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Description of document: Written decisions/determinations of the Washington Metropolitan Area Transit Authority (WMATA) Whistleblower Retaliation Hearing Panel 2010-2011

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PARP Administrator
Washington Metropolitan Area Transit Authority
600 Fifth Street, NW
Washington, D.C. 20001

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September 13, 2012

Re: PARP Request No. 12-0228

This is in response to your request for a copy of each written decision/determination of the Whistleblower Retaliation Hearing Panel since its inception. Your request was processed pursuant to the Public Access to Records Policy (PARP), which can be viewed on our website at http://www.wmata.com/about_metro/public_rr.cfm, under the section marked, "Legal Affairs."

Enclosed is a copy of each written decision/determination of the Whistleblower Retaliation Hearing Panel since its inception. Pursuant to PARP Exemption 6.1.6 (personal privacy), we have redacted some personal information regarding WMATA staff because release would constitute a clearly unwarranted invasion of personal privacy.

If you wish to appeal WMATA's decision, in accordance with PARP § 9.1, you may file a written appeal of the action with the Chief of Staff within 30 business days of the date of this decision letter. The appeal panel will inform you of its determination within 30 business days of receipt of the appeal. Further details about our appeals process can be found on our website.

There is no charge for the enclosed records because the first two hours of staff time and minor copying are free. Future correspondence regarding your request should reference the PARP request number noted above and be directed to my attention. You may also contact me via telephone at 202-962-2058 or via email at kthom@wmata.com.

Sincerely,

Keysia A. Thom
PARP/Privacy Policy Administrator

Enclosures

**Washington
Metropolitan Area
Transit Authority**

600 Fifth Street, NW
Washington, DC 20001
202/962-1234

By Metrorail:
Judiciary Square—Red Line
Gallery Place-Chinatown—
Red, Green and
Yellow Lines
By Metrobus:
Routes D1, D3, D6, P6,
70, 71, 80, X2

DETERMINATION OF THE WHISTLEBLOWER RETALIATION HEARING PANEL
OIG COMPLAINT No. 2011-328
December 9, 2011

The Whistleblower Retaliation Panel (the "Panel") convened to consider the Office of Inspector General ("OIG") Report of Investigation No. 2011-328 pertaining to an allegation of retaliation made by [REDACTED], a former Metro Transit Police Department ("MTPD") Special Police Officer ("SPO") (the "Complainant"). The Complainant alleged that [REDACTED] was forced to resign from [REDACTED] position as an SPO by MTPD Deputy Chief [REDACTED] in retaliation for making a complaint about alleged mismanagement of the SPO division, primarily by SPO [REDACTED]. The Panel reviewed the OIG Report, which concluded that the evidence presented did not support a finding of whistleblower retaliation under P/I 7.32/1. By letter dated November 4, 2011, the Panel provided the Complainant with a redacted copy of the OIG Report. The Complainant subsequently presented additional information to the Panel and the Panel reviewed the additional information. The Panel did not consider it necessary to seek additional information or statements from the Complainant's supervisor.

DETERMINATION

The Panel concurs with the conclusion of the OIG that no Prohibited Personnel Practice occurred and, therefore, there was no violation of the Whistleblower Policy.

[REDACTED]
Shiva K. Pant
Chief of Staff

[REDACTED]
Gary W. Baldwin
Chief Human Resources Officer

[REDACTED]
Carol B. O'Keeffe
General Counsel

**DETERMINATION OF THE WHISTLEBLOWER RETALIATION HEARING PANEL
OIG Complaint No. 2010-031
November 3, 2010**

The Whistleblower Retaliation Panel (the "Panel") convened to consider the OIG Report of Investigation No. 2010-040 (the "Report") pertaining to a complaint by a former employee in the Department of Information Technology (IT) that [REDACTED] termination in conjunction with the Reduction in Force (RIF) which occurred on February 18, 2010, was in retaliation for statements the employee had made to the Office of Inspector General (OIG) in an earlier OIG audit of the PeopleSoft Remediation Project. In connection with its review, the Panel considered the following evidence:

- | | |
|-----------------------|-----------------------------------------|
| 1. July 23, 2010 | OIG referral document |
| 2. January 15, 2010 | Draft package for IT and Facilities RIF |
| 3. February 18, 2010 | RIF Staff Summary Sheet for CFO/IT |
| 4. Interviews | [REDACTED] |
| 5. September 10, 2010 | IT response to OIG Report |
| 6. September 20, 2010 | OIG email |
| 7. September 28, 2010 | IT response to OIG 9/20/10 email |
| 8. September 29, 2010 | Letter from [REDACTED] to Gary Baldwin |
| 9. Undated | Resume, [REDACTED] |

DETERMINATION

In consideration of the above referenced evidence, the Panel has determined that it agrees with and therefore affirms the OIG's conclusion that [REDACTED] cooperation with the OIG auditors was "at least a contributing factor in [REDACTED] supervisor's selection of [REDACTED] position the RIF." As the OIG has observed, no credible reason was offered as to why a capably funded position could not have been found for [REDACTED] who, by all accounts, is a capable person. The Panel directs that:

1. [REDACTED] shall be given preferred consideration for the first operating or capital vacancy for which [REDACTED] is qualified; and
2. The Chief of Human Resources Officer shall devise an oversight mechanism to assure that if [REDACTED] applies for any position, [REDACTED] application will be given full and fair consideration.

[REDACTED]
Shiva K. Pant
Chief of Staff

[REDACTED]
Gary W. Baldwin
Chief Human Resources Officer

[REDACTED]
Carol B. O'Keeffe
General Counsel

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DETERMINATION OF THE WHISTLEBLOWER RETALIATION HEARING PANEL
OIG Complaint No. 2011-011
February 7, 2011

The Whistleblower Retaliation Panel (the "Panel") convened to consider the OIG Report of Investigation No. 2011-011 pertaining to an allegation of retaliation made by a mechanic in the Office of Elevators and Escalators Maintenance who alleged that [REDACTED] was disciplined for making a safety-related complaint about working with live circuits. The Panel did not consider it necessary to seek additional information or statements from the Complainant, [REDACTED] or from [REDACTED] supervisor.

DETERMINATION

The Panel concurs with the conclusion of the OIG that no Prohibited Personnel Practice occurred and, therefore, there was no violation of the Whistleblower Policy.

[REDACTED]
Shiva K. Pant
Chief of Staff

2/4/11

[REDACTED]
Gary W. Baldwin
Chief Human Resources Officer

[REDACTED]
Carol B. O'Keeffe
General Counsel

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DETERMINATION OF THE WHISTLEBLOWER RETALIATION HEARING PANEL
OIG Complaint No. 2011-113
April 5, 2011

The Whistleblower Retaliation Panel (the "Panel") convened to consider the OIG Report of Investigation No. 2011-113 pertaining to an allegation of retaliation made by a mechanic in bus maintenance who charged that a comment made to [REDACTED] by [REDACTED] supervisor constituted a threat of retaliation for the employee's earlier disclosures to the OIG and the Safety Officer concerning the use of forklifts. The Panel did not consider it necessary to seek additional information or statements from the Complainant, [REDACTED] or from [REDACTED] supervisor.

DETERMINATION

The Panel concurs with the conclusion of the OIG that no Prohibited Personnel Practice occurred and, therefore, there was no violation of the Whistleblower Policy. There is no connection between the employer's protected disclosure and [REDACTED] supervisor's later comment, which in event, did not result in a Prohibited Personnel Practice.

[REDACTED]
Shiva K. Pant
Chief of Staff

[REDACTED]
Gary W. Baldwin
Chief Human Resources Officer

[REDACTED]
Carol B. Green
General Counsel

CONFIDENTIAL

DETERMINATION OF THE WHISTLEBLOWER RETALIATION HEARING PANEL
OIG COMPLAINT No. 2011-201
October 21, 2011

The Whistleblower Retaliation Panel (the "Panel") convened to consider the Office of Inspector General ("OIG") Report of Investigation No. 2011-201 pertaining to an allegation of retaliation made by [REDACTED] a General Equipment Mechanic in the Office of Plant Maintenance (the "Complainant"). The Complainant alleged that [REDACTED] was retaliated against by being [REDACTED] for reporting a safety concern to the Department of System Safety and Environmental Management. By letter dated August 16, 2011, the Panel informed the Complainant that it was inclined to affirm the OIG's decision, which held that the evidence presented did not support the allegation of whistleblower retaliation under P/I 7.32/1. The Panel afforded the Complainant the opportunity to bring additional information to the Panel's attention, by no later than August 30, 2011. The Complainant did not provide a response to the Panel's letter. The Panel did not consider it necessary to seek additional information or statements from the Complainant's co-workers or supervisor.

DETERMINATION

The Panel concurs with the conclusion of the OIG that no Prohibited Personnel Practice occurred and, therefore, there was no violation of the Whistleblower Policy.

[REDACTED]
Shiva K. Pant
Chief of Staff

[REDACTED]
Gary W. Baldwin
Chief Human Resources Officer

[REDACTED]
Carol B. O'Keeffe
General Counsel

DETERMINATION OF THE WHISTLEBLOWER RETALIATION HEARING PANEL
OIG COMPLAINT No. 2011-179
October 21, 2011

The Whistleblower Retaliation Panel (the "Panel") convened to consider the Office of Inspector General ("OIG") Report of Investigation No. 2011-179 pertaining to an allegation of retaliation made by [REDACTED] Heavy Equipment Operator in the Department of Transit Infrastructure and Engineering, Track Maintenance (the "Complainant"), who alleged that [REDACTED] was retaliated against by [REDACTED], Assistant Superintendent, TIES [REDACTED] Rail Facility. The Complainant alleged that as a result of an undocumented rail equipment accident, [REDACTED]

[REDACTED] By letter dated September 7, 2011, the Panel informed the Complainant that it was inclined to affirm the OIG's decision, which held that the evidence presented did not support the allegation of whistleblower retaliation under P/I 7.32/1. The Panel afforded the Complainant the opportunity to bring additional information to the Panel's attention, by no later than September 14, 2011. The Complainant did not provide a response to the Panel's letter. The Panel did not consider it necessary to seek additional information or statements from the Complainant's supervisor.

DETERMINATION

The Panel concurs with the conclusion of the OIG that no Prohibited Personnel Practice occurred and, therefore, there was no violation of the Whistleblower Policy.

[REDACTED]
Shiva K. Pant
Chief of Staff

[REDACTED]
Gary W. Baldwin
Chief Human Resources Officer

[REDACTED]
Carol B. O'Keefe
General Counsel