



**Elizabeth Keating**  
**Acting MTA Inspector**  
**General**

**Office of the Inspector General**  
**Metropolitan Transportation Authority**  
One Penn Plaza, 11th Floor, Suite 1110  
New York, NY 10119  
212-878-0000

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Via Electronic Mail

Richard Davey  
President  
New York City Transit  
2 Broadway  
New York, NY 10004

**Re: Overtime Abuse by NYC Transit Bus**  
**Maintainers at Yukon Depot**  
**MTA/OIG # 2023-02**

Dear Mr. Davey:

The Office of the MTA Inspector General (OIG) substantiated an allegation received from an anonymous source that three New York City Transit (NYC Transit) Bus Maintainers (Bus Maintainers 1-3, collectively the Bus Maintainers) regularly committed overtime abuse and filed false time records. Specifically, Bus Maintainers 1 and 2 were observed repeatedly leaving their work location, the Yukon Bus Depot on Staten Island (the Depot), during their overtime (OT) shift, often going home, and then returning to the Depot hours later to swipe out. Bus Maintainer 3 admitted to leaving during most of his OT shifts and having Bus Maintainer 2 swipe him out. The Bus Maintainers also admitted to leaving work on more occasions than they were observed by OIG. Additionally, OIG found that the Bus Maintainers' Line Supervisors (Line Supervisors 1-2, collectively the Line Supervisors) failed to perform their duty and properly supervise the Bus Maintainers. The Line Supervisors claimed they did not know the Bus Maintainers had left the Depot on numerous occasions for hours at a time during their overtime shifts.

OIG recommends that the Bus Maintainers be disciplined as NYC Transit deems appropriate, up to and including termination and that NYC Transit recoup any unearned payments. OIG also recommends that the Line Supervisors be disciplined as NYC Transit deems appropriate, up to and including termination.

## **I. BACKGROUND**

Bus Maintainer 1 was hired as a Bus Maintainer in May 2011. On his regular shift, he works the Standard Operation Line which inspects buses for anything that may be defective.

Bus Maintainer 2 was hired as a Maintainer Helper in March 1999 and was promoted to his current title in October 2000. Bus Maintainer 2 inspects and fixes the handicap wheelchair lifts on buses.

Bus Maintainer 3 was hired as Maintainer Helper in February 1994 and was promoted to his current title in 1999. On his regular shift, he works the Inspection Line, which inspects buses for anything that may be defective and conducts scheduled maintenance.

All three Bus Maintainers work the 8:00 am to 4:00 pm shift with Saturday and Sunday as their regular days off. All three have been assigned to the Depot since their respective hire dates. The Bus Maintainers worked an overtime shift of 4:00 pm to 12:00 am, often 3-4 days a week consistently for several months in 2022. They were among the top 20 overtime earners of the approximately 65 Bus Maintainers at the Depot.

## **II. INVESTIGATION**

As part of its investigation OIG reviewed time records, conducted surveillance of the Bus Maintainers, and conducted an attendance check at the Yukon Bus Depot. Additionally, OIG interviewed the three Bus Maintainers and two Line Supervisors who worked during the Bus Maintainers' overtime shifts when surveillance was conducted.

### **A. Field Observations**

At the outset of the investigation OIG identified the personal vehicles predominately driven by each of the Bus Maintainers and their places of residence. During the surveillances OIG investigators made simultaneous observations at the Yukon Bus Depot, the residences of Bus Maintainers 1 and 2, and of the Bus Maintainers' vehicles.<sup>1</sup>

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<sup>1</sup> Observations of Bus Maintainer 3 were limited.

As detailed in the charts below, from June to August 2022, OIG conducted surveillance on multiple dates when the Bus Maintainers worked an OT shift of 4:00 pm to 12:00 am. In every instance that surveillance was conducted during times where Bus Maintainer 1 and 2 worked OT, they were observed leaving the Depot for approximately 2-6 hours at a time and were usually found at their respective residences. Specifically, Bus Maintainer 1 was surveilled on 12 dates and observed leaving early on all 12 dates, equating to approximately \$3236 in unearned OT pay. Similarly, Bus Maintainer 2 was surveilled on 13 dates and observed leaving early on all 13 dates and was paid an estimated \$2232 in OT that he was not entitled to.

Bus Maintainer 1						
Date of Surveillance	Punch out	Time Left Work Site	Time Returned to Work Site	Time Surveillance Terminated	Time Not at Depot	Time Unaccounted For (hh:mm:ss)
6/2/2022	12:03 AM	6:41 PM	N/A	9:30 PM	6:41PM - 9:30PM	2:49:00
6/13/2022	11:50 PM	8:06 PM	11:35 PM	11:50 PM	8:06PM - 11:35PM	3:29:00
6/14/2022	11:50 PM	6:25 PM	11:40 PM	11:50 PM	6:25PM - 11:40PM	5:15:00
6/23/2022	11:50 PM	6:37 PM	11:40 PM	11:50 PM	6:37PM - 11:40PM	5:03:00
6/28/2022	11:50 PM	4:57 PM	11:40 PM	11:50 PM	4:57PM - 11:40PM	6:43:00
6/30/2022	11:50 PM	6:23 PM	10:06 PM	11:30 PM	6:23PM - 10:06PM	3:43:00
7/14/2022	11:50 PM	5:25 PM	11:44 PM	11:50 PM	5:25PM - 11:44PM	6:19:00
7/19/2022	11:50 PM	6:00 PM	N/A	11:00 PM	6:00PM - 11:00PM	5:00:00
7/21/2022	11:50 PM	6:24 PM	N/A	11:00 PM	6:24PM - 11:00PM	4:36:00
8/11/2022	12:30 AM	(5:43PM Vehicle at residence)	12:28 AM	12:40 AM	5:43PM - 12:28AM	6:45:00
8/31/2022	11:50 PM	7:09 PM	9:05 PM	10:00 PM	7:09PM - 9:05PM	1:56:00
10/11/2022	7:51PM	4:45PM	7:18PM	8:00PM	4:45PM - 7:18PM	2:33:00
						<b>54:11:00</b>
<i>Note: OT shift 4pm-12am; except on 10/11 it was 4pm-8pm)</i>						

Bus Maintainer 2						
Date of Surveillance	Punch out	Time Left Work Site	Time Returned to Work Site	Time Surveillance Terminated	Time Not at Depot	Time Unaccounted For (hh:mm:ss)
6/2/2022	11:50 PM	6:12 PM	N/A	9:30 PM	6:12PM - 9:30PM	3:18:00
6/13/2022	11:50 PM	5:50 PM	8:30 PM	11:50 PM	5:50PM - 8:30PM	2:40:00
6/14/2022	11:50 PM	6:17 PM	9:05 PM	11:50 PM	6:17PM - 9:05PM	2:48:00
6/21/2022	11:50 PM	6:28 PM	8:40 PM	11:15 PM	6:28PM - 8:40PM	2:12:00
6/23/2022	11:50 PM	6:25 PM	9:49 PM	11:50 PM	6:25PM - 9:49PM	3:24:00
6/28/2022	11:50 PM	5:25 PM	8:38 PM	11:50 PM	5:25PM - 8:38PM	3:13:00
6/30/2022	11:50 PM	5:43 PM	8:37 PM	11:30 PM	5:43PM - 8:37PM	2:54:00
7/12/2022	11:50 PM	5:56 PM	8:37 PM	11:00 PM	5:56PM - 8:37PM	2:41:00
7/14/2022	11:50 PM	6:04 PM	8:37 PM	11:50 PM	6:04PM - 8:37PM	2:33:00
7/26/2022	11:50 PM	5:48 PM	8:40 PM	9:30 PM	5:48PM - 8:40PM	2:52:00
8/9/2022	11:50 PM	UNK (4:50PM Vehicle at residence)	8:35 PM	12:00 AM	4:50PM - 8:35PM	3:45:00
8/11/2022	11:50 PM	UNK (5:03PM Vehicle at residence)	8:41 PM	12:40 AM	5:03PM - 8:41PM	3:38:00
8/23/2022	7:50 PM	5:19 PM	6:35 PM	8:00 PM	5:19PM - 6:35PM	1:16:00
						<b>37:14:00</b>
<i>Note: (OT shift 4pm - 12am)</i>						

Examples of some of the surveillances are as follows:

- On Monday, June 13, 2022, at approximately 11:30 pm, Bus Maintainer 3 was observed leaving the Depot driving on Forest Hill towards Richmond Rd. Time records reveal that he clocked out at 11:50 pm, twenty minutes after he had left the Depot.
- On Tuesday, June 28, 2022, at approximately 4:57 pm OIG observed Bus Maintainer 1 leaving the Depot in his personal vehicle and then observed at his residence at 5:08 pm. OIG then observed him leaving his residence at 7:47 pm and then returning to his residence at 8:07 pm. Finally, at 11:31 pm, Bus Maintainer 1 was observed leaving his residence in his vehicle and returning to the Depot at approximately 11:40 pm. According to time records he clocked out at 11:50 pm. He was paid for 8 hours of OT to fix the air conditioning system on a bus.
- On Tuesday, August 9, 2022, at approximately 4:00 pm OIG did not observe any of Bus Maintainer 2 's three personal vehicles at the Depot, although according to time records, he was still punched in. At 4:50 pm two of three vehicles were observed at his residence. At approximately 5:36 pm the third vehicle was observed returning to residence; multiple individuals (but not Bus Maintainer 2) were observed exiting the vehicle and entering the

residence. At approximately 8:28 pm, Bus Maintainer 2 (presumed in the residence since at least 4:50 pm) was observed leaving the residence in one of his vehicles and then arriving at the Depot at approximately 8:35 pm. He then stayed at the Depot until 11:55 pm. He was paid for 8 hours of OT to do COVID disinfection of buses.

- On August 11, 2022, at 4:32 pm, Bus Maintainer 1's vehicle was not observed parked in the vicinity of the Depot. At 5:43 pm Bus Maintainer 1 was observed in the driveway of his residence working on a Mercedes Benz. At 12:28 am on August 12, 2022 (the next day) Bus Maintainer 1 was observed arriving at the Depot in the Mercedes Benz. According to his time records he clocked out 12:30 am. He was paid for 8 hours of OT to do COVID disinfection of buses.

- On Wednesday, August 31, 2022, Bus Maintainer 1 was observed by an OIG team leaving the Depot in his personal vehicle at 7:09 pm and arriving at his residence at 8:17 pm. At approximately 8:45 pm OIG Investigators visited the Depot. During the visit OIG requested and received a copy of the bus maintainers assignment sheet to verify that all employees were present and accounted for. There were 5 bus maintainers assigned to work until 11:50 pm, including Bus Maintainer 1, who was still at his residence. OIG, with Line Supervisor 1, searched the bathrooms, break room and locker room but Bus Maintainer 1 could not be located. Supervisor 1 called for Bus Maintainer 1 over the intercom asking him to report to the Line Supervisor area. Supervisor 1 told OIG that he last remembered seeing Bus Maintainer 1 around 8:00 pm and then asked one of the other bus maintainers to call him on his phone to see where he was. At approximately 8:54 pm Bus Maintainer 1 was observed departing his residence and then observed arriving back at the Depot at approximately 9:05 pm. He was then observed about a minute later by OIG. Bus Maintainer 1 was assigned to the COVID disinfection of buses for which he was paid for 8 hours of OT.

- On Tuesday, October 11, 2022, Bus Maintainer 1 was scheduled to work a 4-hour OT shift from 4:00 pm to 8:00 pm. At approximately 4:45 pm Bus Maintainer 1 was observed departing the Depot and arriving at his residence at approximately 4:59 pm. At approximately 7:18 pm Bus Maintainer 1 was observed arriving at the Depot, entering the Depot at 7:35 pm and leaving a minute later. According to time records he had ended his tour at that time. Bus Maintainer 1 continued his behavior despite an OIG visit to his depot two months earlier.

OIG also determined, through a review of the Depot's overtime records, Kronos time records, and SPEAR entries that Line Supervisors 1 and 2 were on duty and supervising Bus Maintainers 1 and 2 on dates when they left the Depot for hours, as detailed in the charts below.

<b>Line Supervisor 1</b>			
<b>Date of Surveillance</b>	<b>Bus Maintainer</b>	<b>Time Bus Maintainer Not at Depot</b>	<b>Time Unaccounted Time of Bus Maintainer (hh:mm:ss)</b>
6/2/2022	2	6:12PM - 9:30PM	3:18:00
6/14/2022	1	6:25PM - 11:40PM*	5:15:00
6/14/2022	2	6:17PM - 9:05PM	2:48:00
8/31/2022	1	7:09PM - 9:05PM	1:56:00

\*Line Supervisor 1 swiped out of Kronos at 9:37 pm.

<b>Line Supervisor 2</b>			
<b>Date of Surveillance</b>	<b>Bus Maintainer</b>	<b>Time Bus Maintainer Not at Depot</b>	<b>Time Unaccounted Time of Bus Maintainer (hh:mm:ss)</b>
6/2/2022	1	6:41PM - 9:30PM	2:49:00
6/13/2022	2	5:50PM - 8:30PM	2:40:00
6/28/2022	1	4:57PM - 11:40PM*	6:43:00
6/28/2022	2	5:25PM - 8:38PM	3:13:00

\*Line Supervisor 2 was paid until 8:00 pm.

## **B. Interviews**

### *1. Line Supervisor 1*

OIG interviewed Line Supervisor 1 regarding the assignment and oversight of OT at the Depot. Line Supervisor 1 stated that he was hired in April of 2011 as a Bus Maintainer and was promoted to a line supervisor in 2014. He explained that he mainly supervises the As Assigned line which fixes any specific repairs required on the buses. Sometimes he covers the SO line which does the inspection on the buses to see if any repairs are needed.

He stated that a bus maintainer could be fixing anything mechanical with the buses such as transmissions, air conditioners, tires, and “SPOUR”, which is when the mechanics “PU” pick up a “SO” Standard Operation “R” repair. The employee gets a work order for what they are

supposed to fix, an allotted time frame to fix it, and then they enter the results into SPEAR.<sup>2</sup> The line supervisor then inspects and signs off on their work. If a job is not completed and carries over to the next shift, that is also noted in SPEAR.

Regarding OT, Line Supervisor 1 stated that the General Superintendent for the Depot provides the budget for OT and usually allots 28:00 hours per day. Each day the line supervisors review with the Superintendent what work needs to be done on the buses. Each job for OT has a predetermined amount of time allotted. The shop steward<sup>3</sup> for the bus maintainers assigns the employees to a specific OT job. If there are more than 12 OT employees working on the 4:00 pm to 12:00 am shift, Line Supervisor 1 would supervise those 12 (or more) employees. If the workforce is less than 12, a different line supervisor would be in charge. Sometimes Line Supervisor 1 would supervise the COVID cleaning of the buses which comes out of a separate budget.

For COVID cleaning, the requirements are to clean 5 buses by hand or 10 with fuming equipment<sup>4</sup> in a 4-hour OT shift and clean 9 buses by hand or 20 with fuming equipment in an 8-hour OT shift. Line Supervisor 1 claimed he walks around to see if the work gets done and tries to inspect the buses that are being cleaned but it is impossible to check every bus that is cleaned.<sup>5</sup> Line Supervisor 1 said that at the end of the tour, he is busy doing paperwork and is not able to tell if all his workers left on time and/or swiped out at the end of shift.

Regarding leaving the Depot, Line Supervisor 1 stated that if any employee leaves the Depot, that employee is required to inform the Supervisor upon departing from and returning to the property. If an employee leaves without notifying a supervisor, he or she is in violation of leaving the workplace without authorization. The only instance Line Supervisor 1 could recall of an employee missing from the Depot was when Bus Maintainer 1 could not be found during OIG's visit on August 31.

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<sup>2</sup> SPEAR is a maintenance data system which tracks bus maintainers' work activities.

<sup>3</sup> A shop steward is a person elected as a Union representative in the workplace to represent them in dealings with management.

<sup>4</sup> The fuming equipment sprays a chemical agent to disinfect the buses.

<sup>5</sup> According to the General Superintendent Maintenance, during COVID, the Depot was responsible for the cleaning of all 270 buses, which would be split among the overtime shifts. Therefore, during an overtime shift there would be approximately 80 buses to clean.



## 2. *Line Supervisor 2*

Line Supervisor 2 was hired in November of 2011 as a Bus Maintainer. In 2017, he was promoted to line supervisor. Line Supervisor 2 is assigned as a vacation relief supervisor with varied hours and days off. He stated that his general duties are to review what repairs are needed with the Superintendent and then create the roll call/roster and print out the work orders. Line Supervisor 2 reiterated the same procedure for assigning OT as Line Supervisor 1.

Line Supervisor 2 claimed that he walks the floor making sure employees are doing their jobs. When an assignment is finished, the bus maintainer finds one of five SPEAR terminals throughout the Depot and documents the repairs in SPEAR. Line Supervisor 2 then must approve those entries in SPEAR. Line Supervisor 2 confirmed that employees are required to remain in the Depot for the allotted OT period, even if they finish the job early. He also confirmed that if the employee wants to leave the Depot for a meal, he or she must ask Line Supervisor 2 for permission. Line Supervisor 2 said if the employee comes back late from a meal, that lateness should be documented so that employee does not get paid for that time. Line Supervisor 2 said he was not aware of anyone leaving the Depot without permission or taking too long for their meal. Line Supervisor 2 also stated that he does not physically check to make sure that employees are clocking out at the end of their shift.

## 3. *Bus Maintainer 1*

Bus Maintainer 1 told OIG that, during his regular 8:00 am to 4:00 pm shift, he inspects buses for anything that may be defective using a checklist on an agency-issued tablet. He then enters anything that needs repairs into the SPEAR system. Bus Maintainer 1 stated that he usually inspects about 5 to 6 buses per shift. Bus Maintainer 1 claimed that during his shift he is allowed two 15-minute breaks and one hour for meal.<sup>6</sup> Bus Maintainer 1 told OIG that he is assigned OT anywhere from 2-5 days a week. He will not know whether he will be assigned OT until the same day when his shop steward tells him OT is available. Bus Maintainer 1 said OT is assigned by a rotation based on who worked OT last and is not by assigned by seniority.

Bus Maintainer 1 was shown OT sheets from 11 different dates. Some of the work assigned was mechanical and some of it was COVID disinfection. Bus Maintainer 1 stated that he is qualified to use a spray machine to clean the buses, so on an 8-hour OT tour, he would spray down 20 buses, and on a 4-hour OT shift, he would spray down 9 buses. Bus Maintainer 1 stated that he then writes down the bus number of the buses he cleaned, and he gives it to his supervisor. If Bus Maintainer 1 did a physical repair on OT, he would detail what repairs he did and put it into the SPEAR system for his supervisor to approve. Bus Maintainer 1 would

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<sup>6</sup> These break times deviate from what Bus Maintainer 2 and 3 told OIG.



normally enter the work into SPEAR about an hour after his job is completed. If Bus Maintainer 1 finished a job early, he would go to the breakroom or step out of the Depot. Bus Maintainer 1 could not say whether his supervisor checks his work, but he tells his supervisor when he finished the job. If two employees are working on a job only one of them must enter the info into SPEAR.

Bus Maintainer 1 stated that he brings his lunch for his regular day tour and then goes to get food or goes home to eat on his OT shift. Sometimes he tells his supervisor he is leaving but sometimes he does not. Bus Maintainer 1 is not sure if he is required to tell his boss that he is leaving. Bus Maintainer 1 said there are a few reasons why he goes home, but the main reason is that he has a medical condition which requires frequent trips to the restroom, sometimes with the assistance of a medical device. Bus Maintainer 1 stated that the Depot restroom is not sanitary and therefore he goes home during his OT shift to use the restroom. However, Bus Maintainer 1 never requested a reasonable accommodation for his condition, nor made any complaints about the conditions of the bathroom. He also stated that he believes the Superintendents have their own bathroom, but never requested to use it. Additionally, he claimed he never needed to go home during his regular shift for his medical condition; it was only during the OT shift.

Bus Maintainer 1 admitted that it only takes him about 30 minutes to use the restroom when using the medical device. While at home Bus Maintainer 1 said that he would also do home repairs or work on his cars. Bus Maintainer 1 confirmed a four-door Toyota Rav 4 as his personal vehicle which was observed during OIG's surveillance. He also stated that he has a Mercedes Benz. Bus Maintainer 1 admitted that he goes home every day on OT and that he continued to go home during his OT shift even after OIG conducted the site visit on August 31. Bus Maintainer 1 initially claimed that during the August 31 site visit he was in a pizzeria having dinner. After being confronted with surveillance observations that confirmed he was at his home during that time, Bus Maintainer 1 admitted that he had to go home to repair a leaky water heater. Bus Maintainer 1 said that another bus maintainer called him to inform him that OIG was at the Depot.

Bus Maintainer 1 stated that during an OT shift it does not always take the full time allotted to complete the assigned work. He stated that sometimes he finishes his work in an hour and a half and then leaves the Depot and goes home from anywhere between 2-4 hours. For example, he stated that it only takes him about 5 minutes to spray down a bus for a COVID disinfection. Therefore, it would only take approximately 120 minutes to complete the work in the 8-hour OT shift. Bus Maintainer 1 stated other Depot workers sleep in their cars when they are done with their assigned work. Bus Maintainer 1 has slept in his car as well. Bus Maintainer 1 said he completes his work before he goes home.

#### 4. *Bus Maintainer 2*

Bus Maintainer 2 confirmed his current title as a bus maintainer assigned to the Depot, and works a regular shift of 8:00 am to 4:00pm, Monday through Friday. Bus Maintainer 2 stated that he has worked OT as many as 4 days a week, but that his OT assignments have recently slowed down. Bus Maintainer 2 also confirmed that OT is distributed on the same day it becomes available and there is no prior knowledge if OT shifts will be available.

Bus Maintainer 2 stated that during his OT shift he makes physical repairs on buses or he does the COVID disinfection on the buses. Bus Maintainer 2 stated that he is not qualified to use the spray machine, therefore he must clean the buses by hand. On the 4-hour OT shift, he must clean 5 buses and on the 8-hour OT shift, he cleans 9 buses. Bus Maintainer 2 stated that he writes the number of the buses that he cleans on a piece of paper so his supervisor can enter the details into SPEAR. Bus Maintainer 2 advised that if he is assigned a work order to complete a physical repair on a bus, after the work is complete, he then enters the repairs he performed into SPEAR and then his supervisor approves it.

Bus Maintainer 2 was shown OT sheets for 12 separate dates, and he explained what work he performed on each OT shift. Bus Maintainer 2 stated that during OT shifts he is allotted two 10-minute breaks and 30 minutes for a meal. This break schedule is the same during his regular shifts. Bus Maintainer 2 stated that he is allowed to leave the Depot for meal, but he is supposed to tell a supervisor that he is leaving. When he comes back to the Depot, he goes back to work, and he does not notify his supervisor that he has returned to the Depot. Bus Maintainer 2 stated that he rarely sees his supervisor on the OT shift.

Bus Maintainer 2 stated that during his OT shift he goes home for dinner for about a half hour, but then conceded that he does stay longer than 30 minutes. Bus Maintainer 2 was shown a clip of a surveillance video from June 23, 2022, and he confirmed the video showed his vehicle pulling up to his residence, and him exiting his vehicle and walking inside. Bus Maintainer 2 stated that supervision has been very lax at the Depot since COVID started and admitted to going home during each of his OT shifts. Bus Maintainer 2 said he never goes home on his 8:00 am to 4:00 pm shift and that he always completes the work assigned to him on the OT shift before he goes home during his OT shift. Bus Maintainer 2 said many guys go home on meal or they sleep in their cars. Bus Maintainer 2 stated that he has not left the Depot on OT since the August 31 OIG site visit. Bus Maintainer 2 stated that he could complete an 8-hour job in less time and in some cases within 2-3 hours. He added that there is an excessive amount of OT allotted for the actual work that needs to be performed.

When asked about other employees leaving the Depot during OT, Bus Maintainer 2 stated that Bus Maintainer 3 goes home as well. Bus Maintainer 2 stated that since Bus Maintainer 3 lives far from the Depot, Bus Maintainer 2 swipes out for him using Bus Maintainer's 3 card. Bus Maintainer 2 stated he has done this for Bus Maintainer 3 all through the summer of 2022. Bus Maintainer 2 said Bus Maintainer 3 usually leaves the Depot to go home around 8:30pm. However, they stopped this behavior since the August 31 OIG site visit. Bus Maintainer 2 confirmed a photo of Bus Maintainer 3 and Bus Maintainer's 3 personal vehicle. Bus Maintainer 2 apologized for his behavior and stated that he knows that it was wrong for him to go home during OT shift, but he got careless and figured he would never get in trouble. Bus Maintainer 2 stated he would not go home anymore during times when he is supposed to be at work.

### 5. *Bus Maintainer 3*

Bus Maintainer 3's regular shift is 8:00 am to 4:00 pm. During his shift he inspects buses for anything that may be defective and conducts scheduled maintenance. Bus Maintainer 3 said it typically takes an 8-hour shift to inspect one bus and explained the different steps and tests he performs to make sure everything is working safely. Bus Maintainer 3 stated there are 16 lifts in the Depot for use by all the Maintainers. Each Maintainer may need to use one of the lifts, which can make it hard for him to complete his inspections and maintenance on the buses.

Bus Maintainer 3 said the OT availability may be announced anywhere from 2:30 pm, up until 3:50 pm, when the shift is over. Bus Maintainer 3 said OT is assigned on a rotating schedule based on who worked OT last and is not based on seniority. Overtime is also assigned by what the maintainer is qualified to do. Bus Maintainer 3 was shown eight OT sheets and he explained to OIG what he was assigned to do during those shifts. Bus Maintainer 3 explained that he is not qualified to use the cleaning machine to perform COVID disinfection, and that he must wipe the buses down by hand using a spray bottle. Bus Maintainer 3 stated that he typically disinfects about 9 buses on an 8-hour OT shift. When Bus Maintainer 3 is done with his assigned work, he must enter the work he performed into the SPEAR system. He usually does this towards the end of his shift, not immediately after the work is performed.

Bus Maintainer 3 was shown a photo of his vehicle from a June 13 surveillance. He confirmed the vehicle in the photo was his. Bus Maintainer 3 was also shown a photo taken from a license plate reader in NJ from May 9, at 9:14 pm. Bus Maintainer 3 confirmed that the vehicle in the photo was his. On this same date, his time records reflect that he punched out from Yukon Depot at 11:50 pm. Bus Maintainer 3 conceded that he went home on May 9 during his OT shift. Bus Maintainer 3 said he started going home more regularly when the weather got warmer in 2022. Bus Maintainer 3 said it started gradually and then it became easier, and he did

not fear anyone would be looking for him because he had gotten his work done before he left. Eventually during the summer, Bus Maintainer 3 said he went home early every day during the shifts he worked OT. Because he lives far from the Depot, Bus Maintainer 3 admitted that he would give his ID card to Bus Maintainer 2 to swipe him out at the end of the tour. If Bus Maintainer 3 was not going to see Bus Maintainer 2 the next day, Bus Maintainer 2 would throw the ID card in Bus Maintainer 3's locker. Bus Maintainer 3 said one time a supervisor called looking for him, but since he was already home, he claimed he had an emergency which caused him to leave and was not paid for that remaining time.

According to Bus Maintainer 3, Bus Maintainer 2 would leave his OT shift early and go to his home. After Bus Maintainer 2 returned to the Depot, he (Bus Maintainer 3) would leave his OT shift early and go home. He and Bus Maintainer 2 did not share with anyone else what they were doing. Bus Maintainer 3 did not go home during his regular shift because he wanted to be at the Depot to get assigned OT shifts. Bus Maintainer 3 said he and Bus Maintainer 2 have not left the Depot early on OT since OIG's August 31 visit. Bus Maintainer 3 said he was remorseful that this happened.

### III. POLICIES AND ANALYSIS

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

##### 1. § 4.02 Public Trust

The MTA All-Agency Code of Ethics Section 4.02 states, in pertinent part, 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.

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Here, the Bus Maintainers were engaged in a course of conduct that would create suspicion among the public if it were learned that, despite the Bus Maintainers' insistence that they completed their overtime assignments, they were committing time abuse by going home during their overtime shifts. Based on this fraudulent behavior, the Bus Maintainers received pay for overtime hours they did not work.

Additionally, the Line Supervisors, who are responsible for overseeing the Bus Maintainers, violated the public's trust by failing to properly supervise the Bus Maintainers. During their interviews with OIG, it was clear the Line Supervisors had no idea that the Bus Maintainers were leaving during their overtime shift and admitted that they did not even know if and when employees were clocking out. According to the Bus Maintainers, the working environment at the Depot was so lax that they did not fear leaving during their overtime shifts and stated that other employees slept in their cars.

## **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 5(a): Reporting for Duty*

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

### *3. Rule 6(b)*

Rule 6(b) states, in pertinent part, that all employees must report daily, on prescribed time records the amount of time on duty, the actual reporting time, the time relieved, the account, function or job number of each job and the time devoted thereto. Time records on which overtime is claimed must be approved by the proper authority.

### *4. Rule 8(a): Reports by Employees*

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

5. *Rule 10: Conduct of Employees*

The NYC Transit Rules and Regulations, Rule 10(a), Conduct of Employees, 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.

6. *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.

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Here, the Bus Maintainers committed time abuse and thereby received overtime pay that they were not entitled to from NYC Transit. On numerous occasions the Bus Maintainers left during their overtime shift. To further perpetrate their fraudulent behavior and ensure full payment for their overtime shift, Bus Maintainers 1 and 2 returned to the Depot towards the end of their shifts, to clock out and Bus Maintainer 2 would clock out Bus Maintainer 3, because he did not live close to the Depot. Their actions undermine the public's confidence in the Agency.

Furthermore, the Line Supervisors failed in their duties to supervise the Bus Maintainers and allowed them to engage in the above fraudulent behavior at least during the months OIG conducted surveillance.

#### IV. FINDINGS

1. The Bus Maintainers committed overtime abuse, submitted false time records, and received pay for overtime hours that they did not work in violation of the MTA All-Agency Code of Ethics § 9.01 and NYC Transit Rules 2(b), 5(a), 6(b), and 8(a).
2. The Bus Maintainers and the Line Supervisors engaged in acts that violated the public trust in violation of MTA All-Agency Code of Ethics § 4.02 and NYC Transit Rules 10 and 12(a)(10).
3. The Line Supervisors failed to properly supervise the Bus Maintainers. Despite claiming to require notification if an employee leaves the Depot, the Line Supervisors did not know that the Bus Maintainers had been leaving the Depot during overtime repeatedly for months.

## **V. RECOMMENDATIONS**

1. We recommend the Bus Maintainers be disciplined as NYC Transit deems appropriate, up to and including termination.
2. We recommend NYC Transit recoup any unearned payments.
3. We recommend the Line Supervisors be disciplined as NYC Transit deems appropriate, up to and including termination.

As always, OIG appreciates your continued courtesy and cooperation. Please advise our office within thirty (30) days of any actions you intend to take, and the result of any action taken pursuant to this letter. In addition, please indicate your acceptance or rejection of each recommendation and the proposed quarter in the calendar year that the recommendation will be implemented. Please be 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  
Acting MTA Inspector General

cc: David Farber, General Counsel, NYC Transit  
Monica Murray, Chief Administrative Officer, NYC Transit





**Elizabeth Keating**  
**Acting MTA Inspector**  
**General**

**Office of the Inspector General**  
**Metropolitan Transportation Authority**  
One Penn Plaza, 11th Floor, Suite 1110  
New York, NY 10119  
212-878-0000

**Addendum**  
**to**  
**MTA/OIG #2023-02**

**Overtime Abuse by NYC Transit Bus Maintainers at Yukon Depot**

In response to the Office of the MTA Inspector General (OIG)'s investigation report, New York City Transit (NYC Transit) brought disciplinary charges against the three Bus Maintainers (Bus Maintainers 1-3) and two of the Line Supervisors (Line Supervisors 1 and 2). NYC Transit sought dismissal for all five employees and suspended them pending the disciplinary hearing. After hearings were held in February and March 2023, the Bus Maintainers and Line Supervisors appealed the agency's dismissal determination, and their cases went to arbitration.

Regarding the Line Supervisors the arbitrator determined that the agency has cause to discipline both Line Supervisors for their failures to properly supervise Bus Maintainers, thereby allowing recurring time and attendance abuse to continue undetected until it was exposed by an anonymous complaint. The arbitrator found that the appropriate penalty for each is a twenty-day suspension.

For the Bus Maintainers, the arbitrator determined that the extent of their misconduct was clearly established by both the evidence and their own admissions and that their conduct warranted substantial discipline. The arbitrator found that:

- Bus Maintainer 1 should be returned to duty, without back pay, provided that he has made restitution for all overtime hours for which he was improperly paid. The time between his discharge and his reinstatement shall be deemed a time-served suspension;
- Bus Maintainer 2 should be discharged, subject to supplemental argument; and
- Bus Maintainer 3 should be permitted to retire in lieu of discharge and his discharge will be converted to time-served suspension.