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**Metropolitan Transportation Authority**

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April 06, 2023

Via Electronic Mail

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

**Re: Time and Attendance Abuse by a  
NYC Transit General  
Superintendent  
MTA/OIG # 2023-04**

Dear Mr. Davey:

The Office of the MTA Inspector General (OIG) substantiated an allegation received from an anonymous source that a New York City Transit (NYC Transit) General Superintendent abused the agency's time and attendance policies. Specifically, OIG found that on nine instances, usually Fridays, the General Superintendent did not work his entire scheduled shift, and instead flew to Florida. The General Superintendent's time records would often reflect "Fieldwork" with no swipe in or out times. In other instances, the General Superintendent would intentionally not swipe out and then falsely report his time out for that day to his supervisor.

The OIG recommends that the General Superintendent be disciplined as NYC Transit deems appropriate, up to and including termination.

**I. BACKGROUND**

The General Superintendent was hired in August 2013 as a Hydraulic Maintainer. He received several promotions within Escalator and Elevator Services as follows: Deputy Superintendent in 2016, Superintendent in 2018, and General Superintendent in January 2021

(his position at the time of the investigation). As a General Superintendent, he oversees the maintenance and repair of all elevators and escalators from 14th Street in Manhattan to the Bronx, and he supervises four managers and 17 supervisors. His regular shift is 6:00 a.m. to 2:00 p.m., Monday through Friday. He is generally stationed at 34th Street and Eighth Avenue in Manhattan but also has an office located at the Dyckman Street Station in Manhattan.

## **II. INVESTIGATION**

### **A. Document Review**

MTA human resources documents indicated that the General Superintendent's home and mailing address are in Florida. A search of public records confirmed that the General Superintendent owns the Florida property. Additionally, he obtained a Florida driver's license in 2021.

OIG reviewed the General Superintendent's Kronos time records from January 1, 2021, to June 30, 2022. OIG also obtained airline records containing flights taken by the General Superintendent for the same time period and compared the two records. Based on his interview, OIG also reviewed SharePoint records to determine if the General Superintendent changed his shift to work an overnight shift from 10:00 pm (Thursday) to 6:00 am (Friday) on the dates he flew to Florida.

As detailed in the chart below, OIG found nine instances where the General Superintendent could not have worked his entire scheduled shift of 6:00 am to 2:00 pm based on his flight departure and/or arrival time. In seven of those instances his time records have no swipe in or out data and simply list Fieldwork as his paycode. In two of those instances, the General Superintendent swiped in but did not swipe out resulting in his time being entered by his supervisor based on the false information the General Superintendent provided. Furthermore, according to SharePoint records he only changed his shift to work the overnight in one of the nine instances, and even on that one date he still left early to catch a 6:10 am flight.

Date	Kronos Swipes	Shift Based on Time Records	Flight Time	Flight Destination
Friday, July 9, 2021	Fieldwork	6:00AM to 2:00PM	1:18PM-4:14PM	Newark to Orlando
Friday, July 16, 2021	Fieldwork	6:00AM to 2:00PM	9:15AM-12:15PM	Newark to Orlando
Friday, July 30, 2021	Fieldwork	6:00AM to 2:00PM	9:15AM-12:15PM	Newark to Orlando
Friday, August 27, 2021	Fieldwork	6:00AM to 2:00PM	9:31AM-12:31PM	Newark to Orlando
Friday, September 3, 2021	6:31AM & 2:30 PM <sup>1</sup>	6:00AM to 2:00PM	9:31AM-12:31PM	Newark to Orlando
Friday, September 10, 2021	Fieldwork	6:00AM to 2:00PM	6AM-8:48AM	Newark to Orlando
Thursday, October 21, 2021	9:58 PM & 6:00AM <sup>1</sup>	10:00PM to 6:00AM <sup>2</sup>	6:10AM-8:48AM (Friday, 10/22)	Newark to Orlando
Tuesday, February 15, 2022	Fieldwork	6:00AM to 2:00PM	9:49AM-11:41AM	Myrtle Beach to Newark
Friday, April 29, 2022	Fieldwork	6:00AM to 2:00PM	6:29AM-9:22AM	LaGuardia to Orlando

<sup>1</sup> *The General Superintendent did not swipe out on these dates. His supervisor therefore manually entered his time out in Kronos.*

<sup>2</sup> *On this date the General Superintendent changed his scheduled shift to an overnight shift of 10:00 pm to 6:00 am.*

Based on the comparison of the Kronos records, flight records, and SharePoint records OIG estimates that the General Superintendent was paid for 49 hours (equating to approximately \$2,990 in salary) that cannot be accounted for. OIG calculated this estimate based on his flight time compared to his scheduled shift time and factored in travel to the airport from 34<sup>th</sup> street in Manhattan. For example, on August 27, 2021, the General Superintendent's flight departed from Newark to Florida at 9:31 am, but according to his time records his schedule that day was 6:00 am to 2:00 pm. Therefore, he was not at work from, at the minimum, 9:31 am until the end of his scheduled shift at 2:00 pm, equating to 4.5 hours of unaccounted for time. An hour was then added to that time based on his own admission in his interview (detailed below) of when he would leave work to catch a flight, for a total estimate of five unaccounted for hours. Furthermore, there was no indication in the General Superintendent's records that he adjusted his shift on that date because of his flight time. This rationale was applied to the other dates in the chart.

## B. Interviews

### 1. Assistant Chief Officer Division of Elevators and Escalators

OIG interviewed the Assistant Chief Officer (ACO) Division of Elevators and Escalators, who was the General Superintendent's direct supervisor.<sup>1</sup> The ACO stated that he was hired by NYC Transit in July 2001, as a Transit Electrical Apprentice, and received several promotions during his career. In May 2021 he was promoted to this title. The ACO stated that his schedule is Monday to Friday from 7:00 am to 3:00 pm, with regular days off Saturday and Sunday and

<sup>1</sup> During our investigation and after his interview, the ACO was promoted to Chief Infrastructure Officer.

his work location was 130 Livingston Street, in Brooklyn. The ACO's responsibilities include supervising the maintenance, repairs, and inspections of elevators & escalators in the Bronx, Brooklyn, Queens, and Manhattan. He said that 20% of his job is field work and the other 80% is administrative work. When in the field, his responsibilities include performing inspections, supervising hourly employees, and ensuring that repairs and maintenance are accomplished on time.

The ACO stated that the General Superintendent can go into the field any day or time during his regular shift. He stated that the field work would consist of supervising employees and ensuring that proper procedures are being followed. Further, the ACO noted that when the General Superintendent goes to the field, the ACO does not need to be informed unless a problem arises that requires documenting. The ACO stated that except for emergencies, the General Superintendent is supposed to swipe in and out at his reporting location using the Kronos clocks regardless of field location.

The ACO stated that the General Superintendent must work his full shift and is not allowed to leave early, whether in the field or in the office, without notifying the ACO or a higher level supervisor. If the General Superintendent needs to leave early from work, he must notify the ACO through text, email and/or phone call and use his accrued time. If the ACO is not available, then the General Superintendent must go up the chain of command. Per the ACO, managers (including the General Superintendent) can adjust their tours or make a request to modify a Kronos entry through an application called "SharePoint" which would then need to be approved by the reporting supervisor.

The ACO said that the General Superintendent would review his own time records for accuracy at the end of the pay period and then he (the ACO) verifies and approves it. This process is all done electronically in Kronos. The ACO stated that he verifies the General Superintendent's time by reviewing his reported time and would follow up whenever there were discrepancies, specifically missing swipes. The ACO stated sometime in May/June 2022 that he spoke to the General Superintendent about his lack of swiping compliance and informed the General Superintendent that he needed to swipe in and out. The ACO explained that he relies on an honor system for time reporting.

The ACO stated that he is aware that the General Superintendent has family and property in Florida and that the General Superintendent would travel to Florida once a month. The ACO was unaware that the General Superintendent had changed his mailing address with the agency to a Florida address. The ACO stated that the General Superintendent never told him he needed to adjust his schedule to fly to Florida.

The ACO confirmed that the General Superintendent is not allowed to work multiple shifts in one day in order to work less than five days in a week. For example, the General Superintendent could not work his required 40 hours in less than five days and then be allowed to take the remaining workdays off. However, the ACO did state that if the General

Superintendent changed his tour and worked from 10:00 pm on Thursday to 6:00 am on Friday, that would count as his Friday shift.

The ACO was questioned about the dates where he manually entered times for the General Superintendent because the General Superintendent had not swiped out. The ACO said that whatever time he entered was based on what the General Superintendent told him. He further stated that he does not have any way to verify the General Superintendent's time if there is not actual swipe data and it is all based on the honor system.

## *2. The General Superintendent*

The General Superintendent told the OIG that his regular workday includes time in the office and time spent in the field. His hours in the field vary by day with no set schedule. He stated with the exception of Mondays, he does field work almost daily. He explained that field work consists of traveling to locations within any of the three zones under his supervision to ensure his subordinates are performing their jobs. The General Superintendent stated that he does not file any official report when he is in the field. A report would only be generated if he encountered a problematic situation that needed a resolution. In that instance, the General Superintendent would email upper management to alert them of the issue. According to the General Superintendent this would be the only situation when there would be a report of his field work.

The General Superintendent initially stated he swipes in and out using a Kronos clock to record his time for his workday. On days where he did not swipe out, the General Superintendent gave various explanations: either he was in the field (he claimed he does not swipe out when he is in the field), or he forgot to swipe out for the day if not in the field, or he even posited that it could have been a faulty Kronos function. The General Superintendent confirmed that he owns a home in Florida and claims it as his primary residence. The General Superintendent stated that he changed his permanent address with NYC Transit to reflect his Florida address.

The General Superintendent was questioned about airline records that show several flights on days he was purportedly working. Although he could not answer as to specific dates, the General Superintendent told OIG that he flies to Florida approximately three times a month and claimed that his usual practice is to travel to Florida on Friday mornings. The General Superintendent claimed that his usual pattern would be to change his Friday schedule via SharePoint to reflect a "one day tour change." By doing this, the General Superintendent's Friday tour would begin Thursday evening at 10:00 pm and end at 6:00 am on Friday. By changing his schedule, the General Superintendent believed he was "making up" for days he flew out even though he was scheduled to work. The General Superintendent stated that he usually makes changes to his shifts at the beginning of the week. He regularly reviews his time records a few times a week. He claimed that quite often the shift changes he made in SharePoint were not reflected in the final Kronos records so he would have to go back into the system and make edits. He did this to ensure the Kronos system would not charge time against his vacation

if the tour changes were not reflected. However, when asked to provide an example reflecting this change, the General Superintendent could not provide one during the interview.

The General Superintendent conceded that if a flight record stated he was on a flight, but Kronos reflected he was working during that same time, he likely left his shift early. The General Superintendent admitted that he would use the “Field Work” category for Kronos on the Fridays he departed to Florida. He further admitted that he would not always swipe out on Friday to keep the Kronos records from automatically flagging that he did not work his regular tour on Fridays. On the instances when he did not swipe out, he would have the ACO enter the time out for him. In order to catch his flights, the General Superintendent admitted that, for example, he would leave work at about 4:30 or 5:00 am, to catch a 6:00 am flight. The General Superintendent stated that travel between Newark and his 34th Street post usually takes one hour, including the 20-minute train ride. The General Superintendent also admitted that when he left work early without clocking out, he would falsely report to the ACO that he worked his full shift.

The General Superintendent recalled that in early May of 2021, he informed his former supervisor, with the ACO present, that he was moving his family to Florida and requested permission to do a tour change where he would work Thursday nights into Friday morning which would count as Friday’s shift. According to the General Superintendent, his former supervisor approved the request saying, “it was ok for now but that can change at any time”.<sup>2</sup> The General Superintendent said he asked for the change so that he can fly to Florida on Fridays.

The General Superintendent stated that the ACO was fully aware that he had a house in Florida and was travelling there regularly on Fridays. The General Superintendent claimed that the ACO told him to input the shift changes in SharePoint to cover the hours since he was travelling on Fridays. The General Superintendent stated that the ACO was not aware he was leaving before the end of his shift.

The General Superintendent stated that sometime in 2022, the ACO reminded him that he was not swiping out regularly and needed to do so. The General Superintendent admitted to the OIG that he was not swiping out because he was leaving early to travel to Florida. The General Superintendent stated that he did not have any arrangement with the ACO to cover for him.

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<sup>2</sup> OIG clarified this request with his former supervisor who stated that this accommodation for a change in shift was verbal in nature, nothing was documented, and was “meant to be occasional”. He also said he left it up to the ACO to work out the details.

### 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.

#### 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 General Superintendent engaged in a course of conduct that would raise suspicion among the public that he is likely to be engaged in acts that are in violation of the public trust. The General Superintendent would either indicate "Field Work" in his time records with no accompanying in or out swipes or in other instances would swipe in and not swipe out to hide his behavior and fly to Florida. Additionally, he gave the ACO false clock out times. As a result, the General Superintendent received pay for hours that cannot be accounted for based on the time records.

Furthermore, he made contradictory statements to the OIG regarding adjusting his tour. He claimed that he would adjust his regular 6:00 am to 2:00 pm shift on Friday to 10:00 pm (Thursday) to 6:00 am (Friday) in Sharepoint. However, a review of the relevant records does not support that assertion and instead shows that on multiple days when he flew to Florida he still reported as having worked his scheduled shift. Regardless, three of his flights to Florida required that he depart for the airport before 6:00 am including the one date he did make a shift change. Thus, even by his purported explanation, he failed to complete three shifts and record his early departure.



#### **IV. FINDINGS**

1. The General Superintendent abused the attendance policy and documented his time falsely thereby receiving pay for hours that cannot be accounted for 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 General Superintendent 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).

#### **V. RECOMMENDATION**

We recommend that the General Superintendent be disciplined as NYC Transit deems appropriate, up to and including termination and that NYC Transit recoup any unearned payments from the General Superintendent.

As always, we appreciate 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



**Daniel G. Cort**  
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**Addendum**  
**to**  
**MTA/OIG #2023-04**

**Time and Attendance Abuse by a NYC Transit General Superintendent**

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 General Superintendent seeking dismissal and pre-disciplinarily suspended him pending final disposition.

The Step I Informal meeting sustained NYC Transit's charges and the penalty of dismissal. The General Superintendent appealed this decision. After reviewing the written submission by the General Superintendent in support of his appeal, the Step II appeal officer sustained the Step I finding of misconduct and upheld the termination decision.