



June 13, 2024

Dear Chair Smedberg and Members of the Board of Directors:

On February 2, 2024, the Washington Metropolitan Area Transit Authority (WMATA) Office of Inspector General (OIG) received a complaint from the Office of the Commonwealth's Attorney for Arlington and the City of Falls Church (OCA) regarding possible investigative deficiencies in three separate Metro Transit Police Department (MTPD) criminal investigations.

Our objective was to assess the processes, procedures, decisions, and communications made in each of the MTPD investigations OCA referenced in their complaint to OIG. We also evaluated the actions of the MTPD staff assigned to these investigations to determine if any misconduct occurred.

OIG staff interviewed current and former OCA prosecutors, MTPD detectives, crime scene officers, supervisors, and MTPD union representatives, including the specific MTPD personnel who were directly involved in the investigations.

Please contact Deputy Inspector General Rafael (Rico) Medina if you have any questions or need additional information. He can be reached at [REDACTED].

Respectfully,

Kevin Muhlendorf  
Acting Inspector General

Attachment

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cc: Parisa Dehghani-Tafti – Commonwealth's Attorney, Arlington County and the City of Falls Church  
Randy Clarke – GM and CEO, Washington Metropolitan Area Transit Authority  
Michael Anzallo – Chief, Metro Transit Police Department

June 13, 2024



## A REPORT BY THE OFFICE OF INSPECTOR GENERAL

OIG 24-0015-I

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# OIG Limited Review of Metro Transit Police Department's Handling of Criminal Investigations Based on Concerns Raised by the Office of the Commonwealth's Attorney for Arlington and the City of Falls Church

Office of Inspector General  
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## **EXECUTIVE SUMMARY**

OCA's concerns generally focused on allegations of insufficient case-specific experience or training, shortcomings in the management of evidence, and disclosure of pertinent investigative information to OCA prosecutors. OCA also raised concerns to OIG, MTPD and publicly that certain of these deficiencies could lead to OCA's failure to make disclosures to Defendants which are required by the U.S. Constitution.

OIG's limited review focused on MTPD's investigative processes, procedures, decisions, and communications in each MTPD criminal investigation referenced in OCA's complaint. We also evaluated the actions of the MTPD staff assigned to these investigations to determine if any misconduct occurred. OIG did not endeavor to answer every complaint raised related to the cases, but instead categorized them to enable an overall review of MTPD's work with OCA.

OIG's review did not uncover evidence of misconduct by any of the MTPD officers or staff members assigned to the OCA-referenced investigations. OIG also did not find evidence indicative of MTPD systematically failing to timely provide OCA with information which OCA may have been required to produce as discovery to the criminal Defendants.

OIG's review identified that, at least in one case, several changes in the prosecution teams' composition led to confusion regarding prosecutorial strategies and priorities. Many of the concerns OCA raised appear to have been created by a breakdown in communication between OCA and MTPD which resulted in misunderstandings, confusion, and at times, conflict.

OIG's review also identified opportunities for improvements in MTPD's evidence-handling and record keeping procedures. Additionally, below, OIG also offers OCA and MTPD recommendations on building a collaborative and professional relationship that should enhance both parties' effectiveness in the future.

## **BACKGROUND**

On February 2, 2024, OIG received a complaint from OCA alleging MTPD investigative deficiencies, including insufficient case-specific experience or training, shortcomings in the management of evidence, and timely disclosure of pertinent investigative information to OCA prosecutors, including information which OCA may have been Constitutionally mandated to produce to Defendants. These allegations were primarily connected to the MTPD criminal investigations of a March 2020 fatal stabbing, a December 2023 robbery and malicious wounding, and a January 2024 robbery and malicious wounding involving juvenile victims and suspects.

In a February 13, 2024, letter OIG understands was disseminated to the local defense bar, OCA wrote that it “has obtained information that must be disclosed pursuant to our obligations under *Brady* and *Giglio*, in addition to our obligations under Virginia Rule of Professional Responsibility 3.8.” That letter identified six separate alleged failures by MTPD: (1) Failure to take and document investigative steps to locate evidence and witnesses; (2) Failure to preserve physical evidence and/or maintain and document the chain of custody of evidence; (3) Failure to document identification procedures; (4) Failure to document involvement of all officers and personnel; (5) Failure to promptly provide OCA with exculpatory or impeachment information discovered during investigations; and (6) MTPD practice of “avoiding creating written records that may conflict with subsequent testimony.” Through the investigation, OIG met with OCA, both in person and virtually, multiple times in an attempt to understand the alleged deficiencies.

OIG assigned as the lead case agent a Special Agent who was previously a detective with crime scene investigative experience from the Port Authority of New York & New Jersey Police Department. He and others in OIG attempted to review all available and relevant MTPD case-related documentation, investigative and prosecutorial communications, and related WMATA and MTPD policies and procedures. As part of this review, OIG also interviewed numerous MTPD staff as well as current and former OCA prosecutors.

MTPD's reported investigative activity and management of these three criminal investigations and their interaction with OCA prosecutors are detailed below, with a focus on particularized OCA allegations tied to each respective investigation.

## **OIG REVIEW FINDINGS**

### **MARCH 2020 FATAL STABBING AT THE PENTAGON METRO STATION**

On March 16, 2020, a victim was fatally stabbed on the platform of the Pentagon Metro Station. The suspect fled the scene on Metrorail and was later apprehended by MTPD at a convenience store near the Minnesota Avenue Metro Station, where a knife believed to have been used in the crime was also recovered. In this matter, OCA raised concerns generally related to (1) MTPD's initial incident response and subsequent investigative actions; (2) evidence collection, preservation, and chain of custody; and (3) the

experience, training, and conduct of the MTPD detective assigned to lead the homicide investigation.

## **1. MTPD's Initial Incident Response and Subsequent Investigative Actions**

OCA questioned the initial incident response and subsequent investigative actions taken by MTPD:

- a) OCA alleged MTPD failed to stop train movement during the initial moments after the crime, directed potential witnesses onto departing trains without first obtaining contact information, and allowed bystanders to walk through the crime scene uninhibited for an hour.

Documented police reporting of this event, however, indicates the Pentagon Force Protection Agency (PFPA) was the first law enforcement agency to respond to the incident and assumed initial Incident Command responsibilities, not MTPD. MTPD was the third law enforcement agency to assume Incident Command responsibilities at 9:16 AM, approximately 23 minutes after PFPA and Arlington County Police Department (ACPD). There is also no record of PFPA or ACPD requesting MTPD stop all rail traffic to the station prior to MTPD's assuming Incident Command.<sup>1</sup>

As a result, the concerns raised by OCA regarding failure to stop train movement, allowing potential witnesses to depart the crime scene without obtaining contact information, and bystanders walking through the crime scene cannot be solely attributed as MTPD failures and may have been outside MTPD's control at the time they occurred.

PFPA documented police reporting indicates its initial law enforcement efforts focused primarily on rendering life-sustaining aid to and transporting the victim, who was rapidly losing blood and not yet deceased. The PFPA reports indicate law enforcement officers at the scene were speaking to witnesses and attempting to locate the suspect who was reported to have departed by train approximately five minutes after the stabbing. Simultaneously, other law enforcement officers were also managing crowds and identifying potential witnesses, who were interviewed at the scene.

OIG's review of the available documentation indicated that only after the victim was pronounced deceased at the hospital, approximately 39 minutes after the initial stabbing, did law enforcement priorities shift to crime scene protection and processing for a homicide. This included stopping the trains and restricting station access approximately nine minutes after the victim was pronounced deceased. Because MTPD was not initially in command of the scene, OIG believes it is unreasonable to assign responsibility to MTPD for crime scene security immediately after the stabbing. Whether PFPA, ACPD, and MTPD should have an agreement in place to handle a similar situation is outside the scope of this review.

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<sup>1</sup> Police records show there was a law enforcement request at 9:01 AM for Metro to hold a specific train after the suspect was reported at 8:57 AM as having boarded a Yellow line train; though it is not clear which agency directed this action.

- b) OCA alleged that during the arrest of the subject, which occurred away from the crime scene at a convenience store, MTPD failed to detain, identify, and investigate a different individual observed to have engaged in a hand-to-hand type transaction with the suspect moments before the stabbing suspect discarded a weapon.

The arresting MTPD officer stated he did not witness the alleged hand-to-hand transaction at the time it occurred and did not know or have reason to detain any additional individuals. This account is consistent with OIG's independent review of the convenience store video, which did not corroborate a hand-to-hand transaction occurring. MTPD detectives stated they only became aware of OCA's concerns regarding the alleged hand-to-hand transaction from OCA in January 2024. As a result, MTPD detectives could not have attempted to identify or further investigate this individual because they were unaware contemporaneously that an alleged hand-to-hand exchange had occurred.

- c) OCA alleged MTPD failed to investigate the victim's communications and actions leading up to the crime.

MTPD's lead detective stated MTPD did take steps to investigate the victim's movements while in the Metro station and did interview the victim's parents, who told MTPD they had no knowledge of the victim's whereabouts before the crime. The victim's cell phone, however, was not forensically analyzed until June 2023.<sup>2</sup> That review revealed the victim's last cell phone contact approximately 20 minutes before he was stabbed. While the MTPD lead detective interviewed the victim's last known phone contact, that only occurred after being instructed to do so by OCA on January 4, 2024. That interview yielded limited useful information, and there is no way to discern if an earlier interview would have changed that outcome. There was no record available to OIG to suggest MTPD independently undertook this investigative step nearer in time to the crime.

- d) OCA alleged MTPD did not attempt to use SmarTrip card data to identify additional witnesses until 19 months after the crime occurred.

MTPD's lead detective indicated SmarTrip data was pulled within 24 hours of the crime. OIG could not, however, independently verify this statement. The lead detective did provide OIG a document, dated August 3, 2021, that listed potential witnesses who were identified from SmarTrip data. However, the document was deficient in that it did not identify when these witnesses were contacted, by whom, or other potentially relevant data.<sup>3</sup>

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<sup>2</sup> The reason for the delay until 2023 may have been the technological inability of MTPD to access the victim's locked cell phone until assisted by ACPD in 2023.

<sup>3</sup> In OCA's February 13 letter, OCA references an earlier OIG report on MTPD record keeping. While OIG did not endeavor here to examine compliance with the recommendations from that report, OIG does note that the lack of information associated with this spreadsheet is of the type of shortcoming identified in the 2021 OIG report.

## 2. MTPD's Evidence Collection, Preservation, and Chain of Custody

OCA raised various concerns regarding MTPD's evidence collection, preservation, and chain of custody procedures.

- a) OCA indicated their staff instructed MTPD, at various times after the stabbing, to properly search the victim's jacket since the contents of the pockets could yield relevant evidence. OCA characterized it as unfathomable that an inventory search was not done before the victim's jacket was entered into evidence.

MTPD records show MTPD logged the jacket into MTPD's evidence system on March 16, 2020. MTPD's lead detective advised the contents of the jacket pockets were not searched until she was directed to do so by OCA prosecutors on January 4, 2024, just days before the upcoming January 16, 2024 trial date.<sup>4</sup> On January 5, 2024, the lead detective searched the jacket pockets, uncovering \$800.01 in cash—35 total cash bills and one penny; one set of keys; a silver cross pendant; one nail file; and one green lighter. In this instance, MTPD stated that the victim was transported to the hospital before MTPD had access to the victim's person or clothing.

OIG reviewed the still-in-force 2013 MTPD General Order 410 titled "Evidence and Property Control," which establishes MTPD evidence intake procedures. This document instructs MTPD members who obtain evidence or property to be placed in the custody of MTPD to inventory the item(s) *at the location recovered or as soon as possible*. As a result, OIG concurs with OCA that a complete inventory search of the victim's jacket should have been performed before it was entered into evidence. OIG cannot confirm whether OCA asked MTPD about the inventory prior to the week before the 2024 trial date, though OCA indicated there was a verbal direction to do so in mid-2023.

- b) OCA raised concerns with MTPD's use of a private moving company to relocate evidence, including materials pertinent to the stabbing case. OCA also indicated there were unexplained written notations indicating broken seals on evidence boxes associated with this move.

MTPD staff explained the planned decommissioning of WMATA's headquarters building in the 2023 timeframe necessitated the relocation of MTPD evidence, including evidence for this particular case. According to MTPD, a private moving company MTPD retained was selected by WMATA. Vendor personnel did not have direct access to evidence at any time, as evidence was individually pre-packaged and sealed by MTPD personnel before being loaded into larger moving boxes. In addition, MTPD stated MTPD personnel trained in evidence preservation practices were present at all times to supervise the vendor's activities. OIG interviews with MTPD personnel revealed the unexplained written "broken" notations on documentation associated with the evidence move were likely references to a broken seal on the transport vehicle, not the evidence boxes. Because the records do not definitively address this question, it suggests a lack of good

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<sup>4</sup> The lead OCA prosecutor at this time was the latest of four lead prosecutors assigned to this case, and the trial date had previously been continued on multiple occasions.

documentation practices by MTPD in 2023 related to the storage and transport of evidence. And because the use of, and name of, the private moving company was not apparent from the evidence records, OIG concurs with OCA that there were deficiencies with how the chain of custody was documented.

c) OCA opined evidence should only have been stored and analyzed in Virginia.

MTPD's Crime Scene Officer (CSO) stated they followed the rules for evidence storage and processing in accordance with MTPD's tri-state jurisdictional guidance, and there is no requirement for the evidence to be exclusively stored or analyzed in the Commonwealth of Virginia. Additionally, at the time of the stabbing, COVID-19 restrictions were an extenuating circumstance outside of MTPD's control. Those restrictions complicated evidence collection, preservation, and chain of custody for this case.

d) OCA indicated that the chain of custody for the suspect's buccal swab was broken, rendering the DNA sample obtained from it unusable for trial. OCA further pointed out there were incorrect entries in MTPD's evidence storage system.

OCA provided OIG with written records indicating that on August 10, 2020, the suspect's buccal swab<sup>5</sup> was submitted to the Virginia Department of Forensic Science (DFS) by MTPD. However, MTPD's evidence records indicate that this did not occur until August 13, 2020, which OCA considered a potential break in the evidence's chain of custody. The MTPD CSO stated that the date discrepancy was a clerical error created when MTPD incorrectly entered the date of the Virginia DFS submission into MTPD's evidence system. While this discrepancy could have been explained by a witness at trial as an immaterial mistake and not a broken chain of custody, this example again points to a need to improve MTPD evidence handling procedures. OIG therefore concurs with OCA's concerns about the chain of custody for the buccal swab.<sup>6</sup>

e) OCA alleged that MTPD failed to preserve potential exculpatory evidence in the form of an alleged plastic baggie of suspected narcotics that was removed from the victim's person by an unidentified Emergency Medical Technician (EMT) at the scene.

OCA informed OIG that a supplemental PFFA report created 23 days after the stabbing indicated that a plastic baggie of suspected narcotics was found on the victim's person by an unidentified EMT. PFFA reporting indicates the unidentified EMT advised PFFA of the existence of a plastic baggie with a white powdery substance found in the victim's pocket. The PFFA supplemental report indicates an unidentified MTPD member was made aware of the existence of the plastic baggie. OCA believed this plastic baggie was potential exculpatory evidence.

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<sup>5</sup> According to the U.S. Department of Justice Office of Justice Programs, a buccal swab is a method of DNA collection where "sterile swabs or other buccal collection devices are rubbed against the inside cheek of the individual's mouth to collect epithelial cells for analysis."

<sup>6</sup> OCA also raised in a May 2024 email to MTPD that there were chain of custody issues related to the buccal swab being in the possession of MPD before MTPD brought the swab to Virginia DFS on August 10, 2020. Because OIG already concurs with OCA's other concerns about the chain of custody, OIG opted to focus on issuing the report rather than addressing this – and many other – additional concerns raised in the May 10, 2024 email from OCA.



OIG was unable to corroborate the existence or whereabouts of this plastic baggie of suspected narcotics. OIG could not independently verify if the plastic baggie was ever seized as evidence or by whom. No MTPD records reference this evidence; likewise, there was no such reference in the initial PFPA incident report. The MTPD lead detective stated, to her recollection, the first time this evidence or the supplemental PFPA report were raised to her attention was by OCA on December 28, 2023. As a result, OIG concluded that MTPD could not be held responsible for any failures regarding this evidence handling without additional information as to what occurred.

### **3. Experience, Training, and Conduct of MTPD Detective Assigned**

OCA raised various concerns about the experience, training, and conduct of MTPD's lead detective assigned to this investigation.

- a) OCA raised concerns that the lead MTPD detective had no prior experience with homicide cases or testifying in jury trials.

MTPD acknowledged that it is rare for homicides to occur within MTPD's jurisdiction, and MTPD does not have a homicide unit. For this reason, it is not necessarily unusual that the MTPD detective assigned in this instance had no prior homicide experience. The MTPD detective assigned had successfully completed MTPD's Detective Field Training Program. The MTPD detective also served as a Field Training Officer for newer detectives. The MTPD detective confirmed she had not previously been assigned to or testified in a homicide case, though she has testified in many other major felony jury trials, just not in Arlington County.

- b) OCA also raised concerns regarding the MTPD detective's timely disclosure of discovery items to OCA prosecutors, despite repeated inquiries and assurances from the detective that all discovery information had been provided. For example, OCA stated that the MTPD detective failed to disclose the D.C. Metropolitan Police Department's (MPD) involvement in collecting and storing the buccal swab until August 2020 and failed to provide chain of custody documentation.

Regarding matters of communication and timely information disclosures, OIG's review of case-related communications indicates that the fourth OCA prosecution team assigned to this case contacted MTPD for the first time on December 20, 2023 – just weeks before the trial date, which was then scheduled for January 16, 2024. On January 3, 2024, the MTPD detective provided the entirety of MTPD's case binder for OCA to review and copy. According to the MTPD lead detective, OCA first raised concerns about the chain of custody for this case on January 12, 2024, four days before the then trial date. Email communications confirm OCA requested additional documentation relating to the evidence chain of custody from MTPD on this date. MTPD's lead detective's communications internally and with OCA demonstrate that MTPD's lead detective was responsive to OCA and made efforts to address OCA's concerns, including coordination with MPD to obtain documents and information for OCA.

The primary discovery concern OCA raised was the MTPD detective's failure to disclose

the MPD's involvement in the case, particularly MPD's collection and storage of the suspect's buccal swab. The lead detective explained that due to the pandemic and heightened safety protocols in the MPD facility where the suspect was incarcerated, MPD took the suspect's buccal swab and stored it in their facility.

OIG's review of available records indicates that based on MTPD testimony during the November 5, 2021 preliminary hearing for this case, OCA was made aware of MPD's involvement in collecting and storing the buccal swab – but that preliminary hearing was conducted by an earlier assigned prosecutor, not the one who had the matter in 2024. Additionally, photographs in OCA's possession depicted envelopes with MPD stickers and barcodes in which the buccal swab evidence was stored. According to MTPD, these photographs were taken by one of the former OCA prosecutors assigned to the case who visited MTPD's office to photograph the evidence. As a result, OIG did not find evidence suggesting that MTPD's lead detective failed to disclose MPD's involvement in the collection of the buccal swab associated with this case.

### **JANUARY 2024 ROBBERY AND MALICIOUS WOUNDING AT THE ARLINGTON METRO STATION**

On January 20, 2024, a robbery and malicious wounding occurred at the Arlington Metro station in which two juvenile victims sustained serious injuries after being assaulted by six juvenile suspects. OCA's concerns for this particular case are generally related to (1) timeliness and quality of communications and (2) the conduct of an MTPD Detective Sergeant.

#### **1. Timeliness and Quality of Communications**

OCA raised concerns with the timeliness and quality of MTPD communications.

- a) OCA alleged delays in MTPD providing information about the officers involved in the incident and one of the victim's details, including their home address.

MTPD staff reported to OIG that they provided OCA with all the information requested, including the MTPD officers' names and both victims' home addresses. OIG's independent review of communication records between MTPD and OCA demonstrates that OCA's first documented contact with MTPD for this case was by email on January 25, 2024. On January 26, 2024, MTPD provided OCA with the documentation requested, including the remaining officers' names, MTPD reports, video, images, and notes. Emails also demonstrated MTPD attempts to assist OCA with retrieving and reviewing these files from the Evidence.com review platform. The MTPD event report, which OCA confirmed by email was in their possession, included the original MTPD officers' names and both victims' home addresses.

- b) OCA alleged that MTPD did not sufficiently explain how video footage led to the identification of suspects and did not produce victim interviews without prompting.

MTPD's lead detective on this investigation stated she and other MTPD detectives watched video surveillance of the crime and identified the suspects based on their physical appearance, clothing, and distinct characteristics. In fact, one of the suspects was wearing a victim's jacket. MTPD said they identified everyone involved, including two unidentified individuals who were later detained as suspects at L'Enfant Plaza Metro Station. Because the video evidence was clear, MTPD stated they believed victim identification was unnecessary for an arrest, so the victims were not utilized in identifying suspects.

OIG's review of the case file confirmed the clarity of the video footage and a detailed case note explaining how detectives used surveillance footage to identify the suspects. The footage and the case note were included in MTPD's January 26, 2024 production of records to OCA. A recording of the victim interview, however, in which both victims stated they could not identify the suspects, was only provided by MTPD after OCA learned of the potential recording from a victim's mother and specifically requested the recording from MTPD.

While MTPD correctly believed that the victim interviews were not utilized to identify the individual suspects, the fact that the victims indicated in their interviews that they could not identify any of their assailants is potentially exculpatory information that should have been brought to OCAs attention and *may* not have been but for the victim's mother raising the interview's existence with OCA. The need to do so quickly was heightened by the timeline specific to juvenile cases in Virginia.

## **2. Conduct of MTPD Detective Sergeant**

OCA raised concerns with the conduct of a specific MTPD Detective Sergeant.

- a) OCA alleged an MTPD Detective Sergeant told an OCA prosecutor during a phone call that MTPD did not keep certain records because they "did not want to get tripped up on cross (examination)." The comments were alleged to be in the context of whether MTPD maintained notes memorializing their review of the surveillance footage to identify suspects in this case.

OIG independently reviewed phone records and corroborated a phone call lasting approximately 17 minutes occurred on the date and approximate time alleged by the OCA prosecutor. When interviewed, the MTPD Detective Sergeant confirmed the call occurred but stated that at no time during the call did he make the above or any similar statement. Since the MTPD and OCA call was not recorded, OIG could only substantiate that a call occurred but not what was said or by whom. OIG interviewed at least six MTPD personnel regarding this specific topic; none of whom had any awareness of specific instances, or a departmental practice, of minimizing recordkeeping for this purpose.

## **DECEMBER 2023 ROBBERY AND MALICIOUS WOUNDING INITIATED AT CRYSTAL CITY METRO STATION**

On December 3, 2023, a robbery and malicious wounding (stabbing) occurred during a trip between the Crystal City Metro Station and Ronald Regan National Airport Metro Station. One suspect was later apprehended by MTPD at Crystal City Metro Station, where a white powdery substance was recovered from him. OCA's concerns for this particular case are generally related to (1) timeliness, tone and quality of communications and (2) MTPD roles and responsibilities for evidence processing.

### **1. Timeliness, Tone and Quality of Communications**

- a) OCA raised concerns about the timeliness, tone and quality of MTPD's communications. For example, MTPD allegedly did not request surveillance footage of the crime until OCA directed them to do so.

MTPD staff told OIG they made multiple calls to OCA after the stabbing and were informed that an OCA prosecutor had not been assigned yet. MTPD and OCA communications show that OCA contacted MTPD via email on January 29, 2024 seeking case materials in preparation for a hearing scheduled for February 14, 2024. In the email, OCA requested various items, such as the full MTPD report and videos.

The email communications OIG reviewed indicate MTPD replied the same day (January 29, 2024), advising OCA they could provide body camera footage and department documentation, and a request for the Metro Station and train surveillance footage was initiated. On February 7, 2024, MTPD communicated to OCA that the relevant station footage had been uploaded to the evidence sharing platform. MTPD suggested that OCA use the Verint player for easier review, as Verint allowed multiple camera angles to be displayed simultaneously and synced.

- b) OCA characterized the footage provided by MTPD as a "data dump" that lacked accompanying information, such as timestamps, to facilitate more timely review.

On February 12, 2024, OCA inquired whether MTPD "clipped" the pertinent surveillance video. The MTPD detective responded he did not have the capability to edit the videos, but the following day provided OCA with an email summarizing the sequence of events and the date, location, and file name of pertinent video clips to assist OCA in its review.

In an email dated February 14, 2024, OCA asked MTPD if there was a video/audio recording of a post-Miranda interview with the suspect. MTPD responded the same day, advising OCA of the location of the requested video, which was part of a separate body-worn camera recording that MTPD had previously provided to OCA on January 29, 2024. OIG's review of communications between MTPD and OCA indicates MTPD was responsive to OCA's requests and made reasonable efforts to assist OCA in its review of the investigative case materials.

- c) OCA raised concerns with the tone of MTPD communications, specifically noting that when OCA questioned one MTPD detective about whether the drugs found at the crime scene had been sent to the lab, the MTPD detective allegedly responded the drugs were the responsibility of the MTPD evidence custodian, rather than helping obtain the needed information.

In an email dated January 29, 2024, OCA contacted MTPD requesting lab paperwork for the white powdery substance that was recovered from one of the suspects and corresponding chain of custody reports. MTPD replied on January 29, 2024, the date of OCA's first contact for the case, copying a CSO to address the drug evidence in question. The next day, the CSO advised he had not received notification that drugs had been recovered and that there were no associated Virginia DFS submissions. On February 2, 2024, OCA advised the MTPD CSO that the drugs needed to go to Virginia DFS as soon as possible.

On February 8, 2024, MTPD's chain of custody records show the CSO transported the drug evidence to a crime scene storage locker at MTPD's District 2 facility in preparation for an evidence drop-off scheduled with Virginia DFS for February 22, 2024. The CSO explained evidence submission with Virginia DFS must be pre-scheduled and can sometimes take weeks. OIG reviewed the submission documents to Virginia DFS, which confirmed the white powdery substance was submitted by the CSO for analysis on February 22, 2024.

OIG did not, in this instance, find that the MTPD detective was dismissive of OCA's requests.

## **CONCLUSION**

OIG recognizes that investigative decisions are made based on the totality of the information available to the investigative staff at the time the decisions are made - and without the benefit of hindsight. OIG also recognizes prosecutorial discretion offers prosecutors wide latitude to decide a course of action when weighing the circumstances of an event throughout the prosecution process.

That said, OIG's review evaluated OCA's concerns against information derived from communication records, investigative case files, electronic systems of records, and MTPD and OCA interviews. OIG's findings and recommendations are outlined below.

OIG's review did not uncover evidence of misconduct by any of the MTPD officers or staff members assigned to the OCA-referenced investigations. OIG also did not find evidence indicative of MTPD systematically failing to timely provide OCA with information which OCA may have been required to produce. Many of the concerns OCA raised appear to have been created by a breakdown in communication and expectations between OCA and MTPD which resulted in misunderstandings, confusion, and at times, conflict.

While the OIG's review focused on the actions of the MTPD staff, interviews of OCA and MTPD staff provided a glimpse into other contributing factors to the breakdown in

communication. For example, several changes in the prosecution teams' composition in one matter led to confusion regarding prosecutorial strategies and priorities. There also appeared to be evidentiary concerns raised just days before critical court dates. Overall, many of these concerns could have been addressed through more effective communication by both parties.

OIG's review did, however, identify issues with, and opportunities for improvements in, MTPD's evidence-handling and record keeping procedures. In addition to the specific failings identified *supra*, the MTPD General Order on Evidence and Property Control has not been revised in over 10 years. Updating these procedures and clearly defining terms and procedures for evidence handling, inventory process, chain of custody, and other evidence and property control procedures is important to ensure that every MTPD staff member, not just the CSOs, can both properly handle evidence and explain MTPD's evidence procedures to prosecutors and juries. MTPD should also consider clarifying procedures and time requirements for submitting evidence for laboratory analysis across the three jurisdictions.

## **GENERAL RECOMMENDATIONS**

Ultimately, law enforcement and prosecutors must work together to investigate cases, and where appropriate initiate criminal actions against offenders. Building a collaborative and professional relationship will enhance both parties' effectiveness. While OIG does not have oversight responsibility over OCA, we make the following three recommendations to both agencies.

1. Establish a formal mechanism to facilitate regular direct communication so critical issues can be preemptively addressed to avoid delays.
2. When investigations are presented for prosecutorial consideration, prosecutors and investigators should establish clearly understood and mutually accepted expectations.
3. Establish leadership channels of communication so candid and open conversations can help address perceived or incorrect assumptions.

## TO REPORT FRAUD, WASTE, OR ABUSE

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