



WASHINGTON, DC

M E M O R A N D U M

TO: Patricia Y. Lee, Executive Vice President and General Counsel, WMATA

FROM: Littler Mendelson, PC

DATE: December 9, 2020

RE: Report on WMATA Confidential Investigation re: ROCC Working Conditions

CONFIDENTIAL

I. OBJECTIVE AND SCOPE OF INVESTIGATION

The Washington Metropolitan Area Transit Authority (“WMATA”) retained Littler Mendelson, PC to investigate working conditions in the Rail Operations Control Center (“ROCC”), and make determinations regarding allegations of a hostile work environment in the ROCC in the final September 8, 2020 Washington Metropolitan Safety Commission (“WMSC”) Safety Audit Report (“Report”). In particular, WMATA asked Littler to determine whether senior management, Lisa Woodruff, WMATA’s Senior Vice President for Rail Services and/or Deltrin Harris, former Director, ROCC, contributed to the hostile work environment by either engaging in or condoning unprofessional behavior

The allegations from the WMSC Report pertinent to the Littler investigation were the following:

1. ROCC leadership have fostered a culture that is toxic and antithetical to safety and other standards.
2. The Sr. Vice President of Rail Services told controllers not to talk to the WMSC, to resist corrective actions, and to paint a rosy picture of the ROCC for an internal WMATA transformation team.
3. ROCC managers engage in racial, sexual and other forms of harassment.
4. ROCC managers use profanities and threats against controllers.
5. ROCC management threatened controllers with arrest or termination for following procedures or asking questions.
6. Significant turnover of controllers in the ROCC.
7. Instances of unwanted physical contact.

The Washington Metrorail Safety Commission, *Safety Audit of the Washington Metropolitan Area Transit Authority: Audit of the Department of Rail Transportation: Rail Operations Control Center* (Final Report: September 8, 2020) at 16-18.

II. INVESTIGATION PROCESS

A. Documents/Data Reviewed

Littler asked, and WMATA provided access to the following documents and other sources of information to review:

- WMSC Safety Report
- WMATA's EEO Policy
- WMATA's Anti-Bullying and Workplace Violence Policy
- WMATA's Non-Retaliation Policy
- WMATA's Sexual Harassment Policy
- WMATA's Disciplinary Action Policy
- Rail Transportation Organization Chart
- Rail Services Organization Chart
- Rail Employee Roster
- ROCC EEO Complaints (past 5 years)
- ROCC Roster File with Definitions (past 5 years)
- ROCC Employee Schedules (2019- 2020)
- ROCC Phone Roster
- Lisa Woodruff Personnel File
- Recordings from January 2020 ambient mics in the ROCC
- July 5, 2019 recording of OPS#2 console between 12 and 2 pm

B. Interviews¹

Littler interviewed 12 individuals, ranging from ROCC trainees and controllers up to senior management. The interviews took place over the course of three (3) weeks. Littler conducted the interviews by video conference due to the pandemic.

III. FINDINGS

Based upon the interviews, documents and other information, Littler did not substantiate that Ms. Woodruff and/or Mr. Harris engaged in harassing conduct based on a protected category or otherwise threatening conduct targeted at ROCC controllers. Moreover, Littler did not substantiate that Ms. Woodruff and Mr. Harris were responsible for the WMSC's perceived "deep-seated toxic workplace culture" in the ROCC. WMSC Report at 38.

All persons interviewed agreed that the ROCC is a stressful and demanding work environment like working in an air traffic control tower. The stress arises out of the safety-sensitive nature of the jobs in

¹ Littler contacted outside counsel for WMSC in an effort to interview controllers who were the source of the determinations in the audit. No response was received so Littler randomly selected controllers to interview based on controllers' work schedules and other information.

the ROCC, especially the controller role. While the length of training provides ample time to learn the duties of the controller role, the instructors need to manage expectations better to prepare new controllers for the stressful work environment in which the lives of fellow WMATA employees and customers may be at risk when incidents arise.

Disrespectful and unprofessional conduct is commonplace in the ROCC. While the investigation did not substantiate allegations in the WMSC Report concerning racial discrimination, employees did report observing conduct that a person could perceive as sexual harassment; use of profanities; and hearing racial and homophobic comments. However, Littler did not substantiate that this conduct stemmed from high-level managers or that high-level managers condoned this behavior.

ROCC employees at all levels do perceive that coworkers and supervisors in the ROCC are treating them improperly, or there is a culture of favoritism. In some instances, the facts do not corroborate the perception. For example, some employees accused Ms. Woodruff and Mr. Harris of favoritism regarding discipline and promotions. However, the timeframes and dates during which certain employees reported less favorable treatment did not coincide with when Ms. Woodruff and Mr. Harris were managing the ROCC. On the other hand, several interviewees noted Ms. Woodruff and Mr. Harris to be harsh and sometimes raised their voices or pointed out errors publicly on the control floor rather than addressing the issues in a private setting. WMATA's Office of Equal Employment Opportunity ("OEEO") investigated a complaint of a superintendent who allegedly engaged in an unwelcome physical contact, but it was determined not to rise to the level of sexual harassment.² The fact that the control floor is often a high-stress environment with little, if no room for error, exacerbates any perceived improper treatment. Littler also heard from several interviewees that the pressure on the control floor can have a negative impact on the work environment in the ROCC, as controllers are likely to face discipline for all errors regardless of severity. Despite interviewees' disagreement with some disciplinary actions, ROCC disciplinary actions go through Human Resources and WMATA's Labor Relations, and ROCC managers are not solely responsible for doling out discipline.

IV. DETERMINATIONS

Based on the findings above, Littler makes the following determinations with respect to the hostile work environment allegations.

1. We did not substantiate that senior management created and/or condoned a hostile work environment based on race, sex, or any other protected category.

It is apparent, however, that a culture of disrespect and unprofessional behavior exists in the ROCC. There were reports of first-line managers using profanities and yelling at controllers. Neither race, sex, nor any other protected category motivated this conduct.

Witnesses agree that working at the ROCC is stressful due to the nature of the job and the strict training requirements. Witnesses commented that first-line managers were hard on employees and mistakes usually resulted in suspensions. Incidents on the control floor frequently resulted in discipline, and controllers generally feared their managers because they did not want to be suspended. While many

² In the past five (5) years, complaints of sexual harassment between coworkers or involving managers have been rare, and not substantiated.

of the interviewees stated that they feared their managers and/or feared being terminated, WMATA has not terminated those employees who raised concerns or complaints about their managers.³

Examples of alleged hostile and/or unprofessional conduct by Ms. Woodruff were limited because most interviewees had little to no interaction with her. According to the documents reviewed, either Ms. Woodruff was two levels removed from interviewees in terms of the ROCC management structure, or she was not in charge of the ROCC during the time period relating to the limited complaints to OEEO. Controllers did report hearing Ms. Woodruff making negative comments about superintendents, e.g., “being useless.” One superintendent complained about a manager’s use of an unprofessional tone and threatening to fire him. There was no evidence that these complaints of alleged mistreatment by managers referred to frequent and/or repeated behavior, or that ROCC managers targeted individuals based on race, sex, or any other protected category.

2. We did not substantiate the allegation that Ms. Woodruff or Mr. Harris interfered with WMSC investigations by intimidating ROCC employees and/or discouraging them from cooperating with the WMSC. No witnesses mentioned any comments by Ms. Woodruff or Mr. Harris relating to the WMSC investigation and/or audit, or any efforts by them to deter participation.

3. We did not substantiate the allegation that ROCC managers engaged in racial, sexual and other forms of harassment. None of the comments from witnesses referred to behavior or communication that was severe and pervasive and discriminated against an employee based on a protected classification such as race or sex.

Interviewees stated that ROCC employees (controllers, assistant superintendents, and superintendents alike) often used racially discriminatory comments and made homophobic remarks. However, employees reported members of the same race exchanged racially discriminatory comments, and interviewees did not provide any facts to corroborate any racial animus in those comments. Interviewees reported overhearing these comments during non-work related conversations, with the exception of the following alleged comment: “I will have [Vice President of Rail Transportation] come down and walk your black a** out of here.” The latter comment was reported to OEEO, investigated and not corroborated. The interviewees could not provide examples of other discriminatory comments.

We did not substantiate that ROCC managers retaliated against employees who complained about standard operating procedures, how safety incidents were handled, or instances of sexual harassment and inappropriate comments. Based on the documents and interviews, there was no evidence of retaliation relating to the reporting of complaints or based on a protected classification. In fact, ROCC employees frequently raised complaints with OEEO without repercussions.

Several interviewees who complained about sexual harassment were aware of OEEO, but decided not to submit formal complaints to avoid comments from other ROCC employees. Alternatively, of the sexual harassment complaints that were filed and investigated by OEEO, none were substantiated. Furthermore, the instances of sexual misconduct that were described involved controllers and their superintendents, not Ms. Woodruff.

³ Notably, one controller has lodged multiple complaints since the commencement of her employment with WMATA in 2007 up to and including the period of Littler’s investigation. That controller has not suffered an adverse employment action as result of any of the complaints raised.

4. We did substantiate the allegation that ROCC managers used profanities and threats against controllers. As previously explained, we did not substantiate that protected classifications, such as race or sex, motivated this behavior. In addition, interviewees attributed this behavior to assistant superintendents and superintendents.

5. We did not substantiate the allegation that ROCC managers threatened employees with arrest or termination for following procedures or asking questions. We did learn that discipline is frequent within the ROCC, and perceived as disproportionate to an infraction. Many of the individuals whom Littler interviewed commented that at the ROCC, discipline was the standard to address performance deficiencies and/or modify behavior. Disciplinary action usually resulted in suspensions ranging from 1-5 days. One witness noted that the default at the ROCC prior to mid-2020 due to the safety-sensitive nature of the job was to discipline employees without regard to whether incidents were due to mistakes, negligence, or repeated behaviors that required re-training. Managers did not view incidents as a learning opportunity. However, no one reported observing ROCC managers imposing discipline for retaliatory reasons.

6. Relatedly, we did substantiate the allegation that there is significant turnover among the controllers. There was consensus that it took a year or two for a controller to become proficient in their duties in the ROCC. Interviewees mentioned that based on the stressful environment at the ROCC and pressure from managers, many controllers would leave during training or several weeks after training because they found the environment too challenging. In addition, interviewees perceived the blame culture as discouraging controllers because ROCC managers do not coach or provide additional training before imposing 10/20/30-day suspensions.

The perception among ROCC employees that their training does not prepare them for the situations they encounter on the control floor contributes to the turnover. The ROCC training program is a 10-month course that includes approximately 8 months in the classroom and 2 months of on the job training. Additionally, a separate group, not rail transportation or anyone in upper management in rail transportation, conducts ROCC training, and there is a perception that the training does not adequately mirror the reality of being a controller.

7. We substantiated only one instance of unwanted physical contact. However, the individual who complained of the unwanted physical contact to a supervisor when advised of the right to go to OEEA elected not to proceed with providing specifics to OEEA because the individual was concerned about confidentiality, and did not want her coworkers to know her business. It was apparent that individuals working in the ROCC frequently are aware of their coworkers' complaints.

V. CONCLUSION

The stress of working in the ROCC is undeniable due to the safety nature of the work. Almost any mistake made by controllers can be a safety issue because the lives of fellow WMATA employees and the public may be at risk in an incident. Complaints of unfair discipline, sexual harassment, racial discrimination, and a hostile work environment stemmed from interactions between controllers and controllers, controllers and superintendents, and superintendents with other managers. Ms. Woodruff, who only served as Director of the ROCC for six months, was not present when employees complained to OEEA. The documentation and interviews confirm that the work environment in the ROCC is demanding and can be daunting, but was not directly connected to Ms. Woodruff or Mr. Harris; rather it was the nature of the work.