superintendent. The General Superintendent removed both the Maintenance Supervisor and the Structure Maintainer from the worksite and referred the matter to NYC Transit Labor Relations. The Maintenance Supervisor was also required to take a blood alcohol test.

### **III. POLICIES AND ANALYSIS**

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

##### *1. § 4.02 Public Trust*

The MTA All-Agency Code of Ethics, Section 4.02, Public Trust, states, in pertinent part, that employees shall not engage in a course of conduct that will raise suspicion among the public that they are likely to be engaged in acts that are in violation of the public trust. Further, employees shall avoid even the appearance that they can be improperly influenced in the performance of their official duties or induced to violate the public trust or impair their independence of judgment in the exercise of their official duties.

##### *2. § 9.01 General*

The MTA All-Agency Code of Ethics, Section 9.01, states, in pertinent part, that employees who violate any provision of the State Ethics Laws or of this Code may be subject to disciplinary action consistent with that administered for violations of the rules and regulations of the applicable MTA Agency, up to and including termination.

#### **B. NYC Transit Rules and Regulations and Policy/Instruction**

##### *1. Rule 2(b): Knowledge of and Compliance with Rules*

Rule 2(b) states, in pertinent part, that employees who violate any of these rules may be disciplined in accordance with the Civil Service Law or their collective bargaining agreement or Authority policy, as applicable.

2. *Rule 10: Conduct of Employees*

Rule 10(a), states, in pertinent part, that employees are required to avoid behavior which would tend to create adverse criticism of the Authority or of the System. Rule 10(a) further states that an employee's on and off duty conduct should merit the confidence and respect of the public and their superiors.

Additionally, Rule 10(d), states, in pertinent part, that employees must not make threatening gestures towards, or commit assault or battery against, any person, nor use loud, uncivil, indecent or profane language, even under the greatest provocation.

3. *Rule 11: Certain Acts Prohibited and Policy/Instruction No 4.13.3: Alcohol*

Rule 11(a) and Policy/Instruction No 4.13.3 prohibit employees from using or possessing alcoholic beverages during their tours of duty and from using such beverages off duty when such use would make them unfit to report for duty or to be on duty. Additionally, employees suspected of drinking alcoholic beverages before or during their tours of duty shall be directed to submit to a breath alcohol test and/or blood-alcohol test if applicable.

4. *Rule 12(a)(10): Code of Ethics, Course of Conduct*

Rule 12(a)(10), states, in pertinent part, that employees shall not pursue a course of conduct which will raise suspicion among the public that he/she is likely to be engaged in acts that are in violation of his/her trust.

\* \* \*

Here, the NYC Transit Employees engaged in a course of conduct that created suspicion and engaged in acts which violated the public trust by, while on duty and on work premises, purchasing items of unknown origin, from unidentified members of the public. Additionally, an unknown individual was observed bringing cases of beer to the work trailers and waiting for the NYC Transit Employees, giving the appearance to the public that these NYC Transit employees were purchasing and consuming alcohol while on duty.

Further, the Maintenance Supervisor held a knife against an unknown individual's neck, a threatening gesture. The Maintenance Supervisor also possessed alcohol, which he admitted consuming, at his NYC Transit worksite.

#### **IV. FINDINGS**

1. The NYC Transit Employees engaged in behavior which would tend to create adverse criticism of the agency in violation of NYC Transit Rule 10(a).
2. The Maintenance Supervisor was in possession of alcohol on work premises in violation of NYC Transit Rule 11(a) and Policy/Instruction No 4.13.3.
3. The NYC Transit Employees engaged in acts that violated the public trust in violation of MTA All Agency Code of Ethics § 4.02 and 12(a)(10).
4. The Maintenance Supervisor, using a knife, made a threatening gesture towards an individual in violation of NYC Transit Rule 10(d).

#### **V. RECOMMENDATIONS**

We recommend that the NYC Transit Employees be disciplined as NYC Transit deems appropriate, up to and including termination,

As always, we appreciate your continued courtesy and cooperation. Please advise our office within thirty (30) days of any actions you take pursuant to this letter. Please be further advised that the Office of the MTA Inspector General may publicly disclose this report consistent with its statute and other state law, which may include name(s) of individuals and entities. Should you have any questions, or need additional information, please contact Executive Deputy Inspector General for Investigations William McGrogan at (212) 878-0143.

Very truly yours,

/S/

Elizabeth Keating

cc: David Farber, General Counsel, NYC Transit  
Monica Murray, Chief Administrative Officer, NYC Transit  
Kim Moore-Ward, Deputy Chief People & Labor Relations Officer, NYC Transit



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**Addendum**  
**to**  
**MTA/OIG #2022-09**

**NYC Transit Employees Violated Agency Rules & Policies**

In October 2022, in response to the Office of the MTA Inspector General's investigation and report, NYC Transit initiated disciplinary proceedings against the Maintenance Supervisor and the Structure Maintainer. On December 2, 2022, the Maintenance Supervisor retired pursuant to a settlement stipulation with NYC Transit. The Structure Maintainer's disciplinary process is ongoing.