



M E M O R A N D U M

SUBJECT: Management Assistance Report
(MAR-21-0001)

DATE: May 13, 2021

FROM: OIG – Geoffrey A. Cherrington [REDACTED] WMATA

Geoffrey
Cherrington

Digitally signed by Geoffrey
Cherrington [REDACTED] WMATA
Date: 2021.05.07 14:38:58
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TO: GMGR – Paul J. Wiedefeld

The Office of Inspector General (OIG) is transmitting this Management Assistance Report (MAR) based on an investigation initiated by our office regarding allegations received indicating that between 2010 and 2017, the Metro Transit Police Department (MTPD) Criminal Investigation Division (CID) failed to investigate approximately 3,110 victim and general complaints. The victim complaints included an array of felony and misdemeanor offenses such as armed robberies, sexual offenses, kidnapping, assaults, and other crimes within MTPD's jurisdiction.

The Chief of Police advised OIG that his department was in the process of conducting an internal audit of the investigative case files. Interviews of MTPD management personnel revealed this internal audit began on or about April 2019. The results of OIG's investigation are transmitted in a Report of Investigation (ROI) along with this MAR. Since OIG is very concerned with the circumstances identified in our investigation and to date MTPD has not concluded their almost two-year internal audit, we are providing you with a detailed account of what OIG uncovered and recommendations to address this matter going forward.

Background

The OIG investigation revealed that of the 3,110 complaints referenced above, MTPD could only produce minimal documentation for 1,445 of the complaints. In addition, MTPD could only produce 1,154 MTPD Event Reports (ER) associated with the 3,110 investigative case files. Of those 1,154 ERs, 257 ERs were produced as part of the corresponding CID investigative case file. At the time of OIG's investigation, we were advised that the ERs are maintained in each investigative case files. The MTPD ER documents specific case facts from the initial officer's response, including details about the crime, and other details gathered when MTPD received the complaint. As OIG's investigation progressed, MTPD provided OIG the remaining 897 ERs separate from the investigative case files. Without a complete file, including the ER, it was difficult for OIG to ascertain certain information about the investigation.

At the beginning of OIG's investigation, OIG agreed that grand jury information and information identifying juveniles could be removed and redacted from the 3,110 investigative files in

question. Of the 1,445 files actually received, OIG noted that most of them only contained a one-page document suspending the investigation, juvenile information had been redacted from some of them, and none of them reflected that any grand jury information had been removed. In addition, on September 1, 2020, OIG requested that MTPD provide OIG a list of grand jury cases with the respective MTPD and grand jury case number. To date, OIG has not received that information. At no time did MTPD advise OIG that it had found any of the missing 1,665 files or that they deliberately withheld them from OIG.

OIG began its investigation in August 2020 and has made multiple attempts to recover all 3,110 investigative files. OIG has provided MTPD numerous opportunities to produce all investigative material associated with these complaints, but MTPD's production, to date, has been incomplete. After six months, multiple suspense deadlines, and given the significant decrease in the volume of investigative case files being produce by MTPD, the OIG closed its investigation with MTPD's limited production of investigative files. In February 2021, OIG advised MTPD in writing that we concluded our investigation and no longer needed MTPD to submit any more investigative case files, documentation, or ERs.

An analysis of the documentation provided revealed that approximately 84.1% (1,215 cases) of what MTPD described as investigative case files lacked any documentation of investigative activity. MTPD staff's failure to properly and accurately maintain investigative files, evidence, and/or associated judicial records obstructed OIG's ability to determine if CID Detectives ignored victim complaints between 2010 and 2017. Furthermore, failure to properly maintain investigative files could affect past prosecutions and appeals and loss of public confidence in WMATA's police department. Also, without fully understanding what steps were taken, if any, to investigate these alleged crimes, there is no assurance that the individuals who may have perpetrated these crimes have been apprehended.

Furthermore, in 2012, the OIG received an allegation that CID falsified investigations. During the investigation of that allegation, OIG found discrepancies between what CID Detectives documented and what the victims in those cases told the OIG. As in this current investigation, in 2012, the OIG requested to review 2011 and 2012 CID case files; however, MTPD could not produce 88 out of 134 randomly selected suspended case files. At the time, the former MTPD Chief of Police informed OIG that MTPD would implement corrective actions based on OIG's report; however, OIG found evidence that the corrective actions were never fully implemented. Implementation of these corrective actions in 2012 could have avoided further mishandling of CID investigative case files and could have clearly depicted how, if at all, the investigations were conducted.

Lastly, MTPD provided OIG with some steps that they had implemented as early as 2017; however, during this investigation OIG did not review how these steps have been implemented and therefore cannot comment on their impact.

OIG Investigative Findings

In August 2020, OIG requested that MTPD provide all intake complaint data, electronic case files, hard-copy case files, case status, closing memos, ROI's, and related records associated with the approximately 3,110 victim and general complaints referenced above. An analysis of

the MTPD electronic records, provided to date, revealed that 3,110 victim and general complaints assigned to CID between 2010 and 2017 were still classified as being in an open status in CID's case management database.

OIG's analysis of MTPD's partial production of what were purported to be CID investigative case files (1,445 to date) revealed that of the case files provided, 96% (1,393 cases) involved an array of felony and misdemeanor offenses such as armed robberies, sexual offenses, kidnapping, assaults, and other crimes within MTPD's jurisdiction. In addition, MTPD represented that there is a corresponding ER for each of the 3,110 investigative case files; however, MTPD could only produce 1,154 ERs.

Out of the 1,445 case files provided, 82.1% (1,186 cases) contained only a one-page closing document without any evidence that an actual investigation was ever conducted. Moreover, 2% (29 cases) contained only two documents, a closing document and the ER, which is a document generally prepared based on information gathered by the responding MTPD officer. In these 29 cases, however, there was still no evidence that an actual investigation was ever conducted.

Even though these one-page closing documents did not contain investigative activity, they were nonetheless used to change the status of these investigations from open to suspended, which signifies that no further investigative activity was warranted. Most closing documents were signed by CID management officials who justified the suspension status change of these investigations based solely on a written claim that the statute of limitations to bring charges against a suspect had passed along with a statement indicating they were unable to locate the original report and case file.

Based on interviews of CID management officials, the determinations that the statute of limitations had expired was made solely by reviewing the electronic data manually entered into CID's database. According to MTPD, this database contained a general description of the date, crime, jurisdiction where it occurred, complainant's, witnesses, suspect's name if available, and the name of the Detective assigned, but did not contain details regarding the crime. CID management officials completed the aforementioned one-page closing documents without speaking to the assigned Detectives and without reviewing the initial ER if not found in the original CID investigative file. These one-page reports also did not have the signature of the investigating Detective assigned to the investigation, according to MTPD documentation.

As reflected above, 84.1% (1,215 cases) of the CID investigative case files produced by MTPD lacked any documentation of investigative activity to determine if CID Detectives ever performed basic investigative steps such as interviews of victims, complainants, witnesses, and/or suspects of the crimes. Furthermore, there was no information in the CID investigative case files to assess whether evidence such as criminal record checks, photographs, crime scene reports/sketches, and/or other reports typically used in an investigation were ever collected.

Only 11.7% (169 cases) contained documented evidence of investigative activity which included not only a closing document and an ER but also documents such as a Summary of Investigative Activity, Digital Video Recording Request form, email correspondence, court records, and/or background research documentation. In these 169 cases, although there was some

investigative activity, 78 investigative case files contained a one-page closing document suspending the complaints in 2020 by indicating that the statute of limitations expired, and 14 justified the suspension on grounds that there were no suspect or investigative leads.

A CID management official acknowledged that in the Fall of 2019, when the current Assistant Chief was made aware of this issue, he assigned and instructed CID management officials to collect documents associated with these complaints. However, this CID management official said that they still had their normal responsibilities, viewed the effort as a collateral assignment, and lacked the “manpower” to adequately complete the internal audit they were tasked to do. The CID management official also indicated that a “cold case” unit would need to be assembled to properly investigate the aforementioned 3,110 complaints. In addition, they did not know how to recreate a case file when one was not found; therefore, the CID management official completed a one-page closing document for the missing case files to show that a case could not be located.

OIG interviewed numerous other individuals who were current and/or former CID supervisors from 2010 through 2020. None of these individuals could definitively state that all 3,110 victim and general complaints were investigated. They all expressed concern over the discovery of 3,110 complaints that still appeared to be in an open status in the CID database. They generally attributed the lack of accountability and oversight of CID cases to a variety of factors, including lack of supervisory knowledge of CID’s duties and responsibilities; insufficient supervisory staff; lack of administrative case oversight; high caseloads; nonexistence of policies and procedures; and lack of a case tracking system. In addition, the interviews uncovered that performance evaluations of case work only focused on closure rates, which did not account for suspended cases and/or disposition of previously open cases from past fiscal years.

During communications and interviews of both the MTPD Chief and Assistant Chief of Police, OIG was informed that they initiated an audit involving CID case files focused on locating hard-copy case files (started on or about April 2019). They both said that upon the conclusion of their internal audit, they expected a final report memorializing their audit findings, but they did not know when it would be completed. Both the Chief and Assistant Chief expressed concern over the high number of cases referenced above, the nature of the alleged crimes, and the fact that the cases were currently being closed with a one-page closing document without any further investigative activity. Despite almost two years since the start of this audit, OIG must conclude that the case files cannot be found because, to date, they have not provided OIG with over 1,500 investigative case files.

MTPD’s failure to properly and accurately maintain investigative files, evidence and/or associated judicial records obstructed OIG’s ability to determine whether CID Detectives ignored victim complaints between 2010 and 2017. Furthermore, failure to properly maintain investigative files could affect past prosecutions and appeals and loss of public confidence in MTPD. In addition, OIG is alarmed that this matter has not been resolved, despite the commencement of MTPD’s internal audit almost two years ago. OIG is concerned that MTPD top officials have not made this matter a priority and have not officially determined the root cause related to the mishandling of these investigative case files or the possibility the victim and general complaints were never investigated.

MTPD Associated Administrative Investigation and Personnel Action

During this investigation, OIG learned that even though the failure to properly and accurately maintain investigative files involved many CID Detectives, only one individual was formally investigated for violating MTPD's Ethical Standards of Conduct and Failure to Perform Duties and Responsibilities. Although this investigation reflected that MTPD's Office of Professional Responsibility and Inspection (OPRI) opened an investigation into the matter, the investigation was actually conducted by management officials from within CID. OPRI is the Internal Affairs division of MTPD.

In both a May 4, 2019 and May 15, 2019 email, a former CID management official wrote to his superiors that he found similar issues with other CID Detectives who also did not do follow-up and/or had missing case files. These emails detailed the issues found regarding the investigations in question. Additionally, during the current OIG investigation, other witness statements confirmed that there were similar issues with other CID Detective's work, similar to those described in the May 4, 2019 and May 15, 2019 emails.

MTPD's internal investigation of the one CID Detective focused on investigative work conducted between 2011 and 2017. It uncovered approximately 177 cases that lacked sufficient investigative activity. The internal investigation was completed on June 17, 2019 and in response, the CID Detective under investigation admitted, in part, the following:

"I discerned that I had failed to properly document any investigative effort taken in the outstanding cases . . . I could not recall what measure of investigative effort had been conducted on many of these cases due to the amount of time passed and the lack of documentation on my part. . ."

Although the internal administrative investigation sustained the violations of MTPD's Ethical Standards of Conduct and Financial Interest and Failure to Perform Duties and Responsibilities, MTPD senior management officials did not discipline the aforementioned detective citing the time that had lapsed since the violations occurred. This CID Detective continues to be assigned to the unit. In addition, no other Detective was investigated or disciplined for failure to properly investigate alleged crimes.

Prior OIG Investigation

In August 2012, OIG received a complaint that CID Detectives falsified investigations. On October 9, 2012, OIG issued an ROI (Case No. 13-0009-I) in which OIG found discrepancies between what CID Detectives documented and what the victims in those cases told OIG. At the time, OIG requested to review 2011 and 2012 suspended CID case files; however, MTPD could not produce 88 out of 134 randomly selected files. At the time, the former MTPD Chief of Police informed OIG that MTPD would implement corrective actions based on OIG's report. As part of a corrective action plan, the Chief issued two memoranda, dated November 26, 2012 and December 17, 2012. In these memoranda, the former Chief of Police outlined new duties and responsibilities for CID Sergeants, Lieutenants, and Captains. During this current investigation, OIG found evidence that those corrective actions were never fully implemented. Implementation of the corrective actions in 2012 (outlined below) could have avoided further mishandling of CID

investigations. MTPD suggested the following corrective actions to address OIG recommendations in 2012:

CID Sergeants will be responsible for:

- Conducting a weekly case review of at least one Detective in the unit;
- Ensuring that Detectives have started their investigation and victims of crimes have been contacted within 48 hours; and
- Conducting monthly random call backs for ten percent of the cases assigned during a month or a minimum of ten suspended/closed cases assigned during a month, which will be documented in a memorandum and sent to the Homeland Security Investigation and Intelligence Bureau Deputy Chief.

CID Lieutenants will be responsible for:

- Holding a minimum of one weekly formalized roll call when Detectives will provide updates on their cases;
- Conducting examinations of the cases that have been reviewed by the CID Sergeants to ensure that they are being properly classified and stored at the completion of the investigation; and
- Ensuring that every assigned case is being investigated in a timely and efficient manner.

CID Captains will be responsible for:

- Oversight of the entire case management process and will ensure that the controls set forth are being adhered to; and
- Conducting periodic assessments of the Lieutenant's administration of the case management system.

CID Management and Oversight

The current Chief of Police advised OIG that for several years he has been aware there were issues with CID, including reports not being completed, cases lacking follow-up, and cases not being properly filed. He added that when he hired the current Assistant Chief in 2018, he made management oversight of CID one of his top priorities. During his interview, the Assistant Chief confirmed he had been briefed on CID issues when he was hired. During his early assessment of CID, he found the unit did not have a case management model in terms of who assigned cases, supervisors were not well versed in case reviews or case management and file room management, and there were loosely written standard operating procedures (SOPs) that Detectives did not know much about.

CID Corrective Action

Based on interviews of various MTPD officials, the following are some of the corrective actions MTPD implemented recently to improve management oversight of CID. OIG did not verify whether the corrective actions taken by MTPD have improved CID's ability to manage investigations. Based on MTPD's responses identified below, OIG will not close the

recommendations and will request that MTPD provide evidence that their corrective actions have been fully implemented.

In 2017:

- CID moved from paper-based files to an electronic case file management system.

In 2018:

- Hired former Metropolitan Police Department Assistant Chief to oversee police operations as MTPD's Assistant Chief;
- Formal case reviews were implemented to discuss assigned cases of all Detectives; and
- Implemented reoccurring meetings to discuss Detectives' priority cases, called CIDStats.

In and after 2019:

- CID updated its SOP, which was adopted by CID, although not approved through WMATA Office of Quality Assurance, Internal Compliance, and Oversight (QICO);
 - Required Detectives to sign a memorandum indicating that they received a copy and that they were familiar with and understood everything in the revised SOP;
- A technical sergeant, Investigative Review Officer (IRO), position was created for CID to provide an additional layer of supervision and oversight;
 - The IRO is supposed to evaluate the solvability of an investigation based on facts and current evidence, and the likelihood of obtaining additional evidence; and
 - Cases determined to have a low solvability are assigned to the Digital Evidence Video Unit where they would review footage, if available. If there is no footage, the IRO places the case in a suspended status.

OIG Recommendations

OIG is bringing these facts and circumstances identified in this MAR to Management's attention for action to ensure that Management is aware of the circumstances surrounding these investigative cases, to ensure a root cause is identified, and to make sure that corrective action is taken, including holding the relevant parties accountable.

We recommend the General Manager/Chief Executive Officer take the following actions to address the issues identified above:

1. Train and develop management staff so they gain experience in conducting, managing, and leading criminal investigations that are thorough, legally sufficient for a prosecutor, impartial, objective, timely, accurate and complete;
2. Develop a policy that requires Detectives to meet or exceed the highest investigative standards, be responsive to all victim complaints, and be held accountable when their performance fails to meet those standards;

3. Develop a process that allows for periodic review of CID case files at various management levels to ensure compliance with investigative policies and procedures;
4. Develop protocols for independent annual or bi-annual inspections reviews to ensure compliance with appropriate policies and procedures;
5. Develop a process that tracks the amount of cases CID opened in a fiscal year and how many of those cases were properly dispositioned to ensure any remaining open cases are made a priority;
6. Direct MTPD to complete their internal audit and provide management and the OIG with their assessment of these matters;
7. Develop written standards for investigative case file management, both hard copy and electronic, addressing what documentation must be included in an investigative case file including, but not limited to, evidence collection, ERs, record of interviews, notes of interviews, documentation contacting the witnesses and victims, documentation of efforts made to investigate the allegations and consultation with prosecutors, if applicable, and retention;
8. Retrain Detectives and CID supervisors on case management, and investigative steps;
9. Require regular updates of CID's SOP; and
10. Require that case file reviews and management are timely and prioritize the logical progress of the investigation instead of closure rates.

This matter is being forwarded to you for review and action as appropriate. Please respond, in writing, by April 23, 2021, documenting any actions planned or taken.

cc: COO – Leader
MTPD – Pavlik
COUN – Lee
MARC – Sullivan

M E M O R A N D U M



SUBJECT: MTPD Response to OIG Report of Investigation – MTPD Criminal Investigation Division

DATE: April 27, 2021

FROM: EVP/COO – Joseph Leader

Joseph Leader

Digitally signed by Joseph Leader
Date: 2021.04.27 09:53:14 -04'00'

THRU: GM/CEO – Paul J. Wiedefeld

TO: OIG – Geoffrey Cherrington

This memo addresses concerns raised by the WMATA Office of Inspector General in their April 7 Report of Investigation and associated “Management Assistance Report.”

By way of background, as MTPD noted for WMATA-OIG, in 2017, the Chief of Police undertook a series of actions to correct and strengthen the overall operation of the MTPD Criminal Investigations Division (CID). The first step in 2017, was to transition from paper-based files, to an electronic case management database. Prior to June 2017, CID case files were paper-based files and stored by MTPD CID officials in a locked file room within CID.

In 2018, CID developed and implemented a comprehensive Standard Operating Procedures Manual to address inconsistencies, standardize processes, and ensure compliance. All members of CID were required to review and comply with these SOPs following implementation as a requirement of their job. The newly formalized case management process increases accountability and provides a mechanism for holding CID supervisors accountable for conducting timely reviews of all open cases. In addition to implementing the SOP, MTPD CID transitioned to a fully electronic case management system, bi-weekly and monthly case reviews, as well as a new internal audit process that is the responsibility of the Captain in charge of CID.

In 2019, MTPD CID began an audit of “open” case files (i.e. cases for which “open” was the last reported disposition). Many of these cases were identified by MTPD as a result of the newly implemented case review process and determined approximately 3,119 out of 18,586 assigned legacy cases from 2010-2017 listed as open. We concur that this number of open cases is unacceptable, and we undertook corrective action as part of MTPD’s modernization efforts.

Since that time, CID leadership was changed, with a goal of ensuring efficiency and that improvements were implemented at a deliberate pace. We readily acknowledge that prior CID managers were ineffective in delivering on our common objectives.

Regarding the OIG report, MTPD would like to address several specific items that require correction, clarification, or additional context.

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Department**

Corrections and Clarifications:

- In the background section, the OIG states in its MAR-21-0001 report that the "OIG agreed that grand jury information and identifying juveniles could be removed and redacted from the 3,110 investigative files in question." To clarify, MTPD invited the WMATA-OIG to CID to view the case files but stated that the WMATA-OIG could not take the physical case files with them, nor could they record information from these juvenile case files. WMATA-OIG declined the invitation to view the files and, as a result, it was necessary for each file to be redacted to protect juvenile information, as well as any Grand Jury information, as required by law.

As of this writing, MTPD CID is not aware of any Court of Appeals or prosecutorial body having a case identified in this investigation affected due to record keeping issues.

- The WMATA-OIG acknowledges that since 2017 MTPD has implemented many steps to cure the lack of policy, case management, and case review from 2010 to 2016.

The WMATA-OIG report mischaracterizes the cases under review, the overwhelming majority of which were misdemeanor offenses. A breakdown of all cases referenced in the investigation is provided below:

- 18,586 cases were assigned from 2010-2017
 - 15,467 cases were closed/dispositioned (83.22%)
 - 909 cases were open robberies (4.89%)
 - 108 cases were open felony assaults (.58%)
 - 471 cases were open misdemeanor assault (2.53%)
 - 3 cases were open felony sex offenses (.02%)
 - 66 cases were open misdemeanor sex Offenses (.36%)
 - 48 cases were open indecent exposure cases (.26%)
 - 1514 cases were open crimes against property (8.15%)
- The MTPD acknowledges the severe deficiencies in the case management of paper files between 2010 and 2017. Regarding the single-page case sheets that suspended the investigation, we note that these sheets were intended as placeholders pending individual review of each detective's case files, a process that includes interviewing the detective and searching court records.

MTPD does not make any claims about the statute of limitations. Statutes of limitations are codified in all three jurisdictions that MTPD serves, and law enforcement agencies are precluded from bringing charges after the statute of limitations has expired in a case.

- MTPD made the modernization and reorganization of CID a top priority in 2017 and took many steps noted in the OIG report and outlined in this response. Beyond these efforts, since 2017, the MTPD Chief has taken steps to provide and implement model case management policies, file room security, accountability, performance management systems, electronic case management systems, as well as increased management oversight to ensure efficiency and accountability in overall operations of MTPD CID and its management.
- The OIG report asserts that only one individual was formally investigated for violating MTPD's Ethical Standards of Conduct and Failure to Perform Duties and Responsibilities. MTPD's collective bargaining agreement with FOP precludes lookback discipline that is not timely investigated. The investigation initiated by CID officials was not timely as the offense occurred 3-8 years before the investigation. The Detective in question had improved his performance for 2018, 2019, 2020, 2021 due to implementing the aforementioned SOP, case review, and robust case management and oversight. CID officials at the time of these offenses (2011-2016) had no case management or case review structure in place.
 - Based on the above facts, the potential violation of the collectively bargained FOP contract, and the MTPD CID management failures, the determination was made to not discipline the Detective in question. Finally, per the CBA management does not have the ability to transfer members for duty performance.
- It is also noteworthy that in 2019 the Chief of Police reassigned management that was in place due to their leadership and management issues in managing CID operations.

Recommendation	Response
1. Train and develop management staff so they gain experience in conducting, managing, and leading criminal investigations that are thorough, legally sufficient, impartial, objective, timely, accurate and complete.	MTPD implemented this recommendation in 2018. CID holds bi-weekly case reviews at the squad level and monthly case reviews with the Investigative Review Officer (IRO) and the CID Lieutenant. MTPD CID conducts a Monthly CIDSTAT meeting to discuss specific cases with Command level officials in addition to weekly district level briefings at the Crime Strategy Meeting. The new CID SOP provides clear case management guidelines for all members of the unit. The CID Captain has conducted an audit of the 2019-2020 exceptionally closed cases. In addition to the bi-annual audit of exceptionally closed cases, the CID Captain will also audit unfounded cases bi-annually.

<p>2. Develop a policy that requires Detectives to meet or exceed the highest investigative standards, be responsive to all victim complaints, and be held accountable when their performance fails to meet those standards;</p>	<p>This recommendation was already a part of the CID SOP that was implemented in 2018. Standards for detectives are clearly articulated on page 5 of the MTPD CID SOP. Detectives are not and have never been evaluated solely on their closure rate. Any MTPD member whose performance falls below an acceptable standard will be placed on a Performance Improvement Plan to raise their performance to an adequate level.</p>
<p>3. Develop a process that allows for periodic review of CID case files at various management levels to ensure compliance with investigative policies and procedures.</p>	<p>MTPD implemented this recommendation in 2018. Pages 73-85 of the 2018 CID SOP covers all the responsibilities and procedures of case management. As stated previously, audits have been and will continue as stated in MTPD CID SOP policy.</p>
<p>4. Develop protocols for independent annual or bi-annual inspections reviews to ensure compliance with appropriate policies and procedures;</p>	<p>MTPD established case management protocols in 2018 that have addressed the issues mentioned in this OIG report. The CID Captain conducted an internal audit of all exceptionally closed cases for 2019 and 2020. Additionally, the current CID audit has accounted for all 2018, 2019, and 2020 cases.</p>
<p>5. Develop a process that tracks the amount of cases CID opened in a fiscal year, and how many of those cases were properly dispositioned to ensure any remaining open cases are made a priority;</p>	<p>MTPD implemented this recommendation in 2018. Open cases are evaluated on a calendar year basis, not the fiscal year. Any case open longer than 30 days will be reviewed by multiple CID officials, up to the Criminal Investigations Division's Deputy Chief</p>
<p>6. Direct MTPD to complete their internal audit and provide management and the OIG with their assessment of these matters;</p>	<p>We concur and will provide a report. MTPD is currently conducting a full audit for all cases from 2010 to current.</p>
<p>7. Develop written standards for investigative case file management, both hard copy and electronic, addressing what documentation must be included in an investigative case file including, but not limited to, evidence collection, ERs, record of interviews, notes of interviews, documentation contacting the witnesses and victims, documentation of efforts made to investigate the allegations and consultation with prosecutors, if</p>	<p>MTPD implemented this recommendation in 2018. Pages 75 and 76 of the MTPD CID SOP explicitly address the contents of case files and accompanying ROI. Additionally, the SOP establishes guidelines for CID officials to manage assigned cases effectively.</p> <p>MTPD has an established Police Record Retention Schedule that is in place to determine when records will be purged.</p>

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applicable, and retention	
8. Retrain Detectives and CID supervisors on case management and investigative steps;	We concur in part. Since 2019, all MTPD CID detectives and officials have been given and read the CID SOP. MTPD will ensure that all CID Officials and Detectives are trained annually in the procedures outlined in the SOP and continue to monitor the established case management policies to ensure compliance.
9. Require regular updates of CID's SOP	MTPD implemented this recommendation in 2018. The MTPD CID SOP was updated in 2021 and will continue to be reviewed and updated as necessary.
10. Require that case file reviews and management are timely and prioritize the logical progress of the investigation instead of closure rates.	MTPD implemented this recommendation in 2018. Page 85 of the MTPD CID SOP addresses the case review responsibilities and procedures for all CID members. As stated earlier, there are bi-weekly and monthly case reviews with various CID command levels that will address any perceived investigative inadequacies that CID Officials discover.



M E M O R A N D U M

SUBJECT: MTPD Response to OIG Report of Investigation
MTPD Criminal Investigation Division
Dated April 27, 2021

DATE: May 21, 2021

FROM: Rene Febles – OIG

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Febles
Date: 2021.05.21
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TO: Joseph Leader – COO

OIG has received Metro Transit Police Department's (MTPD's) response to the Management Assistance Report (MAR) 21-0001 and investigation of the MTPD CID missing case files [Report of Investigation (ROI) 20-0047-I]. After careful analysis, OIG will not close the recommendations because MTPD's replies are unresponsive to the recommendations made by our office. We are also requesting additional specific information identified below.

In addition to the specific information requested, OIG is very concerned with MTPD's characterization of our work in its response. Below, you will find in bold text the MTPD statements that are of particular concern, along with an explanation of why our findings and conclusions were accurate and why the MTPD statements are unsupported and inaccurate. Support documentation is available upon request.

In 2018, CID developed and implemented a comprehensive Standard Operating Procedures [SOP] Manual to address inconsistencies, standardize processes, and ensure compliance.

Based on testimony and records provided by MTPD, CID implemented an SOP in May 2019, which was adopted by CID, although not approved through the WMATA Office of Quality Assurance, Internal Compliance, and Oversight (QICO).

To clarify, MTPD invited the WMATA-OIG to CID to view the case files but stated that the WMATA-OIG could not take the physical case files with them, nor could they record information from these juvenile case files. WMATA-OIG declined the invitation to view the files and, as a result, it was necessary for each file to be redacted to protect juvenile information, as well as any Grand Jury information, as required by law.

As this matter was an investigation rather than an informal audit, the OIG, in multiple written communications with MTPD, established protocols to produce the original records or true and correct copies of the 3,110 requested victim complaints. We also established mutually agreed terms for the production of juvenile and Grand Jury information. In addition, OIG requested

that the Chief provide us with the names of prosecutors associated with the Grand Jury cases so OIG could obtain permission to review those files. We never received a response from the Chief to that request. As with any investigation, the production of records must meet legal standards for admissibility should documentary evidence reveal criminal misconduct.

The WMATA-OIG report mischaracterizes the cases under review, the overwhelming majority of which were misdemeanor offenses.

OIG did not mischaracterize the cases under review. OIG relied on MTPD records which focused on the central issue - whether CID detectives failed to investigate 3,110 victim complaints. According to MTPD's own internal communication and CID management staff analysis, approximately 40% of the cases under review were classified as felonies, such as armed robberies, sexual offenses, kidnappings, and assaults.

Regarding the single-page case sheets that suspended the investigation, we note that these sheets were intended as placeholders pending individual review of each detective's case files, a process that includes interviewing the detective and searching court records.

According to interviews of CID management officials, internal written communications, and CID SOP, these single-page case sheets were used to reclassify these open investigations from "open" to "suspended." According to CID's own SOP and witness interviews, a suspended status is defined as having exhausted all investigative leads and essentially ends the investigation.

MTPD does not make any claims about the statute of limitations. Statutes of limitations are codified in all three jurisdictions that MTPD serves, and law enforcement agencies are precluded from bringing charges after the statute of limitations has expired in a case.

Documentary evidence of internal communications reflect that CID management officials instructed CID officials to use the statute of limitations as a way to close out these open investigations. OIG found no supporting analysis in these files as to which statute of limitations supposedly applied or what facts in the cases led to a conclusion that charges were time-barred.

The Detective in question had improved his performance for 2018, 2019, 2020, 2021 due to implementing the aforementioned SOP, case review, and robust case management and oversight. CID officials at the time of these offenses (2011-2016) had no case management or case review structure in place.

The statement is not supported by testimonial, documentary, and internal communications between MTPD command staff and CID Officials. During fiscal year 2018/2019, the "Detective in question" received a subpar evaluation for "...multiple investigative deficiencies in assigned cases to include lack of communication and follow up with victims/complainants in his assigned cases." Furthermore, this evaluation resulted in the "Detective in question" being placed on a Performance Improvement Plan.

In fiscal year 2019, the “Detective in question” was the subject of an MTPD internal administrative investigation that concluded that the “Detective in question” routinely failed to perform [REDACTED] duties and responsibilities as a detective.

In fiscal year 2020, CID MTPD management staff recommended formal discipline for the “Detective in question” based on the conclusion of their MTPD internal administrative investigation but command staff overruled the recommendation and no discipline was taken.

As mentioned above, we are requesting additional information in light of MTPD’s responses to our reports. Below we restate each OIG recommendation and the MTPD response, followed by a textbox identifying the requested additional information highlighted in bold:

OIG Recommendation #1

Train and develop management staff so they gain experience in conducting, managing, and leading criminal investigations that are thorough, legally sufficient for prosecutors, impartial, objective, timely, accurate, and complete.

MTPD’s Response

MTPD implemented this recommendation in 2018. CID holds bi-weekly case reviews at the squad level and monthly case reviews with the Investigative Review Officer (IRO) and the CID Lieutenant. MTPD CID conducts a Monthly CIDSTAT meeting to discuss specific cases with Command level officials in addition to weekly district level briefings at the Crime Strategy Meeting. The new CID SOP provides clear case management guidelines for all members of the unit. The CID Captain has conducted an audit of the 2019-2020 exceptionally closed cases. In addition to the bi-annual audit of exceptionally closed cases, the CID Captain will also audit unfounded cases bi-annually.

While MTPD stated that it implemented this recommendation in 2018, the response does not address the recommendation. Moreover, OIG learned that CIDSTAT meetings started off monthly; however, due to COVID-19, the meetings went to quarterly and/or possibly were eventually eliminated. Further, OIG learned that Crime Strategy Meetings are not specific to CID and the focus is more department-wide where notable cases from the week might be discussed.

Please provide specific evidence how MTPD has trained and developed management staff to conduct, manage, and lead criminal investigations that are thorough, legally sufficient for prosecutors, impartial, objective, timely, accurate, and complete. Please also provide names of individuals who have attended the applicable training and dates attended. If they have not yet attended or have not identified a training, please provide MTPD’s plan on how the department will implement this recommendation.

In addition, please provide the dates of all CIDSTAT meetings that have been scheduled since 2018. Moreover, please clarify whether Crime Strategy Meetings are specific to CID.

Further, please provide the findings of the CID Captain's bi-annual audit of the 2019-2020 exceptionally closed cases, CID's plan on when it will start an audit of the unfounded cases, and whether MTPD plans to audit open, closed by arrest, and suspended cases bi-annually.

OIG Recommendation #2

Develop a policy that requires Detectives to meet or exceed the highest investigative standards, be responsive to all victim complaints, and be held accountable when their performance fails to meet those standards.

MTPD's Response

This recommendation was already a part of the CID SOP that was implemented in 2018. Standards for detectives are clearly articulated on page 5 of the MTPD CID SOP. Detectives are not and have never been evaluated solely on their closure rate. Any MTPD member whose performance falls below an acceptable standard will be placed on a Performance Improvement Plan to raise their performance to an adequate level.

Please provide OIG both the CID SOP in effect prior to the 2018 version and the updated 2018 version. Please also provide standards used to rate detectives and statistics of how many detectives have failed to meet those standards. Specifically identify which standards they failed to meet. The information is requested for 2018-2020.

OIG Recommendation #3

Develop a process that allows for periodic review of CID case files at various management levels to ensure compliance with investigative policies and procedures.

MTPD's Response

MTPD implemented this recommendation in 2018. Pages 73-85 of the 2018 CID SOP covers all the responsibilities and procedures of case management. As stated previously, audits have been and will continue as stated in MTPD CID SOP policy.

Please provide OIG with documentation showing the specific process for periodic case file review at various management levels and how MTPD will ensure compliance with policies and procedures. Please be as specific as possible.

OIG Recommendation #4

Develop protocols for independent annual or bi-annual inspections reviews to ensure compliance with appropriate policies and procedures.

MTPD's Response

MTPD established case management protocols in 2018 that have addressed the issues mentioned in this OIG report. The CID Captain conducted an internal audit of all exceptionally closed cases for 2019 and 2020. Additionally, the current CID audit has accounted for all 2018, 2019, and 2020 cases.

Please provide OIG with the MTPD case management protocols established in 2018 that provide for annual or bi-annual inspection reviews that ensure compliance with appropriate policies and procedures for conducting criminal investigations.

OIG Recommendation #5

Develop a process that tracks the amount of cases CID opened in a fiscal year, and how many of those cases were properly dispositioned to ensure any remaining open cases are made a priority.

MTPD's Response

MTPD implemented this recommendation in 2018. Open cases are evaluated on a calendar year basis, not the fiscal year. Any case open longer than 30 days will be reviewed by multiple CID officials, up to the Criminal Investigations Division's Deputy Chief.

Please provide OIG with documentation showing the process MTPD developed in 2018 that tracks the number of cases CID opens in a calendar year, how many of those cases are properly dispositioned to ensure any remaining open cases are made a priority, and how MTPD documents the case evaluation. Specifically provide evidence of who reviews them, when it is done, and who attends the reviews. Also identify the process followed when/if it is determined that an investigation has not progressed in a logical and satisfactory manner.

OIG Recommendation #6

Direct MTPD to complete their internal audit and provide management and the OIG with their assessment of these matters.

MTPD's Response

We concur and will provide a report. MTPD is currently conducting a full audit for all cases from 2010 to current.

As requested during the investigation, please provide OIG with specific steps taken to conduct this audit and identify how much longer it will take to complete.

OIG briefed the Chief Operating Officer (COO) and the Chief of Police prior to issuing this report. In that briefing, the Chief advised OIG that this matter was not a priority. OIG is concerned at the length of time it has taken to complete the audit based on the level of attention placed on this matter.

OIG Recommendation #7

Develop written standards for investigative case file management, both hard copy and electronic, addressing what documentation must be included in an investigative case file including, but not limited to, evidence collection, ERs, record of interviews, notes of interviews, documentation contacting the witnesses and victims, documentation of efforts made to investigate the allegations and consultation with prosecutors, if applicable, and retention.

MTPD's Response

MTPD implemented this recommendation in 2018. Pages 75 and 76 of the MTPD CID SOP explicitly address the contents of case files and accompanying ROI. Additionally, the SOP establishes guidelines for CID officials to manage assigned cases effectively.

MTPD has an established Police Record Retention Schedule that is in place to determine when records will be purged.

Please provide OIG with the document referenced in the response that dates back to 2018. Also, please provide MTPD's records retention schedule.

OIG Recommendation #8

Retrain Detectives and CID supervisors on case management and investigative steps.

MTPD's Response

We concur in part. Since 2019, all MTPD CID detectives and officials have been given and read the CID SOP. MTPD will ensure that all CID Officials and Detectives are trained annually in the procedures outlined in the SOP and continue to monitor the established case management policies to ensure compliance.

Please provide OIG with the training curriculum MTPD will focus on as part of this training. In addition, specifically identify how MTPD plans on monitoring to ensure compliance with case management policies.

OIG Recommendation #9

Require regular updates of CID's SOP.

MTPD's Response

MTPD implemented this recommendation in 2018. The MTPD CID SOP was updated in 2021 and will continue to be reviewed and updated as necessary.

Please provide OIG with the document referenced in the response that dates back to 2018. Further, please provide OIG with the updated 2021 CID SOP.

OIG Recommendation 10

Require that case file reviews and management are timely and prioritize the logical progress of the investigation instead of closure rates.

MTPD's Response

MTPD implemented this recommendation in 2018. Page 85 of the MTPD CID SOP addresses the case review responsibilities and procedures for all CID members. As stated earlier, there are bi-weekly and monthly case reviews with various CID command levels that will address any perceived investigative inadequacies that CID Officials discover.

Please provide OIG with the document referenced in the response that dates back to 2018.

Upon completion of MTPD's internal audit, OIG will review the results of that audit and request information pertaining to investigations conducted from 2018 to present. The objective of this review will be to ascertain whether or not MTPD has implemented changes that will ensure that all investigations are properly conducted by CID and documented according to policy. OIG will coordinate efforts with the Office of Management Audits, Risk and Compliance (MARC).