

# New York City's Unfranchised Buses: Case Study in Deregulation

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The unfranchised buses operating in New York City are certified by the Interstate Commerce Commission and New York State DOT. They are not subject to the city's extensive review process, which attempts to balance traffic, economics, and community impacts. These buses, in their operations as commuter expresses, Atlantic City specials, charters, and tour buses, provide a valuable service to their passengers; however, they also add to congestion throughout Manhattan. Unfranchised buses account for about a fifth of all buses entering Manhattan streets south of 63rd Street. Their growth is a direct result of the federal and state deregulation of intercity bus operations in the early 1980s. In this paper, short-term actions are suggested to improve the operation of unfranchised buses within the existing legal framework. For the long term, the authors suggest legislative changes that exempt the city from Interstate Commerce Commission control over intrastate bus services operated by interstate carriers. They also suggest that further legislative changes in other large metropolitan areas may redress the balance between federal and local control of intrastate bus service.

The effects of transportation deregulation over the past decade have become increasingly apparent, including greater profitability of railroads, proliferation of motor freight carriers, expansion of airlines with selective price cuts (followed by contraction), and a decline in intercity bus services. Federal and state deregulation have produced somewhat different effects in the New York Metropolitan Area. Over the past decade, deregulation has brought about a dramatic growth in the number of "unfranchised buses," which are certified to operate by the New York State Department of Transportation (NYSDOT) or the Interstate Commerce Commission (ICC). These buses account for about one-fifth of all buses operating on Manhattan streets south of 63rd Street. About 74 percent of the new bus routes authorized between 1984 and 1986 were certified by the ICC, compared with 3 percent a decade earlier (Figure 1).

The unfranchised buses operate as regular or contract services. They include

- Legitimate NYSDOT- and ICC-certified commuter buses,
- "Bogus" ICC commuter buses (buses with ICC permits that serve only New York City or New York State),
- Tour and charter buses, and
- Atlantic City buses.

The growth of these services stems from

- The increased vitality of Manhattan as a tourist destination;
- The growing commuter populations in Staten Island and New Jersey, which have created new markets; and

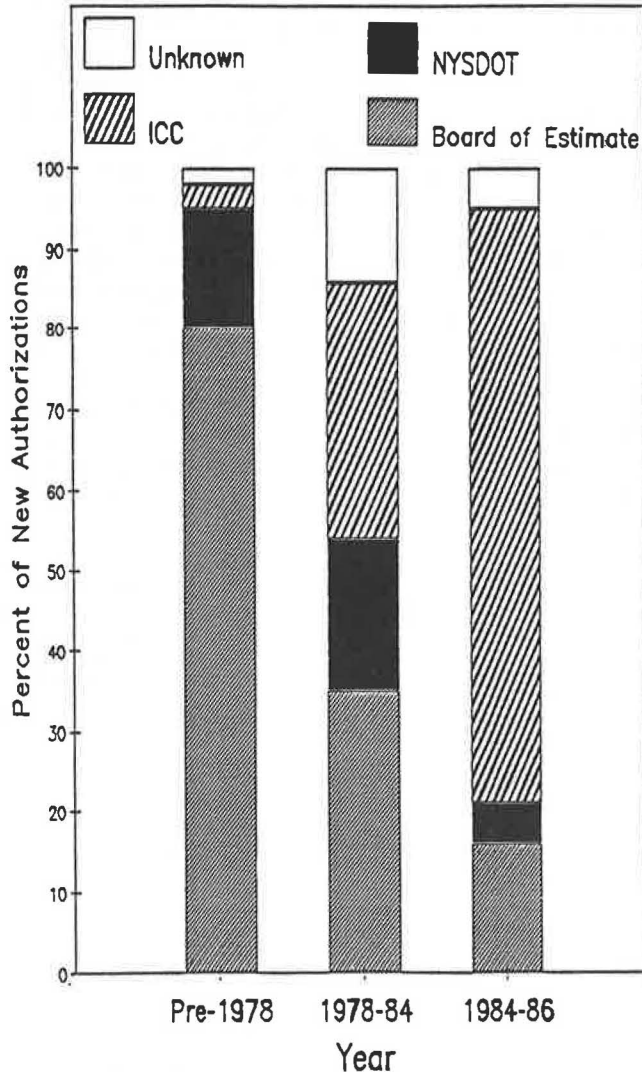


FIGURE 1 New express bus route authorizations: percentage of total by certifying agency (data from 1984 and 1986 NYCDOT surveys).

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- The deregulation of intercity bus operations and the easing of entry requirements by the federal Bus Regulatory Reform Act of 1982.

## ISSUES AND APPROACH

The unfranchised commuter buses are privately operated, and they usually run without subsidies from public agencies. They provide a desirable service to users. From the federal perspective, they reflect privatization of urban transit.

They are of major concern to New York City, however, because the city government has little say regarding when, where, and how the buses operate. These vehicles increase traffic congestion on already overcrowded streets in Midtown and Lower Manhattan. They conflict with other vehicles at bus stops and in on-street layover areas. They add to environmental pollution at the very time that the city is trying to improve air quality. Finally, along with vans and certain unfranchised buses, they sometimes "poach on" and undermine subsidized commuter rail and subway lines.

Accordingly, in 1986, the New York City Department of Transportation (NYCDOT) began a cooperative research effort with Polytechnic University (Brooklyn, New York) to assess problems and to identify opportunities. The study objectives were to analyze the operational and institutional aspects of the "unfranchised bus problem" within the broader context of the city's need for coordinated transport services (1).

The study was designed to place the conflicting needs in clearer perspective. Existing reports dealing with bus operations and terminal plans were reviewed. Detailed surveys were made of the number and types of buses entering the Manhattan business district and of bus parking practices in tourist areas. Field reconnaissance investigations identified problems and opportunities, and community boards and bus operators were interviewed. The legal bases for franchising buses were analyzed. Meetings were held with public agencies and the bus operators.

This paper summarizes the key findings and recommendations. The problems that the authors describe could arise in other large, growing bistate metropolitan areas.

## DIMENSIONS AND ATTITUDES

Each weekday, about 2,700 buses enter the Manhattan central business district south of 63rd Street from 7 A.M. to 12 noon. Of these, about 29 percent are New York City Transit Authority (NYCTA) local buses, 13 percent NYCTA express buses, 40 percent franchised express buses, and 18 percent unfranchised buses. These figures, presented in Table 1, exclude the buses going to and from the Port of New York and New Jersey Bus Terminal (PABT).

### Screen Line Bus Entrants

The number of buses entering Manhattan streets across various screen lines between 7 A.M. and 12 noon is given in Figure 2. The proportions of unfranchised buses are as follows:

| Location     | Percentage |
|--------------|------------|
| 63rd Street  | 7          |
| 44th Street  | 10         |
| Canal Street | 20         |
| East River   | 7          |
| Hudson River | 83         |

(excluding PABT)

Figure 2 demonstrates how the numbers and proportions of unfranchised bus flows build up from the north to the south. The heaviest concentrations of unfranchised buses are found in Lower Manhattan.

### Express Bus Operators

Most of the unfranchised buses operating in Manhattan are certified by the ICC, but ICC records do not include size, service, and financial characteristics. To fill this void, 15 unfranchised commuter operators were asked about their fleet characteristics and operating practices. The key findings are presented in Table 2 and below. Collectively, 13 companies operated some 566 buses in commuter service to and from Manhattan in 1986.

TABLE 1 SUMMARY OF BUSES ENTERING MANHATTAN BELOW 63RD STREET, 7 A.M.-12 NOON ON A WEEKDAY, FALL 1986

| Type of Service | 63rd St. |       | Hudson River     |       | East River |       | Total |       | Percent Unfranchised |
|-----------------|----------|-------|------------------|-------|------------|-------|-------|-------|----------------------|
|                 | No.      | %     | No.              | %     | No.        | %     | No.   | %     |                      |
| NYCTA local     | 648      | 54.6  | 0                | 0     | 128        | 11.8  | 776   | 28.9  | NA                   |
| NYCTA express   | 52       | 4.4   | 0                | 0     | 299        | 27.5  | 351   | 13.1  | NA                   |
| Subtotal        | 700      | 59.0  | 0                | 0     | 427        | 39.3  | 1127  | 42.0  | NA                   |
| Franchised      | 403      | 34.0  | 71               | 17.3  | 584        | 53.9  | 1058  | 39.5  | NA                   |
| Unfranchised    |          |       |                  |       |            |       |       |       |                      |
| NYSDOT commuter | 7        | 0.6   | 30               | 7.3   | 24         | 2.2   | 61    | 2.3   | 12.3                 |
| NYSDOT local    | 12       | 1.0   | 23               | 5.6   | 11         | 1.0   | 46    | 1.7   | 9.3                  |
| ICC commuter    | 29       | 2.4   | 233              | 56.9  | 31         | 2.9   | 293   | 10.9  | 59.1                 |
| ICC charter     | 35       | 3.0   | 53               | 12.9  | 8          | 0.7   | 96    | 3.6   | 19.3                 |
| Subtotal        | 83       | 41.0  | 339              | 82.7  | 74         | 60.7  | 496   | 18.5  | 100.0                |
| Total           | 1186     | 100.0 | 410 <sup>a</sup> | 100.0 | 1085       | 100.0 | 2681  | 100.0 |                      |
| Percentage      | 44.2     |       | 15.3             |       | 40.5       |       |       |       |                      |

NOTE: Excludes buses entering Port Authority Bus Terminal. NA = not applicable. Source: NYCDOT survey, October 1986.  
<sup>a</sup>Includes local buses operated by franchised carriers.

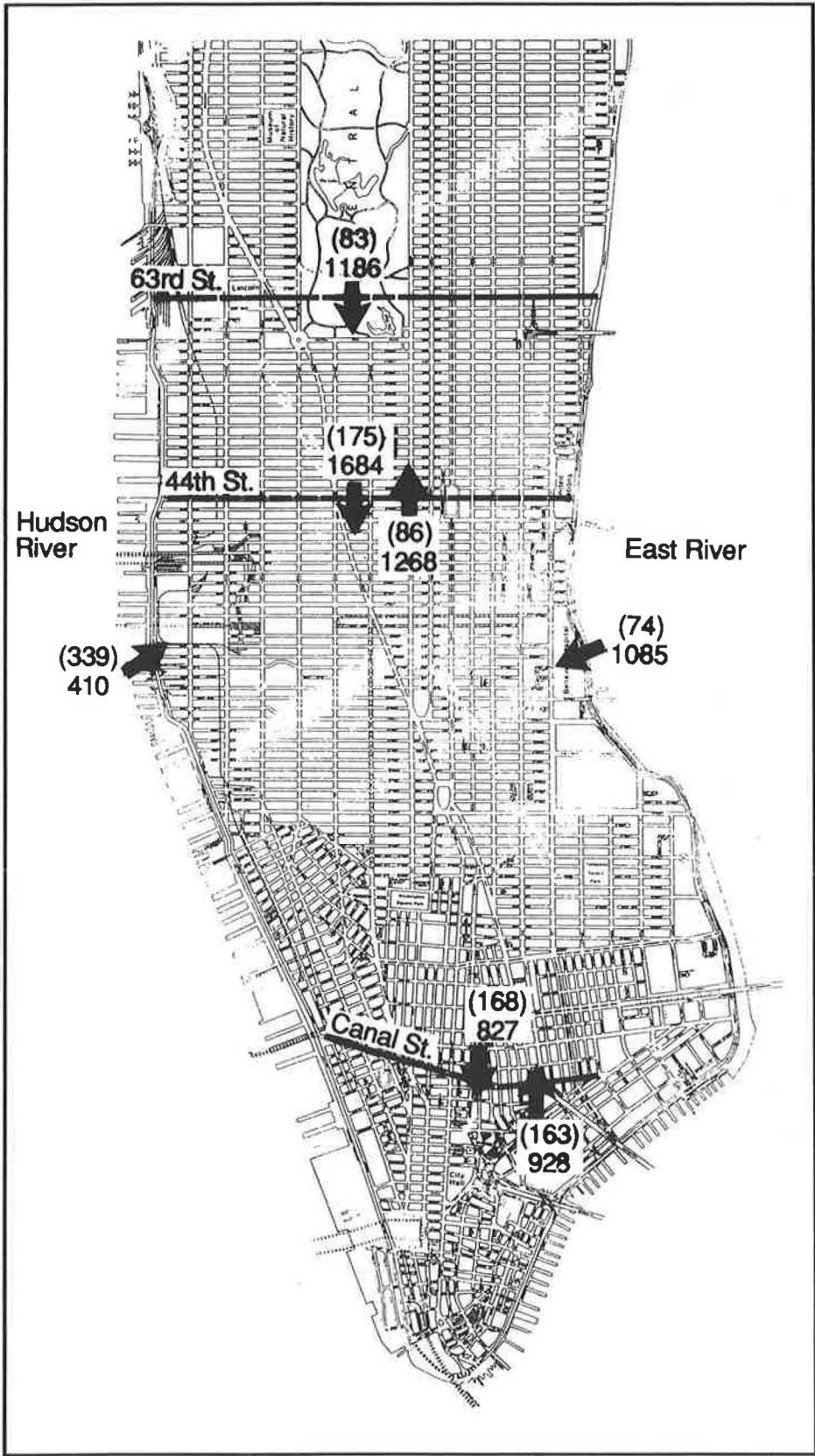


FIGURE 2 Buses on Manhattan streets, 7 A.M. to 12 noon on a weekday, fall 1986.

TABLE 2 SUMMARY OF UNFRANCHISED EXPRESS BUS SURVEY, 1987

| Carrier                  | Size Fleet | Avg. Age (yr) | Operating Authority    | Origin                    | Point of Entry                         | Buses Entering Manhattan, A.M. Peak | Estimated Daily Passengers Carried | Would Use Garage or Lot for . . . |                 |                                |
|--------------------------|------------|---------------|------------------------|---------------------------|--|-------------------------------------|------------------------------------|-----------------------------------|-----------------|--------------------------------|
|                          |            |               |                        |                           |  |                                     |                                    | Short-Term Layover                | All-Day Parking | Passenger Terminal             |
| Academy                  | 116        | 4             | ICC/NYS DOT            | Staten Is./<br>New Jersey | Holland Tunnel                         | 90                                  | 3,500                              | Yes                               | Yes             | ?                              |
| Boulevard Transit        | 25         | 15+           | ICC                    | Staten Is./<br>New Jersey | Holland Tunnel                         | 10                                  | 150                                | Yes                               | No need         | Yes                            |
| Erin Tours               | 20         | 5             | ICC/NYS DOT            | Brooklyn                  | Brooklyn-Battery Tunnel                | 15                                  | 485                                | No                                | No              | Problem: passengers' long walk |
| Glen Ridge               | 9          | 9             | NYS DOT/ICC            | Long Is.                  | Midtown Tunnel,<br>Williamsburg Bridge | 7                                   | 315                                | No                                | No              | No                             |
| Montauk Bus Co.          | 35         | 4             | ICC                    | Montauk,<br>Long Is.      | Midtown Tunnel                         | 9                                   |                                    | Yes                               | -               | Yes                            |
| Murrell                  | 8          | 3             | ICC/NYS DOT            | Staten Is.                | Lincoln Tunnel                         | 4                                   |                                    | -                                 | -               | -                              |
| Pocono Mountain Trails   | 10         | 6             | ICC/NYS DOT,<br>PA/PUC | New Jersey                | Holland Tunnel                         | 2                                   | 80                                 | Yes                               | Yes             | Yes, if reasonable             |
| Prospect Slope Coach Co. | NA         | NA            | "                      | Brooklyn                  | NA                                     | 1-2                                 | 40                                 | -                                 | -               | -                              |
| South River Bus Co.      | 17         | 5             | ICC/NYS DOT            | New Jersey                | Lincoln and<br>Holland Tunnels         | 4                                   |                                    | -                                 | Yes             | Yes                            |
| Service Bus Co.          | 12         | 3             | NYS DOT                | Westchester               | Deegan Expwy.                          | 2                                   |                                    | Yes                               | Yes             | Yes (great)                    |
| Scott Tours              | 9          | 12            | ICC/NYS DOT            | New Jersey                | Holland Tunnel                         | 3                                   |                                    | Good idea                         | -               | Yes                            |
| Suburban Transit         | 275        | NA            | ICC/NJ DOT             | New Jersey                | Holland Tunnel                         | 14                                  | 500                                | Possibly                          | Possibly        | Possibly                       |
| Vanguard Tours           | 20         | 6             | NYS DOT,<br>WESTCH DOT | Armonk,<br>Ossining, N.Y. | Deegan Expwy.                          | 5                                   |                                    | Yes                               | Yes             | NA                             |
| Totals                   | 566        |               |                        |                           |  | 167                                 |                                    | Yes (8)                           | Yes (5)         | Yes (6)                        |

NOTE: Source: NYCDOT Survey, April 1987.

"Application in process.

There is a wide diversity in the size and age of fleet, quality of service, method of operation, and capability of management. The unfranchised bus services involve many small carriers. The median fleet size was about 20 buses, with a range of 8 to 275 buses. Only two carriers had fleets of more than 35 buses.

Ten companies operated under ICC authorization (many also were registered with the New Jersey Department of Transportation—NJDOT). Two operated under NYSDOT authorization, and one had its application to operate pending.

Four companies ran between New Jersey and Manhattan, while another two provided service to both Staten Island and New Jersey. Two companies provided service between Manhattan and Brooklyn. One of these had an ICC/NYSDOT/NJDOT permit, and the other had an application pending. Two carriers provided service between Long Island and Manhattan under an ICC permit. Two carriers operated to and from Westchester, Dutchess, and Putnam counties with NYSDOT permits.

About half of the carriers (six) entered Manhattan via the Holland Tunnel, while the others used the Midtown Tunnel (two), Lincoln Tunnel (one), Brooklyn Battery Tunnel (one), and Major Deegan Expressway (two). Collectively, some 167 buses entered Manhattan via these approaches during the 7–10 A.M. peak period. The number of reported passengers ranged from fewer than 150 (Boulevard, Pocono Mt. Trails, Prospect Slope Coach) to more than 3,500 (Academy).

The companies were asked about their use of garages or parking lots for layovers or parking or as passenger terminals. Eight companies (out of ten responses) used such a facility for short-term layover, five companies (out of nine responses) used it for all-day parking, and six companies (out of ten responses) used it for a passenger terminal.

The problems reported by the bus operators are outlined below:

- *Comments*
  - Too much traffic.
  - Traffic delays.
  - Tunnel is slow.
  - Tunnel and city streets near gridlock.
  - Bus-van-truck conflicts.
  - Lack of regard for traffic regulations on Church Street.
  - Lack of curb space at some stops.
  - Another company blocks stops around Javits Center.
  - No legal layover or staging areas.
  - Desperate for parking areas.
  - Severely harassed by transit authority plainclothesmen.
  - Can't load bus in 5 minutes.
  - Idling low poses a problem.
  - "Little guys take beating."
- *Suggestions for Improvement*
  - Need another tube in each tunnel.
  - Designate bus-only streets.
  - Need eastbound left turn-around at Battery Place and Trinity.
  - Would like authorization to use tunnel bus lane in morning.
  - Need bus boarding areas or terminal.
  - Need 5–10-min staging facilities.
  - Need layover areas with facilities for rest or eating.

Principal concerns included traffic congestion, conflicts between buses or with vans, the lack of parking, difficulties in meeting regulations, and delays and difficulties in receiving a franchise. This last concern is significant because it also was mentioned at meetings with bus operators as one reason why these companies obtain ICC permits rather than New York City franchises.

Suggestions for improvement covered a wide range of possibilities. They ranged from more trans-water capacity for buses (i.e., "another tube in each tunnel") to the desirability of additional staging and layover areas. Four suggestions called for traffic improvements, and three for parking layover or loading improvements.

### Tour and Charter Bus Operations

Tour and charter buses congregate at and near the major tourist attractions. These attractions include the Art and Natural History museums, Lincoln Center, Rockefeller Center, Times Square theater district, United Nations, Empire State Building, Chinatown, World Trade Center, South Street Seaport, and the Statue of Liberty Ferry.

Bus activity varies by day of the week and by time of year. Bus service to most tourist attractions peaks during summer months. The principal exception is Rockefeller Center, where activity and bus movements peak between Thanksgiving and Christmas. Theater bus traffic is heaviest for Wednesday and Saturday matinees. The New York City Convention and Visitors Bureau estimated that an average day has about 65 buses, excluding buses with destinations at the theater district. Actual field observations, taken in April 1987, suggest a greater number of buses.

Results of interviews with tour and charter bus operators are summarized in Table 3 and as follows:

- The Times Square Theater District was the most frequently visited attraction, both as a first choice and overall. Next in importance was the Statue of Liberty, followed by the Museum of Natural History.
- Most tour buses parked on street. The Greyhound garage (next in importance) was used for overnight parking. Several

TABLE 3 SUMMARY OF TOUR AND CHARTER BUS SURVEYS AT MAJOR TOURIST ATTRACTIONS

| Attraction                       | Ranking |    |   | Total |
|----------------------------------|---------|----|---|-------|
|                                  | 1       | 2  | 3 |       |
| Theater District                 | 7       | 2  | 2 | 11    |
| Statue of Liberty                | 3       | 1  | 3 | 7     |
| Museum of Natural History        | 1       | 2  |   | 3     |
| South Street Seaport             | 2       | 2  | 1 | 5     |
| Radio City                       | 2       | 1  |   | 3     |
| South Street/Statue of Liberty   |         | 1  | 1 | 2     |
| United Nations/Statue of Liberty | 1       |    |   | 1     |
| Yankee Stadium                   |         | 1  |   | 1     |
| Technical visits                 |         | 1  |   | 1     |
| South Street/World Trade Center  | 1       |    |   | 1     |
| Total City Tour                  | 4       |    |   | 4     |
| Total                            | 21      | 11 | 7 | 39    |

NOTE: Source: NYCDOT survey of 12 tour/charter services.

buses also parked overnight in New Jersey. The museum, Circle Line, and Day Line lots were among the places used for bus layover:

| Layover Location    | Responses |
|---------------------|-----------|
| On street           | 13        |
| Greyhound lot       | 8         |
| Circle Line lot     | 2         |
| New Jersey          | 4         |
| Museum lot          | 1         |
| Short Line facility | 1         |
| Day Line lot        | <u>1</u>  |
|                     | 30        |

• Problems cited included inadequate on-street layover space, driver harassment and ticketing at drop-off points, inadequate passenger loading times, and vandalism at the Greyhound garage:

#### Remarks

- Vandalism at Greyhound Garage (two).
- Drivers are always ticketed (two).
- Drivers harmed at drop-off points.
- Loading time too short at South Ferry.

#### Desired improvements

- Need specific places to park (four).
- Desire safe places to park (two).
- Would pay fee for safe parking place (one).
- Eliminate cars (in bus loading areas).
- Park buses in city-owned lot.
- Need better coordination between NYC Convention and Visitors' Bureau and NYCDOT.

As can be observed, suggested improvements centered on providing specific places to park, including the willingness to

pay a fee. Respondents also indicated the need for better coordination within NYCDOT and other agencies to ensure that current regulations are being enforced fairly and that buses parking in designated areas are not ticketed.

Table 4 presents data on when and where charter and tour buses parked at the major tourist attractions. Short-term parking (usually less than 30 min) predominated at tourist sites (e.g., Metropolitan Museum of Art, Rockefeller Center). Long-term parking predominated at bus layover areas (e.g., Lincoln Center, 41st Street, Canal Street).

#### Attitudes and Perspectives

City officials, community boards, and bus operators have differing views on the role, scope, and value of unfranchised bus services.

#### Community Boards

Table 5 indicates how various community boards perceive unfranchised buses. Boards generally found vans or local bus service (routes and schedules) to be a greater problem. The two community boards in the Times Square area who represent residents in the theater district expressed concerns about bus layovers and loading practices. They also were concerned about van and limousine operations.

Several boards cited problems with the Atlantic City charter buses that operate to and from southern Brooklyn. Buses double park in the moving travel lanes when they pick up and discharge passengers from travel agencies located in commercial areas (e.g., Bath Avenue, 14th Avenue, 3rd Avenue, and 86th Street).

TABLE 4 SUMMARY OF PARKING CHARACTERISTICS AT MAJOR TOURIST ATTRACTIONS, 1987

| Location  | Date            | Number of Parkers | Maximum Accumulation |     | <0.5 hr (%) | 0.5 hr < 1 hr. (%) | 1 hr < (%) |
|---|-----------------|-------------------|----------------------|-----|-------------|--------------------|------------|
|   |                 |                   | Time                 | No. |             |                    |            |
| Metropolitan Museum of Art (Fifth Ave. btwn. 80 and 85 sts.)                          | Sat. April 25   | 33                | 11:00-11:30          | 1   | 88          | 9                  | 3          |
|   | Thurs. April 30 | 27                | 3:30-4:00            | 2   | 93          | 7                  | 0          |
| Museum of Natural History environs (Central Park West btwn. 76-82 and 77 and 81 sts.) | Sat. April 25   | 20                | 3:00-3:30            | 3   | 75          | 15                 | 10         |
|   | Thurs. April 30 | 36                | 11:30-12:00          | 17  | 44          | 14                 | 42         |
| Lincoln Center (W. 62nd St. btwn. Columbus and Amsterdam aves.)                       | Sat. April 25   | 56                | 2:00-2:30            | 22  | 5           | 20                 | 75         |
|   | Thurs. April 30 | 58                | 10:00-10:30          | 26  | 26          | 19                 | 55         |
| Rockefeller Center area (47-51 sts. btwn. 5th and 6th aves., 6th ave., 47-51 sts.)    | Wed. April 15   | 6                 | 4:00-4:30            | 1   | 100         | 0                  | 0          |
|   | Wed. April 22   | 26                | 4:30-5:00            | 1   | 92          | 8                  | 0          |
| Theater District area (44-49 sts., both sides; Ninth Ave. to Broadway)                | Wed. April 15   | 43                | 4:30-5:00            | 5   | 69          | 19                 | 12         |
|   | Wed. April 22   | 52                | 4:00-4:30            | 16  | 38          | 33                 | 29         |
| West 41st St. (11th to 12th aves.)  | Wed. April 15   | 57                | 2:30-3:00            | 33  | 19          | 10                 | 71         |
|   | Wed. April 22   | 57                | 1:00-1:30            | 26  | 14          | 16                 | 70         |
| West St. (Canal St. to Battery Pl.)   | Thurs. April 9  | 141               | 11:00-11:30          | 41  | 23          | 21                 | 56         |
|   | Thurs. April 16 | 129               | 11:00-11:30          | 43  | 24          | 13                 | 63         |
| Battery Pl. (West St. to Broadway)  | Thurs. April 9  | 85                | 4:00-4:30            | 12  | 64          | 26                 | 10         |
|   | Thurs. April 16 | 132               | 12:00-12:30          | 8   | 77          | 15                 | 8          |

TABLE 5 SUMMARY OF COMMUNITY BOARD RESPONSES, UNFRANCHISED BUS STUDY

| Board No.        | Areas  | Problems   | Comments/Solutions   |
|------------------|--|--|--|
| Brooklyn<br>9    | Crown Heights,<br>Wingate  | Tour bus congestion on Eastern Parkway, 5 A.M. – 10 P.M.<br>School buses block driveways and double park on Kingston Ave. from Carroll to President sts.   | Stricter enforcement of curb parking regulation              |
| 10               | Bay Ridge, Ft. Hamilton, Dyker Heights                                   | Atlantic City charters double park and idle motors, 9–10 A.M., 9 P.M., 86th St. at 5th Ave., 92nd St. and Dalgren Pl., 3rd Ave.<br>Express buses along 14th Ave.   | Investigate possible illegal use; revoke permits             |
| 11               | Bensonhurst, Bath Beach, Gravesend                                       | Atlantic City buses (travel agency, Bath St.)<br>Vans in express bus stops   | Make buses use truck routes                                  |
| 18               | Canarsie, Flatlands, Mill Basin  | Vans making pickups and dropoffs in express bus stops  | Prohibit vans and private buses from using express bus stops |
| Queens<br>5<br>– | Glendale, Maspeth, Ridgewood<br>Richmond Hill Block Association          | Glenridge Coach cited for violations<br>TA49 too frequent, TA56 too infrequent   | Adjust headways  |
| 14               | Rockaway Park  | Vans pick up and discharge passengers in bus stops   | License vans   |
| Manhattan<br>2   | Greenwich Village, Soho, Little Italy                                    | Tour buses use illegal streets, park illegally, and leave motors running   | Prohibit buses running                                       |
| 4                | Clinton, Chelsea   | Buses traverse local streets: 9th Ave., 38–39th St.; W. 19th St.; W. 52nd, 8–9th aves.; W. 43rd, 10–11th aves.; W. 46th, 8–9th aves.   |  |
| 7                | Hudson River to Central Park West, 59–110th sts.                         | Atlantic City buses leave from Broadway, 8–10 A.M.   |  |
| 6                | Murray Hill, Turtle Bay, Gramercy (14–59th sts., Lexington Ave. – river) | Too many express buses, vans, unlicensed taxis   |  |
| 5                | Times Square area (to Hudson River)                                      | “Gigantic” buses in theater district wait on street when shows let out. Buses take routes with many turns. Buses stop on left side of street. Grey Lines take excessive time to load on 53rd Street. Limousines cluster around theater district; enforcement is needed. Vans are all over the place. Commuter vans with ICC permits are a problem. |  |

NOTE: Source: NYCDOT survey, April 1987.

### Bus Operators

The unfranchised bus operators had a somewhat differing array of problems. These included the long delays in the unfranchising process, which are not fully recognized by the city, and the difficulty in obtaining temporary permits. Also cited were the need for more equitable enforcement practices, the need for more layover space in Manhattan (use of unused

docking areas along the Hudson River was suggested), and better enforcement of van operations.

### City

NYCDOT policy attempts to balance the service provided by specific commuter bus routes or carriers against the negative

effects that they have on congestion, pollution, neighborhood disruption, and rail and other subsidized transit. NYCDOT means to apply the same criteria to all carriers; however, the degree of control it can exercise over ICC and NYSDOT carriers is limited. This lack of control—especially with regard to routes, stops, and layover areas—remains an important issue.

The city considers tour and charter buses to be important because they help support the city's tourism industry. Accordingly, it is working with these operators to provide suitable storage and layover space.

### Observed Problems

The unfranchised buses vary widely in type and quality of service and in their impacts on New York City streets. The commuter buses compete for valuable street space during peak periods and have added to Manhattan street congestion. They mainly use the Lincoln Tunnel to reach Midtown and the Holland Tunnel to reach Lower Manhattan, where street space is especially limited.

The charter and tour buses pose problems in key activity centers, where they receive or discharge passengers or lay over. The observed problems, presented in Figure 3, are as follows:

- There is no place for buses to lay over and park at the Metropolitan Museum and at Rockefeller Center. Consequently, buses must discharge their passengers and proceed across town to layover areas on the far West Side.
- The number of bus parking and lay over spaces is not adequate to meet demands at the American Museum of Natural History, Lincoln Center (62nd Street), and the Times Square theater district.
- Signage of several bus layover areas is inadequate. "Bus Layover Zone" signs are missing from the West 59th Street and West 54th Street layover zones. Signs are missing from the south side of West 41st Street between 11th and 12th avenues, where buses now park. Signs at Battery Place and in the Theatre District do not clearly specify the allowable time limits.
- Charter and tour buses contribute to street congestion in Times Square and along Eighth Avenue and Broadway. Buses block moving traffic at several locations. Charter buses park (or double park) on Broadway between 47th and 45th Streets immediately before theater matinee performances finish, thereby limiting southbound Broadway traffic to one or two lanes. The same condition occurs along Eighth Avenue between 44th and 45th Streets, where charter buses double park. Traffic on Eighth Avenue has one less moving lane available, and it queues during peak traffic periods.
- Buses load passengers from "street" side of 44th and 46th Streets after theater matinees discharge. This is an undesirable practice for several reasons. First, people must board buses from the center of the street, where they are not protected from moving traffic. Second, passenger boarding activity blocks moving traffic.
- Police and warrant officers park their cars in the designated tour bus loading area along Park Row between Pearl Street and St. James Place. Because parking is permitted on

the opposite side of Park Row, adjacent to the Chatham Green Houses, there is no place along the curb for buses to receive or discharge passengers or lay over.

- Bus parking areas that serve the Times Square theater district and the South Street Seaport are too remote from these areas. The remoteness further results in buses waiting closer by, albeit illegally.

### LEGAL CONTEXT

Bus lines are authorized to operate by the city, state, or Interstate Commerce Commission (ICC), depending on where and how they run. The licensing authority largely is determined by geographic areas involved (interstate, intrastate, or totally within the city); the nature of the services (designated routes and stops, prearrangement); in some cases, the size of the vehicles used; and the intent of the operator to earn a profit (or not) by providing the services.

Collectively, the federal, state, and city agencies impose regulatory requirements that cover entry, exit, fares, service, and safety. Objectives include meeting transportation needs, minimizing street congestion and environmental polluting, assuring passenger safety and general fitness, and minimizing entry restraints and competition with city transit services. Methods of regulation used by the agencies range from simple application forms (ICC) to elaborate application requirements with multiagency reviews (New York City). The time needed to get an answer varies from several months (ICC) to several years (New York City).

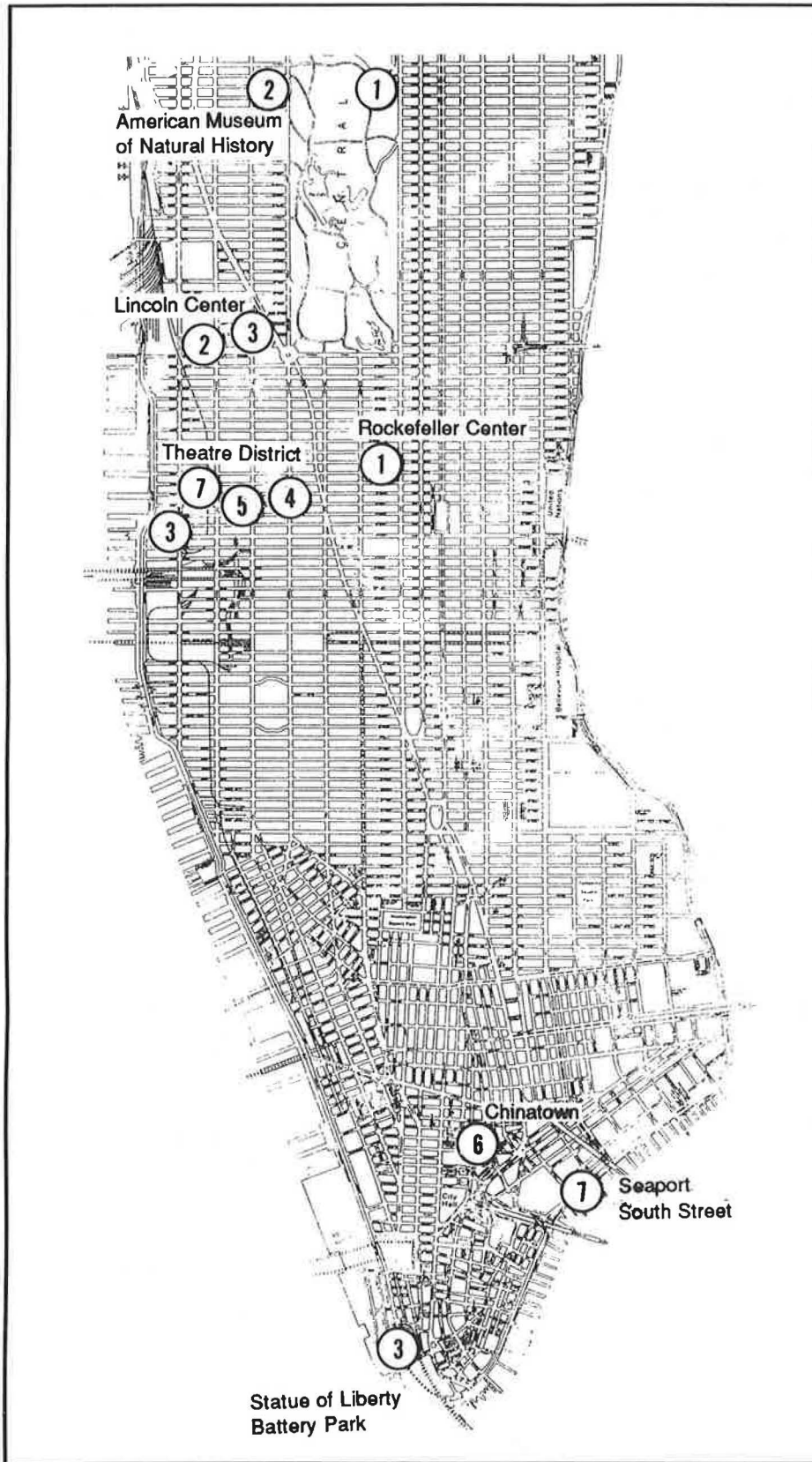
The need to determine the best ways to control buses on city streets results in continuing discussions among the various regulatory organizations at the three levels of government. City, state, and federal agencies have disagreed with each other's interpretation, administration, and enforcement of the applicable laws. In particular, New York City and the ICC have conducted a continuing dialogue on traffic congestion and air pollution problems associated with interstate bus service. The city believes that these problems have been exacerbated by the commission's unwillingness to impose operating restrictions on ICC authorized carriers that provide local services.

### Federal Government

The ICC regulates surface passenger carriers under the Bus Deregulation Act of 1982 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (2, 3). The ICC licenses interstate passenger service as well as regular intrastate route service provided by an interstate carrier on the same route. The 1987 act (3) states that the "carrier can provide interstate transportation service under the (ICC) certificate only if the carrier provides regularly scheduled interstate transportation service on the route."

Before 1982, the ICC's jurisdiction was limited to authorizing interstate services, and it was not able to authorize the use of local streets. Interstate buses were required by the city to use the Port Authority Bus Terminal to discharge and pick up passengers within city boundaries. An interstate carrier could use local streets for pickup and discharge instead of the





**Key**

- 1. No place to park buses
- 2. Inadequate bus parking
- 3. Inadequate signing
- 4. Buses block moving traffic
- 5. Buses load passenger from wrong side of street
- 6. Police cars preempt bus parking lot
- 7. Bus layover/parking areas are too remote

**FIGURE 3** Observed problems with buses in Manhattan.

terminal *only* if it first obtained a franchise from the city. The franchise required that the carrier use routes and stops designated by the city (4).

The desire to foster competition in the transportation industry led to passage of the Bus Regulatory Reform Act of 1982 (the Bus Act), which dramatically modified the ICC's authority for regulating bus passenger service. The act (as incorporated in Subtitle IV, Title 49 of the *U.S. Code*) both expanded the ICC's jurisdiction and eased the criteria for obtaining ICC operating authority (2). Under the new provisions, the ICC can grant intrastate authority for regular route service provided by an interstate passenger carrier; however, this provision does not apply to charter and special operations.

Thus the 1982 Bus Act permits a carrier without a local franchise to pick up and discharge on local streets. Although the ICC has the authority to designate the route that a carrier must follow within a city, this rarely happens. Carriers in New York City therefore follow routes that they establish unilaterally (in many cases, Fifth, Sixth, and Madison avenues), stopping wherever they choose and laying over during the day on local streets, often with their engines idling. Although New York City regulations require that all bus companies obtain NYCDOT approval for routes, stops, and layovers, there is little compliance by the ICC-licensed carriers. Issuing summonses for noncompliance has not been a strong deterrent (4).

The ICC has interpreted the 1982 act to cover intrastate applicants, allowing the holder of an interstate certificate to provide intrastate service along a portion of the authorized route while leaving the interstate portion dormant. The commission's position gave support to those bus companies that applied for and received, but did not use, the interstate portion of their certificate. This issue is perhaps the point of greatest conflict between the ICC and New York City (5).

New York City administrators believe that the ease of entry permitted by the act and the absence of ICC-imposed operating restrictions on ICC-authorized carriers have compounded the city's street congestion, contributed to air quality and other environmental problems, and created unfair competition with publicly subsidized carriers. ICC-authorized bus services circumvent the city's franchise review process that balances service needs with environmental, air quality, congestion, and similar concerns.

Partially in response to the city's concerns, the Surface Transportation and Uniform Relocation Assistance Act of 1987 clarified the ICC's jurisdiction over intrastate bus services. Section 340 of this act allows a carrier to operate intrastate service under its ICC grant *only* if it provides regularly scheduled interstate transportation service on the same route (3). This limitation applies retroactively to all certificates issued under the 1982 Bus Act.

The ICC's forthcoming ruling on the Fun Bus case in California will have important bearing on future interpretations of this law. In this case, the decision of the Ninth Circuit Court of Appeals found that the ICC could not give intrastate authority to companies that have nonrelated interstate operations. Accordingly, the court remanded the ICC to reevaluate this case in June 1987. As of mid-1988, the case was being re-evaluated by the ICC (6).

## New York State

The New York State Transportation Law gives the responsibility for regulating "for hire" transportation of passengers to the State Department of Transportation (NYSDOT). It regulates intrastate common carriers that operate in and out of New York City as well as contract carriers (charter service) that operate wholly within the city. The 1984 amendments to this law reflect a mild privatization philosophy (7). They ease entry and exit requirements along the lines followed by the ICC; however, the law retains a standard relative to public convenience and necessity. NYSDOT requires an applicant to submit evidence of need for a proposed transportation service, and the agency bases its final decision on the quality and quantity of public statements supporting need (7, Chapter 635). In contrast, the ICC presumes need, leaving to any protestant the task of proving otherwise.

The 1984 State Transportation Law 34 gives New York City full control over bus lines that operate totally within the city, whereas the state governs those carriers that operate between the city and other counties. The city's ability to influence the state in the granting of intrastate operating authority to a specific carrier is essentially limited to filing a petition in support or opposition.

As a result of the efforts of New York City officials, the 1984 law requires the state to take into account certain concerns important to New York City. Under Section 154 of the 1984 State Transportation Law, the state must consider testimony on the adequacy of existing mass transit and impact of the proposed service on mass transit. Furthermore, if a license is granted, New York City can require the state to incorporate the city's route requirements into the state license. NYCDOT requested that new bus lines be prohibited from operating on Fifth and Madison avenues, and the state continues to cooperate in this action (4).

## New York City

New York City has jurisdiction over bus lines that operate entirely within the city, except where these lines form part of interstate service. The New York City Charter (Chapter 14) gives the Board of Estimate responsibility for granting franchises for bus services within the city (8). The Department of Planning oversees the Uniform Land Use Review Procedure (ULURP) with regard to proposed bus routes, and NYCDOT is responsible for street traffic controls and enforcement activities (some enforcement also is provided by the Port Authority of New York and New Jersey).

The process of granting franchises, as set forth in the New York City Charter, includes an application and review procedure. The Board of Estimate (8) "shall have the control of the streets of the City . . . and shall have the exclusive power in behalf of the City to grant franchises or rights or make contracts providing for or involving the occupation or use of any of the streets of the City . . ." (§362). Any franchise contract that is approved by the Board of Estimate is subject to the additional approval of the mayor and is not valid unless approved by him within 60 days after it is presented to him (§373).

To implement this mandate, several city agencies must pro-

duce information, perform evaluations, and make recommendations in a lengthy review process. The agencies involved include NYCDOT and the city's departments of City Planning and Environmental Protection. A City Environmental Quality Review Process (CEQR) is conducted for each route to identify any significant environmental impacts. Following this view, the Board of Estimate, acting with the help of the Bureau of Franchises and recommendations from participating agencies and intended entities, authorizes (unfranchised) buses to operate in New York City.

The basic objective underlying the franchise review process is to provide needed transportation services without overcrowding streets, undermining existing transit ridership, or degrading the environment. The time required for a franchise approval or decision may be as long as two years. Because of the long period involved, some carriers circumvent the process by applying for an ICC certificate.

The regulation of buses by New York City differs dramatically in almost every respect from regulation by the state and ICC. More agencies are involved, the concerns are greater, and the franchise review time is longer. It is unlike bus regulation in any other city.

The federal government and most state and local jurisdictions have divorced regulation from the legislative process. However, New York City continues to rely on a legislatively granted franchise that is the result of evolution alone. By contrast, bus service in Boston and Chicago is regulated by administrative arms of the state with minimal involvement of other state and local agencies. The Washington, D.C., area has adopted regional regulation by a single administrative body. In each of these cases the regulators make decisions on the basis of published rules and standards (5).

## OPPORTUNITIES FOR IMPROVEMENT

The current ICC and NYSDOT regulations have led to a growing number of buses operating on New York City streets. This continued proliferation of unfranchised (and franchised) buses will increase traffic congestion, competition for curb space, and erosion of rail transit ridership. The city has two basic policy choices in dealing with this problem:

- To restrict (and thereby discourage) additional bus services, perhaps by aggressively protesting new commuter services when warranted; and
- To accommodate (and hence encourage) additional buses, perhaps by providing a major off-street terminal in Lower Manhattan and improving layover space elsewhere.

Both courses of action have application. Short-term improvements can be accomplished within the existing legal framework. Long-term changes, however, will require new legal arrangements.

### Short-Term Improvements

The Bus Deregulation Act of 1982, reflecting the spirit of the Congress, gives the ICC full authority over entry and exit of regularly scheduled interstate carriers, including their associated intrastate services. The city's role therefore became

mainly a reactive one with regard to certification, but city officials can take other actions as well. They can regulate the use of streets with police power, enforce city regulations and levy fines, specify bus stops and terminal areas, and plan and develop new facilities. Within this context, the following short range actions should be pursued.

### Traffic and Parking Improvements

Suggested traffic and parking improvements are given below and in Figures 4 and 5. Improved bus parking and layover facilities, especially at major tourist destinations, are noted. Off-street terminal and storage facilities in Midtown and Lower Manhattan are desirable to remove buses from city streets and to reduce deadhead mileage:

- *American Museum of Natural History.* Expand bus parking on west side of Central Park West, north of 77th Street adjacent to the museum. Progressively expand bus parking on east side of street between 77th and 81st streets.
- *Lincoln Center.* Expand bus parking on south side of 62nd Street by removing eight parking meters.
- *Theater District-Rockefeller Center*
  - *Short Term.* Establish bus parking areas on 48th, 44th, and 43rd streets; cross streets (48th-40th), mainly between 10th and 12th avenues. Improve enforcement and prohibit bus loading from the center of the street.
  - *Long Term.* Use first story of proposed "Apple" bus garage for tour and charter theater-bus parking (garage was proposed in a Port Authority sponsored study). Replace car parking with bus parking on Pier 94 at 54th Street. Consider "floating" bus storage dock in Hudson River.
- *Lower Manhattan*
  - Install 15-20-min time-limit signs along Battery Place for Statue of Liberty tour and charter buses.
  - Replace car parking with bus parking at the base of West Street. Charge buses to park in this area.
  - Replace car parking with bus parking under FDR Drive/South Street south of Fulton Street. Charge buses to park in this area.
  - Consider a bus terminal in Lower Manhattan, such as that proposed by NYCDOT for the Battery Garage site.
  - Incorporate provision for bus layover in the redesign of West Street.
  - Provide bus storage space along Park Row in Chinatown by enforcing curb parking regulations.
- *Fifth-Madison Avenues.* Reroute buses to other streets, but do so in a "nondiscriminatory" manner.

Zoning should require new developments that attract bus passengers to incorporate adequate space for buses. Accordingly, bus storage, layover, and "mini-terminal" facilities should be incorporated into the large scale developments planned for Manhattan's West Side, such as Trump TV City and New Madison Square Garden.

The city should prepare and continuously update a realistic traffic plan that controls the routing of *all* buses, especially in Manhattan. As part of this effort the city should continue to restrict new bus services on Madison and Fifth avenues,

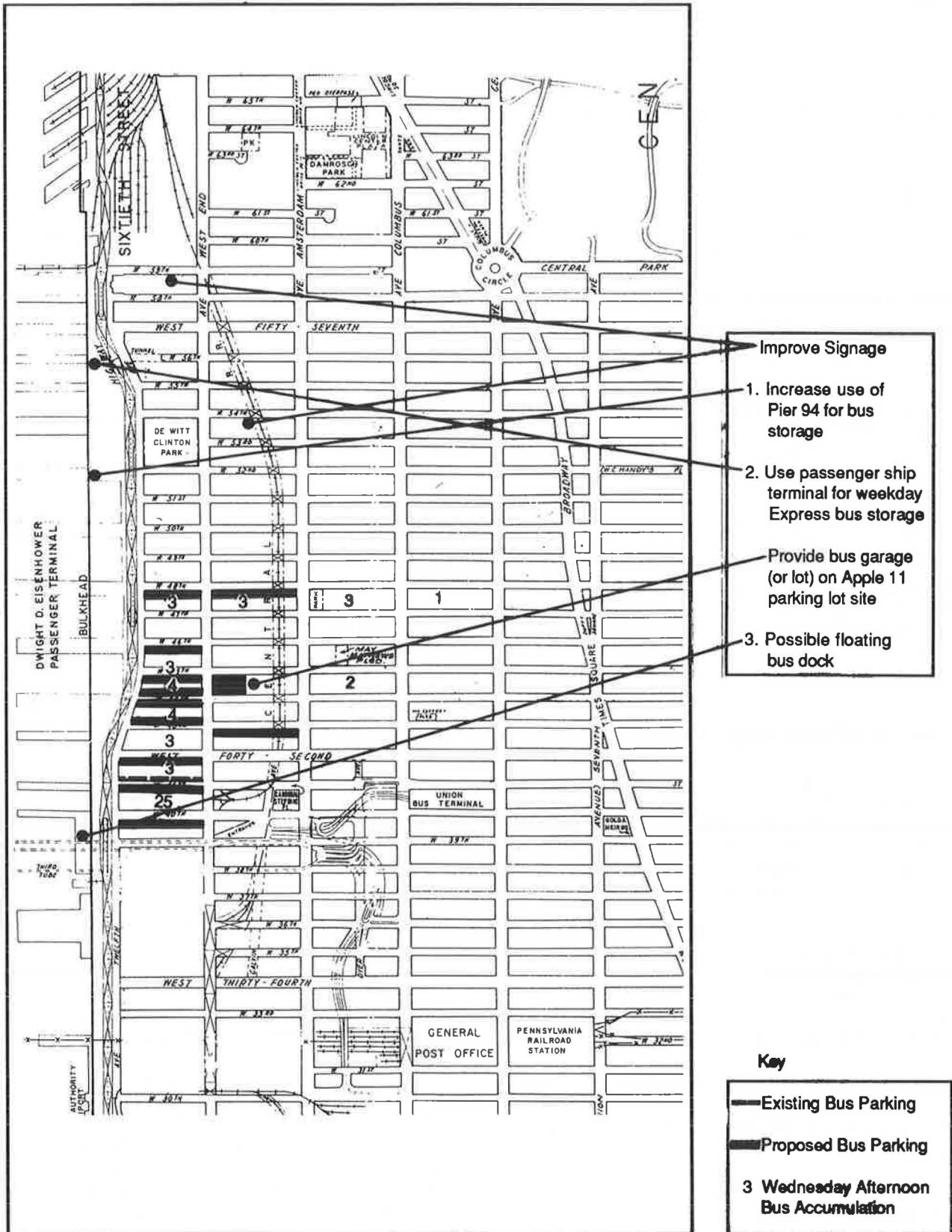


FIGURE 4 Theater District-Midtown bus storage plan.

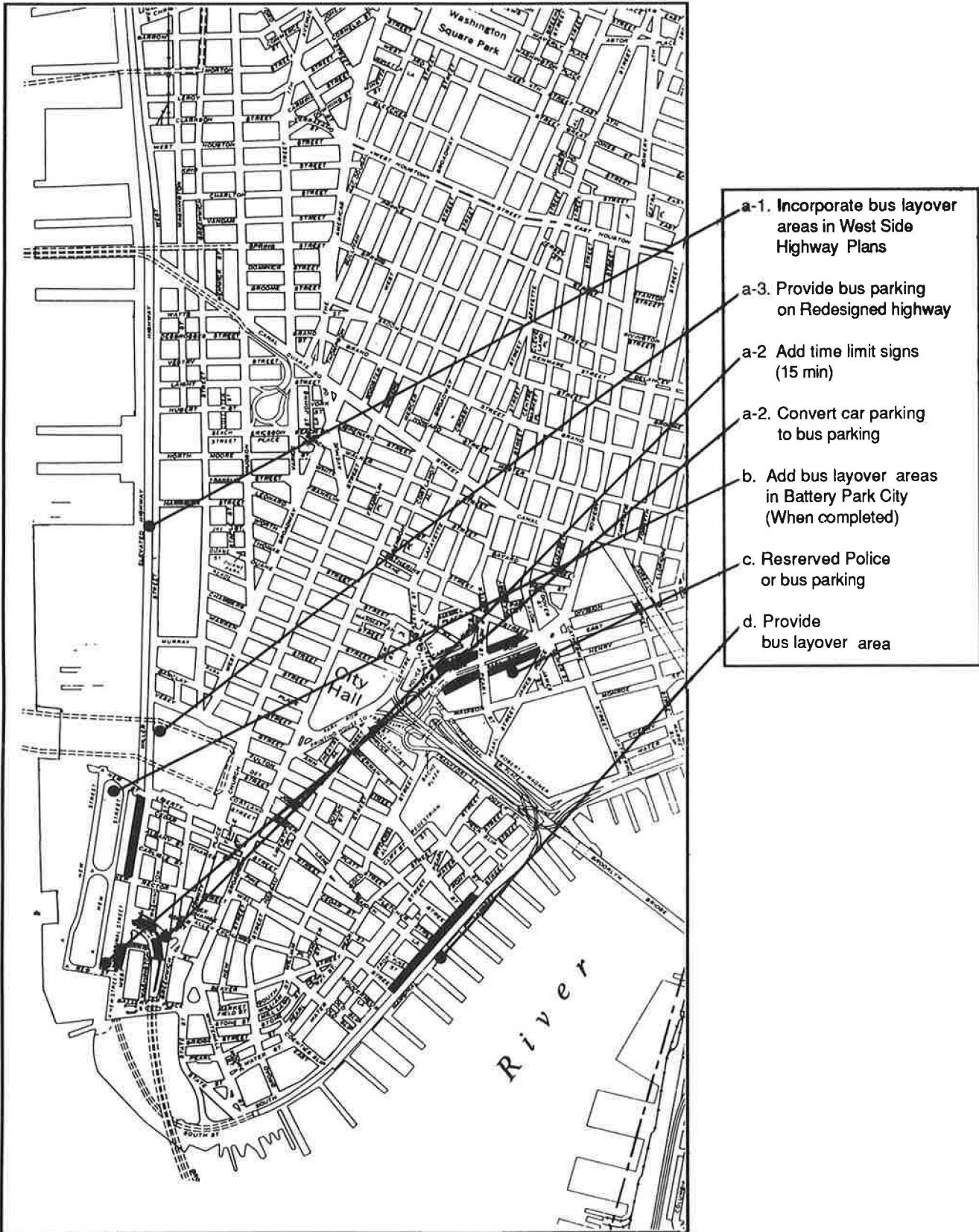


FIGURE 5 Recommended treatments for commuter and tour buses in lower Manhattan.

and it should encourage diversion of existing bus lines to some combination of Lexington, Third, Sixth, or Seventh avenues.

#### *Improved Communications and Control*

More effective communication with bus operators is essential to achieving better compliance with regulations and advising operators of planned changes. New, detailed brochures should clearly define routes, parking areas, layover practices, and fine schedules for violations at each tourist destination. NYC-DOT, the New York Convention and Visitors Bureau, the Tourism Office of the New York State Department of Commerce, representatives of various tourist attractions, and bus operators should form a task force to develop this brochure.

The city should carefully control charter and tour bus operations by preparing specific rules of operation similar to those used by Atlantic City. Procedures should specify routes of travel; conditions for intercepting buses outside of congested areas; criteria for loading and discharging passengers, bus operations, and bus parking; and a graduated scale of penalties for specific violations.

#### *Bus Franchising Improvements*

The New York City bus franchising process should be improved and speeded up to better serve local bus operators and discourage circumvention of the process. Accomplishing these changes may require strengthening the Bureau of Franchises within the Board of Estimate or relocating the franchising authority elsewhere, within a mayoral agency or the Metropolitan Transit Authority (MTA). Placement in NYCDOT or in the MTA would permit coordination of franchising decisions with overall transportation policy. Placement in NYC-DOT also would allow improved coordination of licensing, operation, and enforcement activities. Moving bus franchising from the Board of Estimate is a long-range activity because it would require a charter amendment. Streamlining the time-consuming franchising process, however, is an important first step.

#### *Improved New York City–ICC Dialogue*

The ICC should be encouraged to deny applications that are unwarranted from the city's perspective (4). Section 6 of the 1982 Bus Act requires that proposed service should be consistent with the public interest.

The Surface Transportation Uniform Relocation Assistance Act of 1987 indicates that interstate carriers are "authorized to provide intrastate transportation on a route under this (ICC) certificate only if the carrier provides regularly scheduled interstate transportation services on this route." The act gives the ICC a basis for limiting certain intrastate services provided by interstate carriers (3). This provision is expected to help limit the continuation and proliferation of specific "interstate" operations that mainly transport people between the outer boroughs and Manhattan. It also gives New York City a sound basis for protesting such services.

Accordingly, the city should promptly and vigorously protest new commuter bus applications pending before the ICC

if these applications conflict with existing transit services or add buses to already congested streets. Protests can, and should, cover entry of carriers into the market, passage through New York City, and lack of designated routings in New York City. The ICC indicates that it is receptive to protests based on traffic congestion.

The city should request that the Environmental Protection Agency apply pressure to the ICC (and NYSDOT) about environmental issues (such as air quality). The city should also actively petition to have certificates of chronic violators of city traffic regulations rescinded. Operating authority should be invalidated when a carrier breaches city regulations.

New York City should work closely and cooperatively with the ICC (and NYSDOT) in reviewing and modifying routes. It should request that the ICC incorporate operating requirements into a certificate when granting authority.

#### *Intensified Enforcement*

New York City should apply its police powers more effectively and should intensify its enforcement activities. Police should control ICC- and NYSDOT-certified vehicles on streets and avenues, in curb spaces, and at bus stops, and the city should strongly enforce its regulations through surveillance and stiffer fines.

The city should have its broadened regulatory enforcement actions tested in court, as necessary, and it should encourage the ICC to revoke licenses for continued violations of city laws. As part of this effort, the city should be guided by the controls that it exerts over truck routes.

The broadened use of police powers is consistent with the city's proposed actions to meet federally mandated clean-air standards. To meet these standards, the state has set a State Implementation Plan (SIP). As part of this effort, the mayor announced several stringent measures to restrict vehicular flow and parking in Manhattan (especially south of 60th Street), increase the cost for cars to enter the city, and raise the penalties for noncompliance. Regulations that govern franchised and unfranchised bus travel might be included in the package.

#### **Long-Term Opportunities**

New York City should exercise greater control over applications for all new bus routes. The city should work to obtain new federal legislation that transfers certain ICC functions to the city or at least sets more specific requirements for applications. Congressional approval would be required.

#### *Modification of ICC Requirements*

Changes in ICC practices would give New York City greater control over bus operations on city streets. In particular, evaluations of requests for operating authority should consider congestion, pollution, and community impacts in determining consistency with public interest. The ICC should be able to deny an application on its own if the commission determines that the application is inconsistent with the transportation policy or other public interest factors.

A municipality (e.g., New York City) should be able to participate in hearings in which it has an interest. It should be able to require buses to use off-street terminals where such facilities are available. Moreover, where operating authority is granted, the certificate should be conditional on the applicant's obtaining approvals from an affected municipality for bus routes, stops, and layover areas. The ICC should be required to revoke a certificate at the request of a municipality where there is a chronic violation of these requirements.

#### *Creation of an Exempt Zone*

Creating an "ICC-exempt zone" is perhaps the best way to coordinate certification, impacts, and operational requirements. One possibility is establishing a New York–New Jersey bi-state compact that exempts all or part of the metropolitan area from ICC regulations. This type of compact has merit in theory. It recognizes the "metropolitan area" nature of a large portion of the interstate bus service between New York and New Jersey, and it builds on the notion of the Washington, D.C., Metropolitan Area Transit Commission (a multistate regulatory agency), as well as (in part) on another bi-state operating agency (St. Louis, East St. Louis). This compact, however, poses several problems that limit its practicality for New York City. It would require approval from New York State and New Jersey legislatures and governors, as well as Congress. Its authority would be vested in commissioners appointed by both states. New York City would probably represent a minority interest, and there is no assurance that the compact would reflect the city's position.

The preferable approach to rationalizing the unfranchised bus entry process is to create a New York City Exempt Zone that modifies the role of the ICC with the city. All entry and route applications for metropolitan area buses traveling to or from the city would be subject to ICC approval. Thus the zone would exempt from ICC control all Staten Island buses operating to Manhattan via New Jersey and all interstate buses with *both* origin and destination within the area of Port Authority jurisdiction or some similarly defined area. This zone has two desirable features. It is easier to implement than a bi-state agency because it is largely a matter between the city and the federal government, and it gives the city maximum control over commuter buses operating on its streets.

#### **IMPLICATIONS AND EXTENSIONS**

Transportation deregulation over the past decade has improved the operating environment for most carriers, but it has produced a mixed set of impacts for the "unfranchised buses" operating in New York City. Deregulation has facilitated entry into the market at no direct public cost, but it has removed the regulatory controls from the city, where most of the adverse impacts occur.

The city's lengthy franchising process and its difficulties in

applying and testing its police policies contribute to this problem. The root of the problem, however, lies in the deregulation of interstate bus services, especially intrastate service operated by interstate carriers. Obviously, each of these areas needs corrective actions.

The Surface Transportation and Uniform Relocation Assistance Act of 1987 is a first step toward limiting ICC jurisdiction over intrastate carriers to those carriers that provide a reasonable nexus of service, but its impacts to date have not been clear. Additional legislative changes may be appropriate to redress the balance between local and federal control of metropolitan area interstate bus services. This is the authors' suggested direction for bus transportation deregulation in major metropolitan areas.

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*The views expressed are those of the authors and do not necessarily reflect those of the city.*

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