August 9, 2021

TO: Ronald J. Pavlik, Jr., Chief of Metro Transit Police Department - 5315 1st Pl NE, Washington, DC 20011

CC: WMATA Board - 600 Fifth Street, N.W., Washington, DC 20001

SUBJ: 2021 (Q2) Case Reviews performed by Metro Transit Police Department Investigations Review Panel

Greetings,

Metro Transit Police Department (MTPD) Investigations Review Panel reviewed nine (9) 2020 Q1-2 cases, and respectfully submit the following findings and recommendations:

1. 20-003 – Excessive Force (No complainant, but Twitter video surfaced showing a juvenile being escorted from the Metro station for transport to Youth Services.)
    a. Background - Juvenile was involved in fighting/horseplay on a train platform, and Metro Officers nearby responded. At least one juvenile fled, but one who didn't flee was asked for contact info so they could be turned over to an adult guardian. Juvenile was uncooperative and refused to provide any information for the Officer to release the juvenile in accordance with policy. The Officer spent a good deal of time trying to get guardian information and advised the juvenile of being released after contact with the guardian was made, but the juvenile refused. When the juvenile was informed of now being under arrest, the juvenile pushed the Officer and resisted restraint by putting hands in pockets. About the time the juvenile was placed on the ground and being restrained, the Twitter video began, and continued throughout the time the juvenile was brought back to standing again, and while being escorted from the platform to transportation to Child Services. Child services ultimately returned the juvenile to their guardian.
    b. Findings – The Review Panel viewed the Twitter video, Metro station camera footage, statements provided, and reviewed the statements, and agreed with the investigation's findings, but also had recommendations after reviewing the incident.
    c. Recommendations:
        i. Transparency - In a situation like this (Incident publicly disclosed by nameless citizens (e.g., Twitter video) we recommend that a response letter, normally written to a complainant, should instead be written for the public to read.
        ii. Body Cameras – The Twitter video that was made public captured only a small amount of the encounter between MTPD and this juvenile. Review of the station cameras gave the impression that the Officer's questioning of the juvenile was not overtly threatening, but body cameras would have helped provide context for the incident and a much more definitive way to review the Officer's interaction with the juvenile.

2. 20-010 – Sexual Assault

a. Background - After being placed under arrest for Child Neglect, Intoxicated Endanger [sic] Intoxicated Public Disturbance, and after being transported to a criminal correction facility, the Complainant stated that they had been raped by the 2 escorting Officers.
b. Findings – The Review Panel reviewed the numerous statements and locator data associated with this case and agreed with the investigation's findings.
c. Recommendations:
    i. Body Cameras – The statements, including the complainants numerous, contradictory, and factually incorrect statements, coupled with GPS locator data, provided solid proof that the allegations were unfounded. However, having body camera footage from the Officers would have made the investigation more complete.
    ii. Additional training for Officers on mental health (to detect issues, and possibly some recommended immediate courses of action Officers could employ).

3. 20-016 – Racial Profiling
    a. Background – Complainant was stopped in a Metro station after being observed with an alcohol bottle and discarding it when approached by the Officers. As the Officers got closer to the complainant, the complainant stated that the only reason for the stop was because of race since consumption of alcohol in a Metro Station is not illegal. [It is in fact illegal in the jurisdiction where this encounter took place]
    b. Findings – The Review Panel reviewed the statements and agreed with the investigation's findings.
    c. Recommendations: None. There was no evidence of any violation of MTPD procedures or protocol.

4. 20-018 – Discrimination
    a. Background – Complainant was given a citation for illegal tint on their windshield. After receiving the citation, the complainant made a statement that the MTPD Officer waited for the vehicle to be put into operation, and that the MTPD Officer could have issued only a warning versus a citation.
    b. Findings – The Panel reviewed the statements, GPS locator data, and agreed with the investigation's findings.
    c. Recommendations:
        i. Body Cameras – Statements and GPS proved the complaint was unfounded and in fact the stop was justified, but here too a body camera would have provided even more evidence to support the findings.

5. 20-020 – False Arrest/Rude and Discourteous
    a. Background – Complainant was arrested for trespassing on the Metro train tracks and failing to provide identification when asked repeatedly by MTPD Officers. Complainant stated that what he did (retrieve an item that had fallen on the track roadway) was not illegal and the MTPD Officers were not professional during the incident.

b. Findings – The Panel reviewed all statements and agreed with the investigation's findings.
c. Recommendations:
    i. Signage – Prominently displayed signs clearly stating that someone is not only endangering their own life, and possibly others, but also that they are guilty of trespassing if they leave the platform and enter the track roadway. Metro patrons that have items finding their way onto the tracks are to contact Metro personnel for assistance.

6. 20-005 Unnecessary Force/False Arrest
    a. Background – After being observed engaging in horseplay on a Metro station platform, a juvenile was directed by a MTPD Officer to leave the station. After numerous trains serviced the station, but the juvenile didn't leave. After the MTPD Officer was unable to get guardian information from the juvenile, the MTPD Officer grabbed the uncooperative juvenile's arm and escorted them from the station. The complainant initially stated that juvenile was falsely arrested, and unnecessary force was used, but after the known facts and circumstances were discussed with the complainant, an investigation was no longer desired.
    b. Findings – The Panel reviewed all statements and video pertaining to the incident, and we agreed with the investigation's findings. However, the memorandums provided did not contain as much information (as others we've seen) to decide if a thorough investigation was conducted.
    c. Recommendations:
        i. Complete investigative format should be used.
        ii. Body Cameras – Statements and station video proved the complaint was unfounded, but a body camera would have provided more definitive evidence of the juvenile's behavior and refusal to comply with direction from the MTPD Officer.

7. 20-016 Excessive Force/False Statements
    a. Background – An internal Use of Force investigation was initiated after review of a Use of Force Report filed after the apprehension of a suspect for a reported robbery of a nearby convenience store.
    b. Findings – The Panel reviewed all statements and video related to the incident and agreed with the internal investigation's findings that there was in fact excessive force used, and that the initial Use of Force Report was inaccurate.
    c. Recommendations: None

8. 20-025 Excessive Force/False Arrest
    a. Background – Complainant was observed smoking a brown rolled cigarette on Metro property and synthetic cannabinoid odor was present. When MTPD Officers attempted an investigatory stop, the complainant resisted, struck one of the Officer's hands, collapsed to the ground on his own accord, then struggled while being placed on the ground and handcuffed. Later during an

interview, the complainant stated, "I got hurt getting locked up!", and then stated he was falsely arrested, and his left eye was injured in the process.

b. Findings – The Panel reviewed all statements, and reviewed MTPD General Order 130 (Use of Force) and agreed with the investigation's findings.
c. Recommendations:
    i. Use of Force investigations – The complainant's statement, "I got hurt getting locked up!" should have initiated a Use of Force investigation. Also, the General Order on Use of Force should include any instance where a member touches a subject and an injury occurs, then a Use of Force investigation should be conducted.

9. 20-028 Bias Based Profiling
    a. Background –The incident occurred in June 2020 following an armed assault near a Metro station, and the suspect reportedly fled to a nearby restaurant and was described as "a black male wearing all blue and a baseball cap". A MTPD Officer investigating the nearby restaurant was told by a restaurant employee that a male wearing all blue had entered the restroom 5-10 minutes earlier. Another MTPD Officer arrived at the restaurant and the two Officers then entered the restroom and found the complainant there. The two Officers ensured the complainant had no weapons, then escorted the complainant to a table in the restaurant, provided an explanation, an apology, and a business card so the complainant could get a copy of the Stop & Frisk Report. Complainant later stated he was stopped due to systematic racism and his life was put in danger because the MTPD Officers
    b. Findings – The panel reviewed all statements and agreed with the investigation's findings. Note: There was errata found in the memorandum; the last sentence incorrectly stated it occurred at 609 H St NW on 1/9/2016 (the actual incident occurred on 6/18/2020 in VA).
    c. Recommendations:
        i. Body Cameras – Statements and facts of the incident proved the complaint was unfounded, but a body camera would have provided additional proof of the Officer's attempts to maintain "social distancing" when possible, during this encounter.

Also, the MTPD Investigations Review Panel sincerely appreciated the brief provided by the Metro Transit Police Department Youth Services Division. The panel feels this recent addition to MTPD, staffed in August 2020, is a positive step toward improving Metro ridership safety, satisfaction, and community engagement.

On August 5th members of the Panel read that you are planning to retire, likely before our next report, so we wanted to take this opportunity to thank you for your 25 years of law enforcement and wish you the very best in the future.

After you have had time to review our findings and recommendations, we request that you please respond to this letter, including what actions were taken. Thank you.

Sincerely,

[redacted]

Don Nuckols

[redacted]

Chairman, Metro Transit Police Department Investigation Review Panel