



## PROCESSING SAFETY COMPLAINTS AGAINST PARATRANSIT DRIVERS

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### OVERVIEW

New York City Transit's (NYC Transit) Access-A-Ride program, administered and operated by the Paratransit Division (Paratransit), provides transportation services to over 130,000 customers who are physically unable to utilize the agency's public bus and subway system to commute to their jobs, keep medical appointments, or generally travel throughout the city. This vital program, serving both the elderly and persons with disabilities, has grown enormously in recent years with more than 20,000 scheduled trips provided each day by NYC Transit's fleet of more than 2,000 specially equipped vans<sup>1</sup> operated by independent carriers under contract to the agency.

As part of its community outreach program, Paratransit's Customer Relations Unit (CRU) processes complaints about the Access-A-Ride program that have been telephoned into NYC Transit offices from customers as well as from the public at large. Between January 2007 and June 2009, the period of our audit review, CRU processed 41,449 such complaints, most expressing dissatisfaction with the schedule of transportation services (i.e., arrival and departure times) provided by the agency. In 1,594 of these cases, however, complainants alleged that Access-A-Ride van drivers (officially referred to as "operators") had engaged in reckless and otherwise unsafe driving behavior, thereby endangering riders, pedestrians, and other motorists. While recognizing the importance of all complaints received by Paratransit, our review focused on the manner in which CRU processed allegations of unsafe operator performance.

NYC Transit classifies unsafe operator complaints into two categories: "Reckless Operator" and "Injured Customer." Of the 1,594 unsafe operator complaints, 1,507 were classified as Reckless Operator. In these cases, callers claimed that operators had driven Paratransit vans in a reckless manner by speeding, running red lights, making improper U-turns, and cutting off other motorists on the road. Reckless Operator complaints also alleged that operators had placed their passengers at additional risk, by failing to adequately fasten customer seat belts and wheelchairs restraints and by not assisting riders with limited mobility into and out of the vans. The remaining 87 unsafe operator complaints (classified as Injured Customer complaints) came from riders who reported having suffered actual physical harm, including serious contusions, sprains, lacerations, and broken bones as a result of their operators' alleged unsafe performance.

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<sup>1</sup> Under the Access-A-Ride program, carriers also provide "sedan" service, but this is a relatively small part of the program and was not included in our review.

When processing these unsafe operator complaints, CRU Analysts make efforts to contact each complainant by phone to obtain a first-hand account of their allegations and to offer the agency's regrets for any difficulties the complainants experienced with Access-A-Ride services. Further, when processing Injured Customer complaints the Analysts referred complainants to the insurance administrator for filing personal injury claims suffered as a result of the alleged operator errors.

While CRU is authorized to refer unsafe operator complaints to the carriers for a formal investigation of the operators' performance, it frequently did not do so. Indeed, because CRU did not consider that the complaints alone warranted further review, it closed most of the complaint cases without referral for any investigation as to whether operators had violated the agency's safety procedures for transporting Access-A-Ride customers. Paratransit officials stated that the agency primarily relies on other driver performance indicators (e.g., reviews of official Accident/Incident reports, operator traffic violation histories, and personal injury claims from customers) monitored by other Paratransit units to identify and remove unsafe operators from the road.

### **Summary of Findings**

Our review found that Paratransit's summary closing of most unsafe operator complaints without referrals for further investigation represented a lost opportunity to fully utilize unique and pertinent observations of operator safety not always captured by other driver performance indicators. Specifically, we found that most of these unrefereed complaints described serious safety allegations that warranted a formal investigation of operator performance:

- CRU did not refer 60 of the 87 Injured Customer complaints for investigation even though the complainants specifically alleged that their injuries had resulted from their operators' performance errors. When we sampled 30 of the 60 unrefereed Injured Customer complaints, we found that 11 of these cases were subsequently flagged by other Paratransit units and referred for investigation. In the remaining 19 cases (63 percent), however, the Injured Customer complaints were never flagged or investigated by any Paratransit unit.
- CRU also did not request that carriers investigate 102 (nearly 70 percent) of the 148 Reckless Operator complaints we sampled even though these complainants clearly described serious unsafe driving practices by the operators. We were particularly concerned that CRU summarily closed four complaints that alleged that operators fell asleep while behind the wheel of their vehicle. Since these Reckless Operator complaints apparently did not result in physical injury to the passengers, motorists or other individuals, or damage to the vans or other property, the 102 cases closed by CRU were never discovered and investigated by any other Paratransit unit.

Our review also found that CRU did not sufficiently analyze trends in the complaint data to identify operators who had been the subject of multiple allegations of unsafe driving. While CRU maintains a Vehicle Operator Monitoring Log specifically for such trend analyses, 164 of

the 235 Injured Customer and Reckless Operator complaints we reviewed (70 percent) had never been entered into the database. This omission significantly undermined Paratransit's ability to conduct trend analyses to identify unsafe operators before accidents occur.

Finally, our review found that CRU did not always promptly contact complainants after the incidents were reported, hampering the agency's ability to both assess unsafe operators complaints and investigate them in a timely manner. Indeed, we found several cases in which CRU waited more than two months to interview customers who reported being injured on Access-A-Ride vans as a result of operator error. Such processing delays further hampered the agency's ability to identify unsafe operators and quickly remove them from the road.

Pursuant to their contracts with Paratransit, the private carriers who employ Access-A-Ride operators have the direct responsibility for monitoring operator performance and conducting formal investigations of any driver suspected of violating Paratransit's safety regulations. While we have focused here on CRU's unduly limited role in processing unsafe operator complaints, we note that another Paratransit unit, Contract Management, has the specific responsibility for overseeing the carriers' investigation of unsafe operators. Given the agency's complaint processing problems identified in this report, as well as the significant risks posed by these operators, we urged Paratransit to review current Contract Management procedures to ensure that all safety investigations conducted by the carriers are appropriately monitored and reviewed by Paratransit. In reviewing these procedures, Paratransit should remain mindful that it has the ultimate authority to require the dismissal of any operator Paratransit considers unfit for Access-A-Ride service.

### **Summary of Recommendations**

To ensure that all unsafe operators are promptly identified, investigated and addressed, we recommended that Paratransit:

- Require that CRU automatically refer all Injured Customer complaints for formal investigation of the operators' role in such incidents.
- Institute (1) formal standards for assessing Reckless Operator complaints and (2) sufficient internal controls to ensure that all appropriate Reckless Operator complaints are referred for investigation.
- Require that CRU give priority to processing Injured Customer and Reckless Operator complaints to ensure that all substantive allegations are investigated as rapidly as possible.
- Require CRU Analysts to enter all safety-related complaints on the Vehicle Operator Monitoring Log to facilitate identification of unsafe operators.
- Review Contract Management procedures to ensure that (1) safety investigations are being conducted as warranted and in a thorough and professional manner; and (2) that

drivers found to have violated the agency's safety procedures are promptly terminated, suspended, or subject to other appropriate action.

### **Agency Response**

After reviewing a draft of this report, the MTA Bus Company (MTA Bus), which oversees Paratransit operations, accepted our audit's findings and agreed to implement the OIG's recommendations. MTA Bus' response noted that the complaint problems identified in this report occurred during a period when Paratransit's budget for CRU staffing was unable to keep up with the large increases in the volume of both customer services and subsequent complaints received by CRU.

To provide assurance that MTA budget concerns had not compromised safety, however, MTA Bus stressed that Paratransit's safety net already included the following programs and requirements to identify, retrain or remove unsafe operators:

- Paratransit's Standards and Compliance Unit (SCU) regularly monitors operator performance indicators (including convictions for moving violations) to proactively identify unsafe operators in need of retraining; and
- Paratransit staff performs unannounced radar checks and undercover observations of operators on the road to spot unsafe driving performance.

The MTA Bus response also noted that Paratransit had already required CRU to automatically refer for investigation all unsafe seat belt and wheelchair restraint complaints as a result of the information presented to the agency by the OIG prior to our written report.

### **Conclusion**

One of the key objectives of the Access-A-Ride program is to ensure the safety of the elderly and persons with disabilities who depend upon its services. Paratransit's commitment to passenger safety is evidenced by the Standards and Compliance Unit's monitoring of a wide array of performance indicators used to detect and remove unsafe operators from the road. While SCU monitoring enhances Paratransit's ability to assess its operators' driving performance, our report finds that agency officials are not fully utilizing perhaps the most direct indicator that an operator is dangerous - complaints received by the Customer Relations Unit from the very customers the Access-A-Ride program serves, and from motorists and other members of the general public affected by it.

Lacking any formal written standards or guidelines for assessing unsafe driving complaints made against operators, CRU Analysts do not refer most safety complaints for formal investigation by the carriers. Although the Analysts attempts to contact complainants to obtain their personal accounts of the incidents is essential, and offering the agency's apology has value, we believe that taking safety complaints without referring them for appropriate investigation is simply unacceptable. Failure of follow-up potentially leads to a loss of credibility in what will be seen

as little more than a “hand-holding” process, discourages reporting, and leaves unsafe drivers on the road.

In its response to this report, MTA Bus noted that as part of its safety net Paratransit requires that all operators found to have improperly secured their customers via seat belts and wheel chair restraints are removed from revenue (passenger) service until they are retrained in safety procedures. However, while customer complaints could provide the most effective identification of deficient operator performance, CRU’s summary closing of these complaints significantly reduces the likelihood that unsafe operators will be identified and retrained. By choosing to accept and implement OIG recommendations, Paratransit has recognized the need to tighten its safety net and continually assure the safety of its riders in every way possible.

We are encouraged by the agency’s response and will continue to monitor implementation of our recommendations.

## BACKGROUND

Since 1993, NYC Transit's Paratransit Division has administered and operated the Access-A-Ride program, which provides transportation services to the elderly and to persons with disabilities who are physically unable to avail themselves of the agency's public bus and subway systems. Under this program, specially equipped vans provide transportation services, 24 hours a day, 7 days a week, to registered customers who meet the agency's medical eligibility requirements. Between 2000 and 2009, the number of customers approved to use Access-A-Ride has more than doubled -- from 59,721 registered users in 2000 to approximately 130,000 registered users in 2009.

While some customers use Access-A-Ride for occasional trips, others employ its services on a regular basis to travel to work and regularly scheduled medical appointments. Over the years, demand for these services has grown immensely. The numbers of yearly trips made have steadily increased from 3.8 million in 2006 to almost 6 million trips in 2009. On a high peak day, there can be as many as over 20,000 scheduled trips made by Access-A-Ride vans.

Paratransit manages the Access-A-Ride program through private carriers<sup>2</sup> under contract to NYC Transit. Under this program, the agency purchases vehicles and leases them to the carriers that hire, train and supervise the operators, including those who drive the 2,040 Access-A-Ride vans currently in operation.

To process feedback from Access-A-Ride customers, as well as from pedestrians and motorists who encounter the vans on the road, Paratransit established its Customer Relations Unit. Among its responsibilities, CRU processes thousands of public comments that are telephoned each year to NYC Transit's Travel Information Center (known as the Call Center).<sup>3</sup> Call Center agents obtain the name, address, and telephone numbers of the callers, summarize the details of their comments, and enter the information onto an electronic data management system, referred to in this report as the Comments Database.<sup>4</sup>

Between January 2007 and June 30, 2009, the Call Center forwarded approximately 50,000 comments to CRU. Notably, 7,216 of these calls (13 percent) represented commendations from customers who expressed appreciation for the Access-A-Ride program as well as for the operators who drove the vans.

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<sup>2</sup> NYC Transit has contracts with the following carriers, Atlantic Paratransit, Careride, Columbus Transit LLC, Empire Paratransit Corp., GVC II LLC, Dedicated Services, Maggies Paratransit, MV Public, PTM Management Corp., Premier Paratransit, Star Cruiser Transportation, Progress Transit, ALL Transit, and Advance Transit, TC Paratransit.

<sup>3</sup> In addition to Paratransit complaints, the Call Center handles all telephoned public comments related to NYC Transit. CRU also reviews comments related to the Access-A-Ride program that are sent by mail, E-mail, or that are personally delivered to Paratransit offices. Such non-telephoned complaints represent about 10 percent of CRU's workload and were not included in our review.

<sup>4</sup> The Comments Database is formally known as the "Right Now Data Management System."

Most of the calls forwarded to CRU, however, represented complaints about the program. During this period, CRU processed 32,892 “Schedule Complaints,” including those in which customers cited instances where their vans arrived late (or not at all), their travel time was excessively long, or they had been dropped off at the wrong location.

CRU also received 8,557 complaints about the performance of Access-A-Ride van operators. Most of these callers faulted the operators for being rude, verbally abusive, and generally not helpful to passengers being transported on the vans. More significantly, 1,594 of these complaints specifically alleged that operator errors had created unsafe conditions during the delivery of Access-A-Ride services. The Call Center classified 1,507 of these cases within its Reckless Operator complaint category, which includes allegations of unsafe driving, inadequate fastening of customers’ seat belts and wheelchairs restraints, and failing to assist passengers into and out of the vans. In the remaining 87 cases, the Call Center classified the complaint in its Injured Customer category because the complainant reported physical harm resulting from similar types of unsafe operator actions and omissions.

Our audit focused on CRU’s processing of the 1,594 safety complaints received by the Call Center. In accordance with Paratransit procedures in effect during our audit period, all Reckless Operator and Injured Customer complaints were assigned to one of eight CRU Customer Relations Analysts (Analysts) who telephone the complainants in order to:

- Offer an official apology to the customers for any problems they may have encountered while using Paratransit services;
- Obtain a first-hand description of the accidents mentioned in the customers’ complaints; and
- Provide complainants with information for contacting the Claims Service Bureau<sup>5</sup> should they wish to file a personal injury claim against the agency.

Following complainant interviews, Analysts are authorized to refer these safety complaints to the carriers for a formal investigation of operators’ performance. Such investigations include interviews with the operators involved, reviews of any Accident/Incident reports<sup>6</sup> filed by the operators on the date of the occurrence, and interviews with other Access-A-Ride customers who might be able to corroborate details described in the original complaint.

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<sup>5</sup> Paratransit contracts with an outside vendor to act as its Claims Service Bureau, which processes all insurance claims (including customer injury) brought against the Access-A-Ride program.

<sup>6</sup> The terms “Accident” and “Incident” have specific meanings defined by the contract. For example, Contract No. 07H9751N with MV Public Transportation, Inc. (Sample Contract) §101(A)(2) defines “Accident” to mean “an event causing property damage in excess of \$1,000 or any personal injury that occurs during the Contractor’s operation of any AAR [Access-A-Ride] service.” Sample Contract §101(A)(33) defines “Incident” to mean “any notable or newsworthy occurrence on the Vehicle or in connection with AAR service other than an Accident.”

Should the carriers substantiate the complainants' allegations, the operators may be sent for safety training classes, or in more serious cases have their employment suspended or terminated. Carriers are also subject to fines for failing to adequately supervise operators that the carriers determined had violated Paratransit's procedures for safe vehicle operation.

It should be noted that CRU's complaint review process is just one part of Paratransit's complex and multi-faceted procedure for monitoring operator performance. According to Paratransit officials, the agency's "safety net" for identifying unsafe van operators cuts across several units that manage the Access-A-Ride program, including the following:

- The Standards and Compliance Unit compiles and maintains a database on several indicators that assess operator performance, including the status of operators' commercial driving licenses and identifying moving traffic violations they received either while operating Access-A-Ride vans or during off-duty hours.
- Paratransit staff performs unannounced radar checks and undercover observations of operators on the road to spot unsafe driving performance.
- Paratransit requires that all operators found to have improperly secured their customers via seat belts and wheel chair restraints be removed from revenue service until they are retrained in safety procedures.
- The Claims Services Bureau automatically notifies Paratransit and the appropriate carrier whenever a customer chooses to file a claim for personal injuries sustained while using the Access-A-Ride program. In addition to its contractual obligations, such notifications provide added incentive to the carrier, faced with the possibility of litigation, to review the reported role of their operators in the injuries that are claimed.
- The Contract Management Unit maintains a log of all operator investigation referrals made by Standards and Compliance and the Claims Service Bureau, as well as by CRU, and monitors the carriers to ensure that appropriate actions are taken against drivers found to have violated Paratransit's safety procedures.

As contemplated by Paratransit, this "safety net" should ensure that all material indications of unsafe driving by operators are promptly identified by the agency and investigated by the carriers before any serious accidents occurred on the road. However, our review indicated that agency officials are not fully utilizing (i.e., referring for investigation) perhaps the most direct indicator that an operator is dangerous - complaints from the very customers the Access-A-Ride program serves, and from motorists and other members of the general public affected by it. Detailed descriptions of our findings and recommendations are presented in the sections that follow.

## **SECTION I: PROCESSING INJURED CUSTOMER COMPLAINTS**

As we noted earlier in this report, NYC Transit's Call Center forwarded 87 Injured Customer complaints to CRU during the two and one-half year period ending on June 30, 2009. According to the complaint descriptions noted on the Comments Database, these customers alleged that they had been injured as a result of operator errors made while the customers were utilizing Access-A-Ride services.

In 48 of the 87 cases, CRU Analysts were able to speak directly with the complainants and interview them about their injuries. In the 39 remaining cases, the Analysts left telephone messages (either on the customers' answering machines or with a third party who took the Analysts' call), which provided the Claims Service Bureau contact information and encouraged the complainant to contact CRU directly to discuss the matter.

According to the Comments Database, CRU Analysts chose to refer 27 of the 87 Injured Customer complaints (31%) for a formal investigation based on the Analysts' assessment that operator error may have been responsible for the injuries described in the complaint. It should be noted that speaking directly with the customers was not always an essential part of the Analysts' determination to refer cases for investigation. Indeed, 10 complaint referrals did not involve CRU interviews with complainants and were based solely on data contained in the complaint descriptions forwarded from the Call Center and other data available at Paratransit.

According to data compiled by Contract Management, the carriers found that the operators had violated Paratransit safety procedures in about two-thirds of the cases referred, resulting in the re-training, suspension, or dismissal of these employees, as well as the carriers' agreement to pay fines for their operators' violation of safe driving practices. The remaining investigations did not substantiate the customers' allegations and the complaints were subsequently dismissed.

### **Unreferred Injury Complaints**

Paratransit affords CRU Analysts wide latitude to summarily close complaints, even those identifying unsafe operator performances, without referring the cases to carriers for a formal investigation of the complainants' allegations. However, Paratransit has never formulated formal written standards or guidelines to direct the complaint closing process, relying instead on the judgment and experience of Analysts and the CRU managers.

Of the 87 Injured Customer complaints received during this period, CRU Analysts elected to close 60 cases (69 percent) without making any referral for further investigation. As part of our review, we examined these complaints to assess the Analysts' decisions to summarily close the cases. Rather than confirming the correctness of the Analysts' actions, our findings suggest that most of these closings had been premature and ill-considered.

Our review found that the 60 customer complaints reported serious breaches of Paratransit procedures designed to ensure passenger safety. According to the complaint summaries

provided to CRU, most<sup>7</sup> of these customers alleged that their injuries resulted from accidental falls caused by errors made by operators who drove their vans, as detailed below:

- **Falls within Moving Paratransit Vans**

Forty-four complainants alleged that they had sustained injuries after falling down on the van en route to their destination. In these cases, customers cited unsafe driving by the operator (e.g., short and sudden application of the brakes, initiating van movement before all passengers were seated, and collisions with other vehicles) as the cause of their injuries. In 20 of these cases, customers noted a secondary contributory element to their accident – the operators’ failure to properly fasten passenger seatbelts and wheelchair safety restraints before they started driving. Most disturbingly, 14 customers noted they sustained injuries after their wheelchair tipped over while the van was in motion.

- **Falls during Customer Entrance or Exit from Van**

Twelve complaints came from customers who fell while entering or exiting a stationary Paratransit van. In nine of these instances, the complainant fell on the steps located in the front of the van. The remaining three cases involved wheelchair users who fell from the passenger lift mechanism at the rear of the vehicle. In all twelve cases, the complainants alleged that their injuries occurred because operators failed to provide them with assistance onto or off of the vehicles.

We believe that these complaints against operators involving unsafe driving, insufficient assistance in aiding passengers onto and off of the vans, and failure to properly secure customers and their wheelchairs, were sufficiently serious to warrant virtually automatic referral by CRU for investigations of operators’ performance. Indeed, the risks of such unsafe driving actually materialized according to the customers, whose reported injuries included serious contusions, sprains, lacerations and broken bones. Twelve of these complainants specifically noted to CRU that they required medical attention at local hospitals to address the injuries sustained while employing Paratransit services.

As such, we believe CRU Analysts exercised poor judgment in their assessment of these complaints and failure to refer them to carriers for a formal investigation of the operator performance.

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<sup>7</sup> While all of the 60 complainants cited various operator safety errors as the primary cause of their injuries, four did not claim to have fallen either within or outside the vehicle.

## Paratransit's Initial Response to Audit Findings

When we notified Paratransit officials about these 60 unrefereed Injured Customer complaints, they assured us that formal investigations of the operators had almost certainly taken place despite CRU's decision not to refer the cases.

The officials stated that CRU's primary role in processing complaints was largely relegated to "customer relations" – that is, providing customers with a sympathetic and helpful outlet to voice their complaints when transportation services failed to meet their expectations. While recognizing that Analyst referrals were useful to the investigation process, they asserted that other Paratransit procedures provided a safety net that ensured that all customer injuries were promptly and effectively examined. Among the safety procedures cited by the agency were the following:

- Whenever a passenger is injured, Paratransit requires operators to file an "Accident/Incident Report" that details the name of the injured customer, the type of injury sustained, and a description of how the injury occurred. Paratransit's carriers are required to review such Accident/Incident reports and to take appropriate measures (re-training, termination, etc.) should the carrier determine that the operators' actions were to some degree responsible for the injury.
- Paratransit requires that CRU Analysts provide all Injured Customer complainants with the necessary information for contacting the Claims Service Bureau should they wish to file a personal injury claim. The Claims Service Bureau then notifies both Contract Management and the carriers when claims are filed, presumably initiating investigation of the accident circumstances, including reviews of possible operator error.

To assess the adequacy of Paratransit's safety net, we sampled 30 of the most serious Injured Customer complaints closed by the Analysts without referral. We supplied these cases to Paratransit and requested that they identify whether the operators had been investigated for the role they played in the customer accidents, and, if so, to provide the results of the investigation.

According to the data compiled by Paratransit, only 11 operators had actually been investigated by the carriers. In these cases, safety violations were substantiated against 10 operators who were either terminated from the carriers' employ or re-trained in Paratransit safety procedures.

In the remaining 19 cases, however, Paratransit reported that no investigation had been conducted. Case Study #1 provides details on a serious Injured Customer complaint that was not referred by CRU, flagged by another Paratransit unit or subsequently investigated by the carrier.

**Case Study #1****Complaint #: 071029-22****Complaint Summary:**

The customer stated that he was injured after his wheelchair slipped backwards on the van's mechanized lift causing him to fall to the ground. He noted in his complaint that the operator was negligent for not assisting his entry into the van.

**CRU Analyst Response:**

The Analyst apologized for the incident, left the telephone number for the Claims Service Bureau, and closed the case without referral for investigation

It is important to note that the Analysts' limited responses in these cases were consistent with current CRU processing procedures, which require only that Analysts attempt to interview all Injured Customer complainants and provide them with the information needed to file a personal injury claim. Current CRU procedures do not provide formal guidelines or standards for assessing these injury complaints, leaving all referral decisions up to the unguided discretion of the Analysts handling the case.

Without requiring proper investigations of the 19 customer injuries, we believe that Paratransit missed an opportunity to identify and remove unsafe operators from service. Fortunately, our review did not identify any subsequent accidents from these 19 operators after receipt of these Injured Customer complaints. When we requested the current status of the operators as of June 30, 2009, Paratransit informed us that 7 of these operators no longer worked for the carriers while 12 were still employed as van operators.

## RECOMMENDATIONS

1. Paratransit should require that CRU automatically forward all Injured Customer complaints to the carriers for formal investigation of the operators' role in such incidents.

*MTA Response:*

*MTA Bus accepted this recommendation and stated that Paratransit will refer all reports of customer injuries to the appropriate carriers for investigation.*

2. Paratransit should review the procedures of the Contract Management unit to ensure that (1) investigations of Injured Customer complaints are being conducted as warranted and in a thorough and professional manner; and (2) that drivers found to have violated the agency's safety procedures are promptly terminated, suspended, or subject to other appropriate action (e.g., retrained in the agency's safe driving requirements).

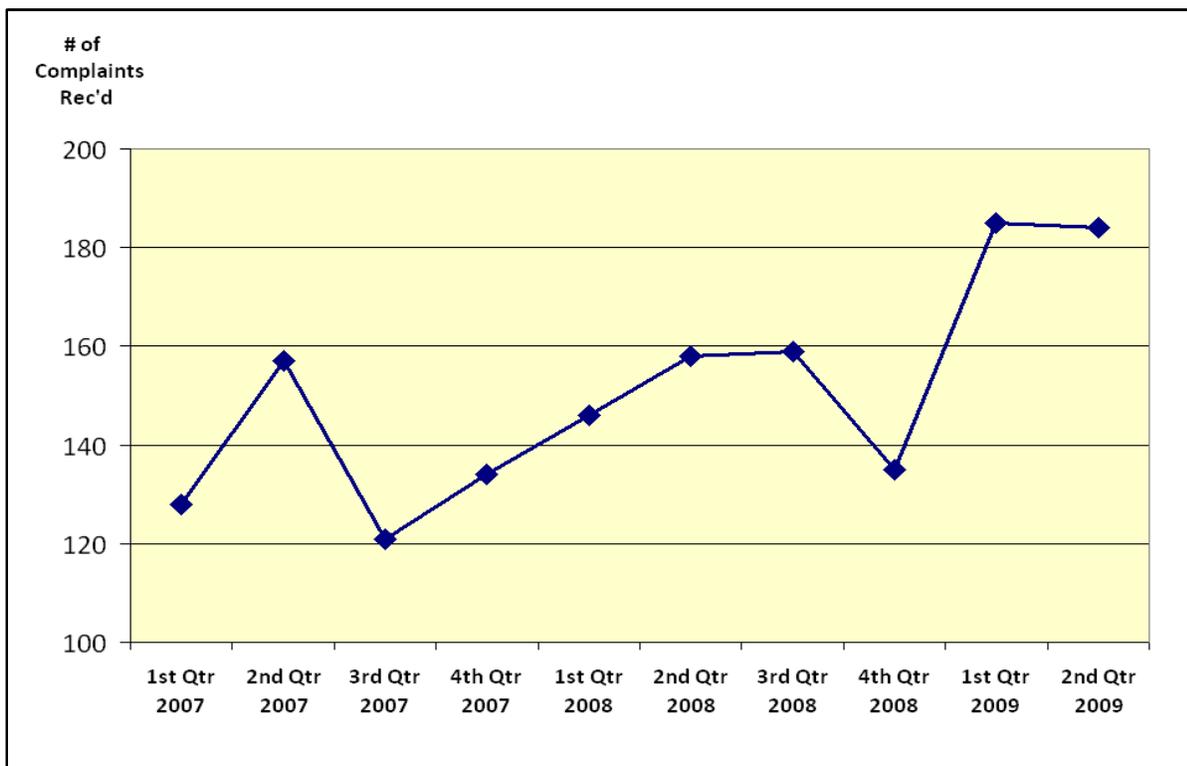
*MTA Response:*

*MTA Bus accepted this recommendation, stating that Paratransit will review procedures to ensure safety investigations are performed as required and monitored to ensure appropriate correction actions have been taken.*

**SECTION II: PROCESSING RECKLESS OPERATOR COMPLAINTS**

During the two and one-half years ending in June 2009, the Call Center received a total of 1,507 Reckless Operator complaints. Our review indicated that the volume of such complaints rose during this time<sup>8</sup> from 128 in the 1<sup>st</sup> quarter of 2007 to 184 during the 2<sup>nd</sup> Quarter of 2009, as shown in the table below:

**TABLE 1:**  
*Paratransit Reckless Operator Complaints Received by NYC Transit Call Center 1<sup>st</sup> Quarter 2007 through 2<sup>nd</sup> Quarter 2009*



Given the increasing frequency of these safety-sensitive reports, we sampled 148 Reckless Operator complaints (about 10 percent) to assess whether CRU Analysts, without sufficient justification, had actually prematurely and effectively precluded further investigation of such safety complaints.

According to the Comments Database, 78 of the 148 complaints were made by Access-A-Ride customers who believed that their operator had engaged in reckless driving (e.g., speeding,

<sup>8</sup> The rise in Reckless Operator complaints between January 2007 and June 2009 matched similar increases in both the number of Paratransit customers and service levels that also occurred during this period.

swerving between lanes, and using cell phones apparently for personal phone calls while operating the vehicle). The remaining 70 cases originated from motorists who complained that the operators’ driving constituted a safety hazard on the open road.

**Unreferred Reckless Operator Complaints**

Our review indicated that CRU Analysts referred Reckless Operator complaints for investigation in only 16 of the 148 cases sampled (about 10%), as shown in the table below:

**TABLE 2:**  
**CRU Referral of Reckless Operator Complaints for Investigation**

	<i>Referred for Investigation?</i>		<i>Total</i>
	<i>YES</i>	<i>NO</i>	
<i>Customer Complaints</i>	<b>13</b>	<b>65</b>	<b>78</b>
<i>Motorist Complaints</i>	<b>3</b>	<b>67</b>	<b>70</b>
	<hr/> <b>16</b>	<hr/> <b>132</b>	<hr/> <b>148</b>

Because the complainants in these cases reportedly suffered no injuries, we do not believe that Contract Management, Standards and Compliance, the Claims Service Bureau, or other Paratransit units monitoring operator performance would likely have been aware of these complaints without a specific referral from CRU. As such, the Analysts’ summary closure of these cases virtually assured that no further review would be conducted of the operators’ performance cited in these Reckless Operator complaints.

**Paratransit’s Initial Response to Audit Findings**

Paratransit officials argued that CRU closed most Reckless Operator complaints without referring them for investigation because the allegations were either vague or not directly related to the safety of passengers (i.e., customer claims that the ride was too bumpy). Our examination finds some support for Paratransit’s arguments as 30 of the 132 unreferred complaints indeed contained incident descriptions that were not germane to passenger safety or not sufficiently detailed to initiate a formal investigation of the operators’ performance. However, in 102 of the 132 cases (77 percent), we believe that the complainants’ description of reckless driving

demonstrated serious weaknesses in operator performance that should have warranted further examination. Among these cases we found multiple allegations of operators exceeding speed limits, weaving in and out of traffic lanes, cutting off other motorists, and running red lights. Even worse, we found four instances in which customers alleged that their operators had fallen asleep while behind the wheel of the vehicles. Case Study #2 identifies one such complaint alleging a sleeping operator:

### Case Study #2

#### Complaint #: 080910-298

#### Complaint Summary:

The customer, a retired MTA police officer, stated that the operator fell asleep at the wheel after the van came to a stop for a red light. When the operator remained motionless after the light turned green, the customer had to call out to awaken the driver.

#### CRU Analyst Response:

The Analyst apologized to the complainant but did not refer the case for investigation because no other passengers had been on the vehicle at that time to corroborate the customer's account.

Although Paratransit may be able to develop standards that reasonably limit referrals of operator investigations, we believe that CRU Analysts – left to their own discretion -- have been too conservative in referring Reckless Operator complaints. By not providing formal written standards and guidelines for referral– effectively tolerating frequent closure of these complaints without meaningful review -- Paratransit is sacrificing a potentially powerful tool in identifying unsafe operators. To address these concerns, we recommend that Paratransit establish specific standards to guide CRU Analysts in their consideration of Reckless Operator complaints that are submitted by their customers and the general public. These standards should clarify that corroboration is not required for referral of a complaint.

It should be noted that in its contracts with the private carriers who actually employ and supervise Access-A-Ride operators, Paratransit entrusts the carriers with the day-to-day responsibility for monitoring operator performance and conducting formal investigations of any driver suspected of violating the agency's safety regulations. Notably, though, Paratransit retains

the authority to monitor the carriers' investigation and to require the dismissal of any operator the agency considers unfit for Access-A-Ride service.<sup>9</sup>

### RECOMMENDATIONS

3. Paratransit should institute (1) formal standards for assessing Reckless Operator complaints and (2) sufficient internal controls to ensure that all appropriate Reckless Operator complaints are referred for investigation.

*MTA Response:*

*MTA Bus accepted this recommendation, stating Paratransit will develop formal guidelines for evaluating Reckless Operator complaints. These guidelines will include appropriate Internal Controls to ensure that these complaints are referred for investigation."*

4. Paratransit should review the procedures of the Contract Management unit to ensure that (1) investigations of Reckless Operator complaints are being conducted as warranted and in a thorough and professional manner; and (2) that drivers found to have violated the agency's safety procedures are promptly terminated, suspended, or subject to other appropriate action.

*MTA Response:*

*MTA Bus accepted this recommendation, stating that Paratransit will review procedures to ensure safety investigations are performed as required and monitored to ensure appropriate corrective actions have been taken.*

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<sup>9</sup> For example, Sample Contract Attachment No. 1(Scope of Work) Article IX(B) provides in pertinent part: "Upon written notice to the Contractor that the Authority has determined that a Contractor employee's performance fails to meet the requirements of the Contract, or otherwise seriously detracts from the quality or efficiency of the service, **the Contractor shall remove the employee from assignment to this Contract.**" (Emphasis added.)

**SECTION III: OTHER DEFICIENCIES IN PROCESSING SAFETY COMPLAINTS**

In the prior sections of this report, we identified instances in which CRU Analysts failed to initiate formal investigations of operator safety lapses identified in complaints forwarded to the agency. In this section, we highlight two other areas of CRU’s complaint processing system that also need to be strengthened to enhance the identification of unsafe operators.

**Vehicle Operator Monitoring Log**

Paratransit utilizes its Vehicle Operator Monitoring Log (Monitoring Log) to track van operators who are the subject of frequent complaints from customers, motorists, and pedestrians. Such Monitoring Log entries are primarily designed to provide periodic trend analyses which highlight those operators with multiple safety complaints. According to CRU officials, the trend analysis data compiled from Monitoring Log data is shared with carriers several times a year to alert them to potentially high-risk operators in their employ.

To determine if the Monitoring Log properly captured all allegations of operator safety errors, we searched for entries related to the 87 Injured Customer complaints and 148 Reckless Operator complaints examined in this audit. At the conclusion of our review, we determined that 65 of the 87 Injured Customer Complaints (78 percent) and 96 of the 148 Reckless Operator complaints (63 percent) had never been entered on the Monitoring Log, as shown in the following table:

**TABLE 3:**  
***Injured Customer and Reckless Operator Complaint Entries on Driver Monitoring Log***

	<i>Total Reviewed</i>	<i>Entered On Monitoring Log?</i>		
		<i>YES</i>	<i>NO</i>	<i>% Not Entered</i>
<i>Injured Customer Complaints</i>	<b>87</b>	<b>19</b>	<b>68</b>	<b>78%</b>
<i>Reckless Operator Complaints</i>	<b>148</b>	<b>52</b>	<b>96</b>	<b>65%</b>
	<b>235</b>	<b>71</b>	<b>164</b>	<b>70%</b>

While our review did not ascertain a pattern as to why these complaints had been omitted from the Maintenance Log, it is clear that the Analysts’ failure to enter 78 percent of Injured Customer and 65 percent of Reckless Operator cases hindered the identification of operators with multiple

safety complaints and prevented the type of meaningful trend analysis needed to target unsafe operators before serious customer injuries occur.

To address these concerns, we recommend that CRU Analysts be instructed to enter on the Monitoring Log all operators cited on Injured Customer and Reckless Operator complaints received by the agency.

### **CRU Processing Delays**

Paratransit encourages CRU Analysts to complete their interviews of complainants within 15 days after the complaint is first received by the Call Center. Rapid resolution of such cases is desirable for many reasons:

- ***Enhanced Investigation Data*** – Rapid processing of complaints by CRU Analysts greatly enhances Paratransit’s ability to obtain credible and detailed descriptions of the alleged safety incident from the complainant, the operator, and from other passengers who might corroborate the events.
- ***Speedy Removal of Potentially Unsafe Operators*** - In many allegations of operator error, particularly those involving failures to properly secure passenger seat belt and wheelchair restraints, Paratransit requires that the operators involved be suspended from any active van operations until the investigation of their performance has been completed. Quick turnaround of safety complaints ensures a speedy removal of unsafe operators before additional accidents can occur.
- ***Building Customer Confidence in the Complaint Process*** - Timely outreach to customers who complain of operator errors builds greater trust between Paratransit and its ridership and conveys the message that the agency values such input and will act in a responsible manner to address all legitimate safety concerns. By the same token, however, timely outreach without appropriate referrals of complaints for action leads to a loss of credibility in what will be seen as little more than a “hand-holding” process, potentially discourages reporting, and leaves unsafe drivers on the road, thereby resulting in a *loss* of public confidence in the Access-A-Ride program.

To determine how well CRU met its 15 day complaint processing goal, we examined many of the complaints previously identified in this report and computed the amount of time Analysts needed to complete their work (i.e., the period between the receipt of the complaint to the date the Analysts closed the case). Specifically, we focused on 192 complaints -- the 60 Injured Customer complaints and 132 Reckless Operator complaints that Analysts had not referred for investigation by carriers.

Our tests indicated that CRU Analysts were able to close 110 complaints, almost 58 percent, in 15 days or less after the complaints were first received, meeting the agency’s processing target. Of the 82 cases that exceeded this limit, the processing delays ranged from 16 days to more than two months after the complaints were first received, as shown in the following table:

**TABLE 4:**  
**CRU Processing Time Related to Injured Customer and Reckless Operator Complaints**

<i>Time Taken to Call Complainant:</i>		<i># of Complaints</i>	
		<i>Injured Customer</i>	<i>Reckless Operator</i>
<i>Within Standard</i>	<i>0 to 15 days</i>	35	75
	<i>Above Standard</i>	<i>16 to 30 days</i>	14
<i>31 to 60 days</i>		8	25
<i>more than 60 days</i>		3	2
<hr style="width: 50%; margin: 0 auto;"/>		<hr style="width: 50%; margin: 0 auto;"/> 25	<hr style="width: 50%; margin: 0 auto;"/> 57
<i>Total</i>		60	132

An example of one of the lengthier processing delays is provided in Case Study #3:

**Case Study #3****Complaint #: 070207-73****Complaint Summary:**

On 2/7/07, the customer telephoned the NYC Transit Call Center to complain that she suffered neck and arm injuries after she fell out of her wheelchair when the van she was riding in made a sharp turn. She alleged that the injury occurred because the operator failed to properly fasten her safety belt when she boarded the vehicle.

**CRU Analyst Response:**

On 4/6/07, 58 days after the complaint was made, the Analyst made her first call to the customer, apologizing for any injuries sustained while using Paratransit services. The Analyst closed the case with no referral for investigation.

While recognizing that this lengthy delay is more the exception than rule of CRU complaint processing, we recommend that Paratransit initiate a policy to give Injured Customer and Reckless Operator complaints greater processing priority over the thousands of non-safety related complaints received by the Call Center. We believe this will help to ensure that unsafe drivers are investigated as soon as possible.

## RECOMMENDATIONS

5. Paratransit should require CRU Analysts to enter all Injured Customer and Reckless Operator cases on the Vehicle Operator Monitoring Log to better identify all potentially unsafe operators and facilitate trend analyses assessing multiple complaints.

*MTA Response:*

*MTA Bus accepted this recommendation, stating that Paratransit will require that all safety related complaints be entered into the Vehicle Operator Monitoring Log.*

6. Paratransit should give Injured Customer and Reckless Operator complaints greater priority over non-safety complaints to ensure that such cases are processed rapidly and that the most up-to-date data on the operators' performance is obtained.

*MTA Response:*

*MTA Bus accepted this recommendation, stating that Paratransit's guidelines "will incorporate steps to ensure that complaints which reference customer injuries and reckless operators are prioritized."*