

## Report by Chair (B) 02-25-2021

SUBJECT: AMENDMENT TO METRO TRANSIT POLICE DEPARTMENT  
INVESTIGATIONS REVIEW PANEL CHARTER

RESOLUTION  
OF THE  
BOARD OF DIRECTORS  
OF THE  
WASHINGTON METROPLITAN AREA TRANSIT AUTHORITY

WHEREAS; On June 23, 2020, the Board of Directors established the Metro Transit Police (MTPD) Investigations Review Panel and adopted a Charter for its operations (Resolution 2020-25); and

WHEREAS; The Board wishes to codify the selection and rotation of the MTPD Investigations Review Panel Chair and Vice Chair;

NOW, THEREFORE, be it

*RESOLVED*, That the Board of Directors amends the Metro Transit Police Department Investigations Review Panel Charter by adding a new Article II, Section 2.E. which shall read as follows:

E. Review Panel Chair and Vice Chair. The Chair shall rotate among the Citizen Members in the following order District of Columbia, Virginia, Maryland, and then the at-large member. The Review Panel Chair shall serve as the leader of the Review Panel ensuring that the Review Panel works effectively together to carrying out its duties and responsibilities and make timely decisions and recommendations to the Chief of Police and the Board. The Vice Chair shall rotate among the Police Members in the following order Maryland, District of Columbia, and Virginia. The Vice Chair shall have such powers and duties as may be delegated to him/her by the Chair and shall perform the duties and exercise the powers of the Chair in the event of the Chair's absence or disability. To the extent that the Chair and Vice Chair are from the same jurisdiction due to the staggered terms of the Citizen Members and the Police Members, the Review Panel shall select a Vice Chair from a different jurisdiction.

The amended Charter is Attachment A hereto; and be it finally

*RESOLVED*, That this Resolution shall be effective 30 days after adoption in accordance with Compact Section 8(b).

Reviewed as to form and legal sufficiency,

/s/ Patricia Y. Lee

Patricia Y. Lee  
Executive Vice President and General Counsel

WMATA File Structure No.:  
2.1 Board of Directors

PROPOSED

**CHARTER  
OF THE  
METRO TRANSIT POLICE DEPARTMENT  
INVESTIGATIONS REVIEW PANEL**

**Article I: Purpose**

The purpose of the Metro Transit Police Department Investigations Review Panel (“the Review Panel”) is to conduct an independent and impartial review of certain completed investigations, such as customer complaints or use of force incidents, to enhance the training and policies of the Metro Transit Police Department (“MTPD”) in the continuing effort to foster public trust between the MTPD and the communities it serves.

**Article II: Review Panel**

1. Review Panel Responsibilities. The Review Panel shall:

- A. Review the previous quarter’s final, non-appealable, and completed investigations, with access to the entire investigation file, conducted by: (1) the MTPD Office of Professional Responsibility and Inspections (“OPRI”); and/or (2) a MTPD District/Division/Unit Commander, to ensure the completeness, accuracy, and objectivity of those investigations;
- B. Make written recommendations to the MTPD Chief of Police, with a copy to the WMATA Board, based on its review of investigations regarding the integrity of the investigation, the thoroughness and fairness of the process, and the adequacy of training consistent with best practices in law enforcement; and
- C. Endeavor to issue its written recommendations, if any, within 85 days following its review.

2. Composition and Selection of the Review Panel. The Review Panel shall consist of seven members. The composition of the Review Panel shall endeavor to reflect the diversity of the National Capital Region.

- A. Police Members. Three members of the Review Panel shall be current, command-level (*i.e.*, Captain or above) officials or internal

affairs officials working in police departments in the National Capital Region, and where possible, one each from state or local police departments from the District of Columbia, Maryland, and Virginia. To the extent the MTPD Chief of Police is not able to obtain participation from one of these jurisdictions, then the Chief may obtain a police member from a federal law enforcement agency. The Chief of Police from the participating police department shall select the police member for participation on the Review Panel.

- B. Citizen Members. There will be four citizen members of the Review Panel, one from each of the District of Columbia (a resident of the District of Columbia), Maryland (a resident of Montgomery County or Prince George's County), and Virginia (a resident of the cities of Alexandria, Falls Church or Fairfax or the counties of Arlington, Fairfax or Loudoun), and one at-large member, all to be appointed by the WMATA Board following notice to the public seeking applications for citizen members.
- C. Prohibitions on Membership. No member of the Review Panel shall be a current or former member of MTPD or a relative of a member of MTPD, or hold any public office, or be a candidate for any public office.
- D. Voluntary and Unpaid. Participation on the Review Panel is voluntary and unpaid. Review Panel members are not WMATA employees and will not receive any salary or benefits. Review Panel members will not be reimbursed for cost and expenses in connection with their participation on the Review Panel, except that Review Panel members will be offered a WMATA-issued SmarTrip® card that is reloaded with \$25/month in funds to be used for travel to/from Review Panel meetings or other duties associated with Review Panel activities. Any unspent SmarTrip® card funds are automatically returned to WMATA at the end of the month and members agree to use the funds only for Review Panel-related travel. To the extent a Review Panel member is eligible for and needs to use MetroAccess for travel to/from Review Panel meetings or other duties associated with Review Panel activities, WMATA will either provide the MetroAccess ride at no cost to the member or will reimburse the member for a qualifying trip.

E. Review Panel Chair and Vice Chair. The Chair shall rotate among the Citizen Members in the following order District of Columbia, Virginia, Maryland, and then the at-large member. The Review Panel Chair shall serve as the leader of the Review Panel ensuring that the Review Panel works effectively together to carrying out its duties and responsibilities and make timely decisions and recommendations to the Chief of Police and the Board. The Vice Chair shall rotate among the Police Members in the following order Maryland, District of Columbia, and Virginia. The Vice Chair shall have such powers and duties as may be delegated to him/her by the Chair and shall perform the duties and exercise the powers of the Chair in the event of the Chair's absence or disability. To the extent that the Chair and Vice Chair are from the same jurisdiction due to the staggered terms of the Citizen Members and the Police Members, the Review Panel shall select a Vice Chair from a different jurisdiction.

3. Terms. The police members of the Review Panel shall each serve a term of three years and the citizen members shall serve for a term of two years, to provide for staggered terms. Members of the Review Panel may not serve more than two consecutive terms.

4. Removal and Resignation. A member may be removed from the Review Panel for: (a) misconduct, including without limitation harassing or abusive behavior toward other Review Panel members or WMATA employees; (b) being incompetent or neglectful of his/her duty; (c) being excessively or unjustifiably absent or late for Review Panel meetings; (d) misconduct outside his/her duty as a member of the Review Panel; or (e) releasing unauthorized or law enforcement sensitive information to the public or anyone outside of the Review Panel or violating the NDA, as determined by a majority vote of the other Review Panel members. Any member of the Review Panel may resign from the Review Panel at any time by delivering written notice of the resignation to the MTPD Chief of Police. The MTPD Chief of Police shall promptly provide a copy of the notice of resignation to the WMATA Board. The resignation shall be effective upon receipt, unless an effective date of the resignation is specified in the notice.

The WMATA Board may appoint a new citizen member for the remainder of the term vacated by the departing member and such new citizen member shall be from the same jurisdiction as the departing member. For police members of the Review Panel, the MTPD Chief of Police shall request that the Chief of Police of the relevant

police department appoint another member for the remainder of the term of the departing member.

5. Meetings, Notice, Confidentiality, and Quorum.

- A. The Review Panel shall meet once a quarter, in closed session.
- B. Because of the confidential, privileged and law enforcement sensitive nature of the investigation files, documents, and information that will be provided for review, members of the Review Panel shall participate in meetings of the Review Panel in-person at a location to be designated by the MTPD Chief of Police.
- C. The MTPD Chief of Police shall circulate a Review Panel meeting notice and agenda to the Review Panel at least one week prior the Review Panel meeting date.
- D. Any materials provided to the Review Panel members shall be kept strictly confidential. Due to the confidential and potentially privileged nature of the matters reviewed by the Review Panel, each Review Panel member will execute a non-disclosure agreement (“NDA”), prior to serving on the Review Panel, to maintain the confidentiality of, or any privilege or protection from disclosure applicable thereto, for any and all information reviewed as a member of the Review Panel. In the event a Review Panel member receives information on behalf of the Review Panel prior to executing that NDA, the Review Panel member will treat all such information as confidential and privileged until the NDA is signed. Information provided to the Review Panel may not be disclosed to the public. Any disclosure to the public shall only be made with prior review and approval of the WMATA General Counsel, to ensure that any disclosure is consistent with relevant law protecting information from disclosure, including the requirement to redact personally-identifiable information, or to prevent any disclosure of that information. Accordingly, meetings of the Review Panel may not be recorded. To the extent that any Review Panel member takes notes of the meetings, those notes must be kept confidential and are subject to the NDA.

6. Quorum. A quorum requires the presence of six current Review Panel members.

### **Article III: Recommendations**

1. Based upon the Review Panel's review of investigations conducted by MTPD's OPRI or a MTPD District/Division/Unit Commander, as outlined above, the Review Panel may recommend in writing to the MTPD Chief of Police, with a copy to the WMATA Board, changes or revisions to MTPD training and policies that the Review Panel concludes will improve the integrity of investigations, the thoroughness and fairness of the process, and the adequacy of training consistent with best practices in law enforcement.

2. Recommendations by the Review Panel will be made publicly available by a link on the WMATA.com website to the MTPD external website homepage as soon as practicable, after personally identifiable information and other confidential or privileged information, if any, is redacted consistent with WMATA policies and any applicable law protecting such information from disclosure.

### **Article IV: Other Duties of Review Panel Members**

1. Training. All Review Panel members shall complete any training mandated by the MTPD Chief of Police, or as recommended by the Review Panel.

2. Conflicts of Interest. Review Panel members shall avoid conflicts of interest, as determined by the WMATA employee Code of Ethics and the WMATA Compact. Any Review Panel member may consult with the WMATA Ethics Officer, or his/her designee, if the Review Panel member believes that he/she has or may have a conflict of interest with respect to a matter that the Review Panel will consider. Any Review Panel member with a conflict of interest as determined by the WMATA Ethics Officer shall not participate in the Review Panel's consideration of that matter.

3. Communications. No member of the Review Panel may make public statements on behalf of the Review Panel without express, written permission from the WMATA Board. Members of the Review Panel shall not participate in any individual discussions of a matter before the Review Panel with any person outside of the Review Panel, other than the MTPD Chief of Police, including, but not limited to, any complainant or witness to events giving rise to a complaint or investigation, or an MTPD officer that is the subject of a complaint or investigation.

### **Article V: Compliance with WMATA Policies**

1. WMATA Policies. Members of the Review Panel shall comply with all applicable WMATA policies. To the extent that Review Panel members have

questions regarding the application of WMATA policies to their work, they may submit those questions to the WMATA Ethics Officer.

2. Conflicts. This Charter is not intended to conflict in any manner with the WMATA Compact. However, to the extent that this Charter is construed to conflict with the WMATA Compact in any manner, the WMATA Compact shall govern.

#### **Article VI: Effective Date; Duration; Amendments**

This Charter shall become effective upon approval by the WMATA Board and shall remain in effect unless and until amended or revoked by the Board in accordance with §8 of the WMATA Compact.

#### **Article VII: Miscellaneous**

1. Designee. Any action contemplated by the Charter to be performed by the MTPD Chief of Police may be designated to the MTPD Chief of Police's designee.

2. References to WMATA Compact. All references herein to the WMATA Compact are deemed to refer to the WMATA Compact as now in force or hereafter amended, and references to particular sections of the WMATA Compact are deemed to refer to similar or successor provisions hereafter adopted.