



**Office of Professional Responsibility
Civil Rights & Force Investigations Division**

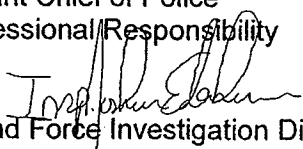
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January 21, 2003

CONFIDENTIAL MEMORANDUM

TO: Chief of Police

THRU: Acting Assistant Chief of Police
Office of Professional Responsibility

THRU: Director 
Civil Rights and Force Investigation Division

ATTN: Executive Assistant Chief of Police
Operational Services

SUBJECT: Report Relative to Complaints of Alleged Misconduct Made at the October 24, 2002, Hearing of the Committee on the Judiciary of the Council of the District of Columbia, Concerning the IMF/World Bank Protests

This memorandum addresses complaints of alleged misconduct made at the October 24, 2002, Hearing of the Committee on the Judiciary of the Council of the District of Columbia concerning the IMF/World Bank Protests.

BACKGROUND

During the weekend of September 27th through the 29th, 2002, the World Bank and the International Monetary Fund (IMF) held their annual meetings at their headquarters located in downtown Washington, D.C. Intelligence gathered prior to the event, coupled with information disseminated to the media by protest group leaders, indicated that several groups sought to "shut down the city" by way of blocking major intersections leading into and around Washington.

On Friday, September 27, 2002, approximately 400 International Monetary Fund (IMF)/World Bank protestors, who were also part of a larger group of protesters, marched throughout downtown Washington, D.C. and finally gathered at Pershing Park, located at 15th and Pennsylvania Avenue, Northwest. Shortly thereafter, the demonstrators were encircled by members of the Metropolitan Police and United States Park Police Departments and were prohibited from exiting the park.

MPD Assistant Chief Peter J. Newsham was responsible for Area IV of the World Bank/IMF demonstration detail, which encompassed the Pershing Park. While on the

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scene at Pershing Park, Assistant Chief Newsham gave an order to arrest the protesters for "*Failure to obey a police order*," based on his personal observations and discussions with several MPD Civil Disturbance Unit (CDU) command officials on the scene. Specifically, he observed the protestors violate traffic laws in a dangerous manner, turn over newspaper boxes, and ignore officers' orders to get out of the street and onto the sidewalks.

The order was given to Metropolitan Police Department Civil Disturbance Unit managers by Assistant Chief Newsham to arrest everyone in the park and transport them to the Institute of Police Science (IPS) for processing. Metro Buses were used to transport prisoners to the IPS.

Each prisoner was escorted from a transport bus through the front doors of the IPS. Every prisoner was photographed and fingerprinted and his or her arrest paperwork was completed. In cases where no other charges were pending, arrestees could elect to be released and pay collateral or receive a citation date to appear in court at a later time. If arrestees had outstanding warrants or other holding charges, they were transported to court to appear before a judge.

During detainment at IPS the arrestees sat on floor mats and were flexi-cuffed¹, strong hand wrist to opposite ankle, with a third flexi-cuff in-between their hand and foot. As needed, the prisoners' flexi-cuffs were removed as they were escorted to use restroom facilities and to stretch. The length of detainment varied, but in some cases lasted as long as eighteen (18) hours.

The delay in prisoner processing was due to a temporary overload and subsequent failure of the Department's Information Technology systems. Specifically, the digital cameras that were used to take prisoner photographs functioned slowly because they could not handle the volume of pictures taken. Apparently, the video cameras used to monitor the downtown area during the midnight tour of duty for Saturday, September 28, 2002, caused an overload to the electronic processing equipment, thereby causing all the computers used for prisoner processing to "crash." Moreover, updates to the Criminal Justice Information System (CJIS) database on Saturday, September 28, 2002, at approximately 3:00 A.M., caused additional delays.

On October 24, 2002, three (3) complainants testified at the hearing of the Committee on the Judiciary of the Council of the District of Columbia. At that hearing, the complainants alleged that they were unlawfully arrested and detained for an unreasonable period of time. Furthermore, the individuals testified that they were "hogtied" while detained by the Metropolitan Police Department.

On November 12, 2002, the complaint was received by the Office of Professional Responsibility, and assigned to the Civil Rights and Force Investigations Division, Force Investigation Team, for review.

¹ The Flexi-Cuffs consisted of three "loops"—one around the wrist of the strong hand, another around the opposite ankle, and an additional cuff between the two thereby extending the space between the arm and opposite leg.

Sergeant James McCoy and Sergeant James McGuire were assigned as the Civil Rights and Force Investigation Division Investigators for this incident. The sergeants were tasked with conducting interviews and collecting information that was used in this analysis. The case was managed by the undersigned, and approved by Inspector Joshua A. Ederheimer.

Metropolitan Police Department Members Interviewed

In order to further this examination, numerous MPD members were interviewed about their recollection of the events that took place in and around Pershing Park on the day in question. Only those members identified to have specific and relevant information about the events at the park were interviewed. The following is a summary of the statements given by each member.

Assistant Chief Peter Newsham

Assistant Chief Peter Newsham is in charge of the Office of Professional Responsibility. The following is a synopsis of Assistant Chief Newsham's statement provided to Executive Assistant Chief Michael Fitzgerald:

Assistant Chief Newsham explained that his assignment during the IMF/World Bank demonstrations on Friday, September 27, 2002, was Zone IV, which included Pershing Park. Assistant Chief Newsham related that hundreds of demonstrators were converging from different directions and moving toward Pershing Park. Assistant Chief Newsham related that he personally observed demonstrators turning over newspaper boxes and ignoring officers' orders to get out of the street and onto the sidewalks.

Assistant Chief Newsham was asked if any warnings were given to the demonstrators prior to the mass arrest at Pershing Park, and replied that the conduct of the demonstrators was such that they were clearly violating traffic laws in a dangerous manner. Assistant Chief Newsham related that some of the demonstrators were warned by officers along their route to get onto the sidewalk and out of the street, however the demonstrators ignored the warnings. Assistant Chief Newsham further explained that it was not practical to give everybody a warning or to make sure that everyone received a warning at the point where all of the protesters converged at Pershing Park. Assistant Chief Newsham related that the demonstrators were arrested for *disorderly conduct* and *failure to obey officer's orders* for violations that occurred prior to their entering Pershing Park. A copy of this statement is submitted with this report (Attachment # 1).

Captain Andrew Solberg

Captain Andrew Solberg is an Assistant District Commander at the Fourth District. The following is a synopsis of Captain Solberg's statement provided to Sergeants James McCoy and James McGuire:

Captain Solberg stated that on September 27, 2002, he was assigned as the Fourth District CDU Commander for the IMF/World Bank demonstrations. At approximately 9:00 A.M., while in charge of the Fourth District CDU Bicycle Platoon, he lead a group of demonstrators on bicycles from Union Station, through the downtown area to Pershing Park located at 15th and Pennsylvania, Avenue. Captain Solberg related that once he arrived at Pershing Park, he met with Assistant Chief Brian Jordan and Assistant Chief Peter Newsham. Captain Solberg was then instructed to position his CDU platoon in such away that it blocked off access to and from the south and east sides of the park. He was informed that everyone inside Pershing Park would be arrested.

Captain Solberg was asked if he gave, heard, or had any knowledge of an order being given to the protestors in the park to disperse, or that failing to do so would result in arrest. Captain Solberg replied that he did not. According to Captain Solberg, Assistant Chief Jordan relayed to him that an order had been given earlier that morning to a group of people congregating in the intersection of 14th and Pennsylvania Avenue, Northwest. This order was given prior to Captain Solberg's arrival at Pershing Square at 9:00 A.M. A copy of this statement is submitted with this report (Attachment #2).

Lieutenant Jeffery Harold

Lieutenant Jeffery Harold is assigned to the Special Operations Division. Lieutenant Harold was responsible for monitoring the activities of the protesters as well as MPD members and provide assistance and advice as needed. The following is a synopsis of Lieutenant Harold's statement provided to Sergeants James McCoy and James McGuire:

Lieutenant Harold was on the scene of the mass arrests at Pershing Park, and also asked if he had knowledge of an order being given to the protesters at the park to disperse or be subjected to arrest. Lieutenant Harold stated that he was unaware if an order was given to the crowd prior to the mass arrests.

Lieutenant Harold was also questioned about past practices concerning prisoner restraint techniques. Lieutenant Harold explained that he had no knowledge of the origin of utilizing the technique of flexi-cuffing a prisoner's right wrist to their left ankle. A copy of this statement is submitted with this report (Attachment #3).

United States Park Police Major Rick Murphy

Sergeant James McGuire of the Force Investigation Team interviewed U.S. Park Police Major Rick Murphy via the telephone. Major Murphy was a Captain at the time of this incident, and has since been promoted and reassigned to duties in New York.

Major Murphy explained that he was on the scene at Pershing Park on September 27, 2002, and witnessed the group of protesters being contained within the park. Major Murphy further detailed a conversation he had with Assistant Chief Newsham in which,

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he in effect, told the chief that he would not arrest the protesters in the park as their conduct did not meet the criteria for mass arrests.

Major Murphy indicated that the protesters' actions in the park did not meet the criteria for mass arrests based on U.S. Park Police protocols. He advised that in similar situations, the protesters would first be warned to disperse. Major Murphy was interviewed via telephone because of his location in New York. A copy of a PD-854 (Report of Investigation), documenting this telephone call is submitted with this report (Attachment #4).

Inspector Joel Maupin

Inspector Joel Maupin is the Deputy Director of the Institute of Police Science (IPS). Inspector Maupin was the MPD command official in charge of the prisoner processing facility at the IPS during the IMF detail. The following is a synopsis of Inspector Maupin's tape-recorded statement provided to Sergeants James McCoy and James McGuire:

When asked about the prisoner processing procedures at the IPS, Inspector Maupin discussed the processing, detainment, release and/or transport to court. The inspector explained that each prisoner was escorted from a transport bus through the front doors of the IPS. Each prisoner was photographed, fingerprinted, and his or her arrest paperwork was completed. If there were no other charges pending, arrestees could elect to be released and either pay a collateral or receive a citation to appear in court on a future date. If arrestees had outstanding warrants or other holding charges, they were transported to court.

While detained at IPS, the arrestees were flexi-cuffed—strong hand wrist to their opposite ankle—with a flexi-cuff in-between their wrist and ankle. Additionally, when asked about prisoners being handcuffed during processing, he stated that the prisoner's flexi-cuffs were removed during the processing procedures and were re-flexi-cuffed; one wrist to the opposite ankle in front of their body once the processing was complete. As needed, the prisoners' flexi-cuffs were removed as they were escorted to use restroom facilities and to periodically stretch. A copy of Inspector Maupin's statement is submitted with this report (Attachment #5).

Captain Cleora Sharkey

Captain Cleora Sharkey is the Operations Commander at the Major Narcotics Branch. The following is a synopsis of Captain Sharkey's statement provided to Sergeants James McCoy and James McGuire:

Captain Sharkey related that she was one of the operations officials in charge of the prisoner processing facility. Captain Sharkey stated that she prepared the operational plan and scheduled the personnel for the IMF detail (Attachment #6). Captain Sharkey was asked if a briefing was given to the officials detailed to the IPS for prisoner

processing. She replied that a briefing was indeed given to discuss the operational plan. According to Captain Sharkey, in attendance were several officials with prisoner control responsibilities, although she could not recall exactly whom.

When asked about the detainment procedures used while the arrestees were inside the gymnasium portion of the Institute of Police Science, Captain Sharkey explained that the arrestees were flexi-cuffed, strong wrist to their opposite ankle with a flexi-cuff in-between. Captain Sharkey related that the middle flexi-cuff was removed when the arrestees were escorted to the restroom. She further stated that it was necessary to use this technique to handcuff prisoners because there was no holding facility and this measure was taken so that prisoners could not run around freely. Additionally, she stated that there was no written policy in the IMF/World Bank operational manual for handcuffing procedures at the processing facility.

Captain Sharkey was asked if there were any Information Technology (IT) problems at the processing facility. She related that there was a delay because the digital cameras could not handle the volume of prisoner photos taken. She advised that during the midnight tour of duty for the next day, video cameras used to monitor the downtown area caused an overload to the electronic processing equipment and all of the computers used for processing "crashed." Additionally, due to updates on September 28, at approximately 3:00 A.M. to the CJIS database, major delays to prisoner processing occurred. A copy of this statement is submitted with this report (Attachment #7).

Civilian Witnesses

The following witnesses testified at the October 24th, 2002 Hearing of the Committee on the Judiciary of the Council of the District of Columbia concerning the IMF/World Bank Protests. Below is a brief summary of their testimony. Extensive interviews were not conducted with these individuals due to pending litigation².

Statement of Mr. Joseph Mayer

Mr. Mayer stated that he was arrested in Pershing Square in relation to the IMF/World Bank protests. The complainant reported that he went to Pershing Square on Pennsylvania Avenue along with his daughter. He claims that the police came into the park and did not allow anyone to leave (Attachment #8).

² NOTE: ACLU Attorney Arthur Spitzer refused to provide MPD with the address or contact information of these complainants. He advised that all police contacts with these complainants have to be made through him.

Statement of Ms. Julie Abbate

Ms. Abbate stated that she was arrested in Pershing Square in relation to the IMF/World Bank protests. Ms. Abate further testified that she went to Pershing Square out of curiosity and was not allowed to leave the park after the police moved in (Attachment #9)

Statement of Mr. Michael Eichler

Mr. Eichler testified that he was arrested in Pershing Square in relation to the IMF/World Bank protests. He further reported that he arrived at the park on a bicycle and that once he entered the park, he was denied the opportunity to leave by the police. He also testified that at no point during his detainment in the park was he ordered to leave the area (Attachment #10).

All three complainants further claimed that they were flexi-cuffed behind their back, placed on a Metro bus, and transported to a detention facility.

Video and Photographs

Members assigned to the prisoner processing detail at the IPS took still digital photographs of the detention area in the gymnasium. The photos depict the detainment area along with the handcuffed prisoners. The photos further depict groups of prisoners flexi-cuffed—wrist to opposite ankle—sitting on blue mats on the gymnasium floor. Some prisoners are sitting upright and talking to other prisoners nearby. Other prisoners are seen laying down sleeping (Attachments #11,12,13).

Videotapes were obtained that were taken by MPD personnel assigned to record the demonstrations. The video segments depicting the events at Pershing Park commence after all of the protesters were lead into the park. The video further shows MPD and U.S. Park Police (both on foot and mounted on horses) surrounding a large group of protesters. Finally, the video depicts MPD officers entering the cordoned-off area, physically grabbing hold of individual protesters, and placing them under arrest. There is no video of the detention facility at the IPS. Force Investigation Team investigators and managers scrutinized the videotape at length. The tape does not reveal any new information relative to this review.

Policy Review

The Civil Rights and Force Investigation Division, Force Investigation Team (FIT) conducted a policy review of the facts surrounding the department's arrest, transportation, and detention procedures used during the IMF/World Bank protests. Specifically, investigators and managers assessed the protocols used by police commanders as they relate to arrests and prisoner processing during this incident.

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Moreover, decisions made by MPD command officials during the events at Pershing Park were evaluated. FIT members have reviewed the written procedures enumerated in the operational manual that was created and implemented by the Special Services Command during the IMF/World Bank demonstrations³.

The following is a precise dissection of each category identified in this report as either a possible policy violation or one that is ambiguously written, thereby leaving certain aspects open to individual interpretation. Recommendations to remedy any noted deficiencies are presented immediately following this review.

ARREST

On September 27, 2002, there were numerous protest groups that later converged into Pershing Park. For instance, Fourth District CDU bicycle squads escorted a group of bicyclists from Union Station to the park. Based on interviews with Captain Andrew Solberg—the command official that oversaw the shepherding of the bicyclists toward the park—no warnings were given to the riders that they might be subjected to arrest. Although several courses of action were contemplated before the protesters set off from Union Station and onto the streets, none were implemented and the riders were allowed to proceed.⁴ Moreover, they were escorted to Pershing Park and directed to enter the area blocked off by police.

Based on the testimony of the complainants in this case, it is probable that there were numerous individuals in the park that were not part of any groups headed toward the park under continuous observation by police. In other words, there is a strong possibility that persons were already in the park and had not committed any illegal acts prior to arrival of police units who proceeded to block off the area and prevent anyone from leaving. There is no evidence to support the claim that *every* person in the park had been involved in an unlawful advancement toward the park—either on foot or on bicycle.

With regard to arrests, the following specific questions were raised in order to further this review:

Why were the protesters in Pershing Park arrested?

The order to arrest the protesters in the park was given by Assistant Chief Peter Newsham. Based on his account of events that lead up to the order to arrest, groups of

³ A copy of the manual is kept in the FIT offices on file, and has not been incorporated into this report as an attachment.

⁴ One avenue explored was the inspection of all bicycle registrations and subsequent impoundment of any unregistered equipment.

protesters were moving through the streets and advancing toward the park and were observed doing the following⁵:

- Assistant Chief Newsham personally observed a large group marching in the street and overturning newspaper stands.
- It was relayed to Assistant Chief Newsham that several protesters broke a bank window a few blocks away and were becoming increasingly violent.
- It was relayed to Assistant Chief Newsham that various protesters had illegally marched in the street and were ordered innumerable times to get back onto the sidewalk.

Based on Assistant Chief Newsham's explanation, the protesters in Pershing Park had committed violations *before* entering the park. Groups of protesters were marching in the street and were supposedly warned by officers to get back on the sidewalk. Assistant Chief Newsham essentially used the park as a roadblock of sorts, in which protesters who had already broken the law were stopped and arrested.

Analysis:

It appears that the decision to arrest everyone at the park was based on incomplete information. The demonstrators that violated specific laws should have been separated or stopped at the time the violations were observed and arrested. Pershing Park was used as the holding area until the arrests could be affected. It is more than probable that numerous persons inside of the park had arrived there lawfully with no intent to commit any violations of the law. Several clusters of demonstrators who committed separate violations were all combined into one large group in the park and charged with *Failure to Obey a Police Officer*. To further support this assumption, at least five members of the media were released on the Detention Journal later that afternoon, indicating an improper arrest. Furthermore, every case in which demonstrators did not elect to forfeit and had his or her case presented to the Office of the Corporation Counsel was dismissed by that office.⁶

It is a much easier task employing hindsight and evaluating the decisions made by command officials months later, than being in a position responsible for making those decisions in the field. Furthermore, the decision must be evaluated in a specific context and not in a vacuum. Specifically, protesters had threatened to "shut down the city" on numerous occasions both to police and the media. The MPD was tasked with not only

⁵ Note: Assistant Chief Newsham explained that he personally observed some of the violations himself while other violations were observed by other members of the department at separate locations and relayed the information to him at a later time.

⁶ Each of these cases was dismissed because none of the officers could properly attest to which demonstrator was warned—none of the arresting officers could provide testimony to support the claim of failure to obey. The Office of the Corporation Counsel provided this information.

safeguarding life and property in the immediate area of the demonstrations, but also for maintaining clear and safe passages into and throughout the city due to heightened terrorism alerts.

It is clear that the judgment to arrest the protesters in the park was made in good faith, and following an assessment of all of the facts and circumstances. However, it cannot be established that all of those persons in the park were part of any particular group engaged in unlawful behavior. The fact that command officials and arresting members could not make a distinction between those that were engaged in unlawful behavior and those that were not, tainted those arrests that were timely and proper.

Were the charges placed on the Pershing Park demonstrators correct?

All of the demonstrators in the park were charged with *Failure to Obey an Officer*. This is a District of Columbia Traffic Regulation law⁷ utilized primarily for purposes of ensuring that officers tasked with directing traffic have the authority to direct motorists and pedestrians in a proper and safe manner. The field arrest forms from Pershing Park indicate that each arresting officer personally attested to the fact that he or she saw the protester depicted in the form engaging in unlawful activity, and individually gave a warning to cease such activity.

Analysis

As previously stated, each arrest form from Pershing Park indicates that a specific officer saw the listed demonstrator engaging in unlawful activity—in this case, walking in the street—and subsequently issued an order to that particular demonstrator to cease that activity by returning to the sidewalk. Further review of this matter exposed that this was in fact not the case—none of the officers could actually testify that he or she gave the defendant described in the field arrest form a warning. In other words, officers could not be accurately linked to the defendant pictured and arrested. It is likely that several officers along the impromptu parade route shouted at demonstrators to return to the sidewalk, but none could be truly linked to a specific demonstrator.

It appears that this was an improper charge for this particular event, and was somewhat of a departure from previous mass demonstration arrest charges. The *Failure to Obey an Officer* charge could have held up to judicial scrutiny if every arresting officer was able to conclusively substantiate each of his or her arrests.

A more appropriate charge would have been *Parading Without a Permit* for the protesters marching in the street, and *Incommoding or Disorderly Conduct* for those engaged in that specific behavior a few blocks away. In this manner, officers tasked

⁷ District of Columbia Municipal Regulations, Title 18, Chapter 20, Section 2000.2: No person shall fail or refuse to comply with any lawful order or direction of any police officer, police cadet, or civilian crossing guard invested by law with authority to direct, control, or regulate traffic.

with arresting protesters could more easily explain the conduct they observed as long as command officials on the scene of the mass arrests ensured that each field arrest form properly illustrated that the listed officer observed the listed defendant as part of a group engaged in whatever illegal activity.

It is important to stress the point that each arresting officer, by current MPD mass arrest standards, can arrest 15 demonstrators at a time, but must be able to testify that he or she saw the defendant engaged in illegal activity as part of a group. In other words, each officer will not necessarily be able to identify each and every defendant in his cluster of arrestees, but *will* be able to testify that the defendant was part of a group of protesters that he or she observed engaged in illegal activity.

Moreover, the field arrest form and photograph of the defendant will further strengthen this assertion. In the Pershing Park case, the arrest paperwork could not support the claim that each officer personally warned each of the defendants listed in the form.

Why were warnings to disperse not given in Pershing Park?

In the preliminary stages of this review, much of the focus surrounded around the question: *why were the protesters in the park not warned or given an opportunity to leave?*

According to MPD's Mass Demonstration Handbook, at least two documented warnings prior to arrest must be made. This has been the practice in previous mass arrest situations—a Civil Disturbance Unit command official would normally issue the warnings by utilizing a bullhorn. In this manner, the demonstrators would be informed as to which law they were violating, and that they would be subjected to arrest if they fail to disperse. A key component of this strategy is enabling the demonstrators to leave after the initial warnings are given.

The examination of the Pershing Park arrests has conclusively revealed that no warnings were given to the demonstrators in the park. A review of the videotape, which captured the arrests at the park, does not reveal any warnings given. Moreover, Assistant Chief Newsham, Captain Solberg, Park Police Major Murphy, and numerous other interviewed individuals stated that they heard no warnings to disperse given by police.

Analysis

Assistant Chief Peter Newsham, the MPD command official in charge of the zone encompassing Pershing Park, stated that no warnings were given to the demonstrators because they had essentially been warned *before* entering the park. According to Chief Newsham, prior to arriving in the park, the protesters had committed violations while en route to the park, and had been warned countless times by officers to disperse, to get back on the sidewalk, and to cease their disorderly doings.

There is no conclusive evidence to support the fact that demonstrators were warned before entering the park. However, once carefully examined, the relevancy of whether warnings were given *in the park* came into question. Chief Newsham explained that warnings were not given, nor were any required because in his mind, the demonstrators had already violated the law and were technically already under arrest. In other words, the warnings were not only unnecessary, but would have proven to be completely counterproductive to the task at hand.

The troubling aspect of the lack of warnings only arises when alleged non-involved demonstrators were arrested in the park, and claim that they had no idea they could not leave until it was too late. As previously recounted in this report, it is probable that there were persons inside the park that had arrived there legally, and were not engaged in any type of disorder. The lack of warning carries a greater significance to that particular group of people because they were not warned about the possibility of being arrested, nor were they engaged in any law violating conduct.

After considering the totality of the circumstances of this incident, it appears that warnings were based on the assumption that the demonstrators had already been warned prior to entering the park, and that the park was merely used as a holding area for arrests. But, in essence, a few non-involved persons appear to have indeed been arrested.

TRANSPORTATION

Once prisoners were placed under arrest, they were flexi-cuffed in most cases behind their backs and placed on Metro buses that were driven to the Institute of Police Science. This review did not uncover any particular issues with transportation of prisoners.

From all accounts, it appears to have been conducted in an orderly and efficient manner. One specific allegation of police misconduct arose during the transportation phase while prisoners were on the bus awaiting transfer to the IPS for processing. Several arrestees complained of inappropriate remarks by an officer assigned to guard the bus and prisoners.

This complaint was not investigated by the Civil Rights and Force Investigation Division, but was forwarded to the Special Services Command for review. The alleged comments do not involve language that appears to violate any person's civil rights. There were no other complaints brought forth, or findings of instances of use-of-force or other misconduct during prisoner transportation.

DETENTION

Arrestees were transported to the Institute of Police Science gymnasium for detention and processing. The MPD currently does not have a permanent processing facility capable of handling hundreds of arrests. The IPS, along with satellite operations, was set in place in anticipation of the possibility of hundreds of arrests arising from this event.

Once prisoners were brought to the IPS, they were flexi-cuffed strong wrist-to opposite ankle, with one flexi-cuff in between. The flexi cuff between the two binding cuffs was placed in order to extend the area between the wrist and leg approximately 10 to twelve inches.

Analysis

Numerous complaints arose prior to, and during this review, alleging that prisoners were improperly restrained. The complainants described the restraint as "hogtying."⁸ The interpretation of the word "hogtying" is subjective, and it maintains a generally negative connotation. In common vernacular, "hogtying" is generally viewed as the restraint of legs and arms together on some type of pole or device. It should be made clear that this did not occur in this case.

Based on the accounts of numerous officials in charge of prisoner processing, they had to devise a fairly simple and easy-to-maintain system which would prevent hundreds of prisoners from walking around freely in the gymnasium. This was vital for several reasons. For instance, allowing hundreds of prisoners to essentially roam freely could give them ample opportunity to regroup and stage additional protests inside of the facility. This would cause enormous delays in processing time and could subject both prisoners and officers to injury. More importantly, once arrestees are taken into custody, the MPD becomes responsible for their safety until they are released. According to prisoner processing officials, there have been instances in past mass arrests in which arrestees were free to roam the processing areas unrestrained, and numerous complaints of sexual misconduct arose.

The policy review revealed that there were no inappropriate instances of handcuffing by members of the Metropolitan Police Department. The prisoners were restrained in a manner that was practical, safe, and appropriate while they were detained at the IPS.

The investigation revealed that there were hundreds of arrestees confined in the gymnasium, with no holding facilities. Moreover, Police officials in charge of prisoner processing were concerned about officer safety and the possibility of escapes because of the large number of prisoners. It appears that a decision was made by Captain Cleora Sharkey to restrain the prisoners with flexi-cuffs strong wrist to ankle. Inspector

⁸ Webster's Dictionary defines *hogtying* as: 1. to tie the four feet or the hands and feet of 2 [colloq.] to make incapable of effective action.

Joel Maupin apparently authorized this method. Both of these police officials indicated that prisoners were un-restrained to use the restroom, and were subsequently escorted by officers on a regular basis for such breaks.

This decision appears to be sound, based on the circumstances faced by the officials. The situation was fluid and rapidly evolving, requiring an immediate action. However, it is recommended that an operational plan be written to formally institutionalize future mass detentions at IPS (or any other location) with more of an emphasis on handcuffing techniques.

Additionally, there were apparent computer-related malfunctions that delayed prisoner processing. Some prisoners may have been detained for up to 18 hours. These delays were not illegal, and were remedied as soon as practicable. The delays were not within the ability of the officials at IPS to correct. This review assessed no fault to any particular person with regard to the delays; however, operational tests should be conducted prior to major events to ensure that any Information Technology systems do not overload.

Additional Handcuffing Techniques

The Special Services Command's, IMF Operational Manual used during the World Bank protests does not include a written policy for prisoner handcuffing techniques while prisoners are detained at the IPS. When the IPS is designated as the prisoner processing facility during mass demonstrations, it is common practice for arrestees to be flexi-cuffed, strong wrist to their opposite ankle with a flexi-cuff in between. The middle flexi-cuff was removed when the arrestees were escorted to the restroom and while they were permitted to stand up and stretch. Prisoners are handcuffed using this technique because there are no holding cells to prevent prisoners from escaping or run freely about the gymnasium.

Force Investigation Team members reviewed the current practices, and offer the following suggestions as alternatives to the current technique:

- Utilize the current technique with minor variations. This technique is the most cost effective and manageable. The only suggestion is to add another flexi-cuff between the strong hand and opposite ankle in order to extend the distance between the arm and leg. This technique would still prevent prisoners from roaming freely in an open space, but would allow for more room to stretch or move to less awkward position.
- Use a device similar to a "sitting dragon" in which a fixed object is placed on the floor between prisoners, which are in turn handcuffed to the fixed object.

- Purchase fenced cages used as temporary holding cells—in this manner several prisoners can be detained in one holding cell under the constant watchful eye of officers assigned to the detail.

RECOMMENDATIONS

After careful review of the facts surrounding this case, several issues arose as areas of concern with regard to MPD practices that are either lacking in precise policy, or somewhat nebulous and thereby open to interpretation. It is recommended that the following issues be considered prior to future large scale events involving the MPD:

- All Police Executives and managers need to be C.D.U. trained or retrained— Currently, most commanders and assistant chiefs are placed in charge of quadrants in which mass arrests are likely to take place. Inside the quadrants other managers are deployed. Numerous command officials and managers do not possess the experience in handling complex civil disturbance events. Moreover, the majority of officers graduating from the Institute of Police Science undergo a weeklong training curriculum in civil disturbance. In some cases, this leads to an undesirable, even detrimental situation in which many officers and supervisors possess more knowledge and training than a police official.
- Reexamine the current command and control structure utilized during major events. Specifically, each quadrant is now led by an assistant chief of police, assisted by at least two commanders who in turn are further assisted by at least two CDU captains. After careful review of numerous after-action reports submitted by command officials, it appears that the current command structure is somewhat overly redundant and convoluted. Many command officials readily admit (see Commander W.E. Dandridge's after action report—Attachment #14) that they were unsure of who exactly was in charge of the scene. It further appears that most of the directives are dispatched from the JOCC, but in many cases are countermanded by the assistant chief on the scene that has a better understanding of what is unfolding in the field. A streamlined chain of command might better serve the department—perhaps an assistant chief in charge of each quadrant assisted by *one* commander, with Civil Disturbance Unit captains reassigned back to their districts.
- Revise the procedures used during mass demonstrations for arrest. The MPD has not been faced with the inevitability of arresting thousands of unruly protesters in over three decades. The majority of mass arrests conducted by this agency surrounded the perennial Right to Life protests. Those arrests had become a ritual of sorts for the department, and were traditionally coordinated by the Special Operations Division. The demonstrators themselves were almost always passive, and carried their message by blocking abortion clinics and shouting warnings at passers by.

In April of 2000, during the first International Monetary Fund/World Bank meetings, the MPD was faced with arresting hundreds, even thousands of unruly protesters on the heels of the serious Seattle, Washington, disturbance. It now appears that many non-involved witnesses and passers-by were corralled along with hundreds of actual protesters and arrested in that event.

The Metropolitan Police Department has to carefully examine the logistics, but more importantly, the likely ramifications of placing hundreds of protesters and bystanders under arrest. There is no doubt that the MPD has to balance the protection of life, property, equal rights, etc., against making such arrests. However, it must carefully consider its actions from an inescapable litigious standpoint

In closing, it is concluded that the actions of police officials during the September 27, 2002, arrests at Persing Park were made in good faith. However, it is also concluded that police officials on the scene made procedural errors as it relates to the effecting of arrests, choice of criminal charges, and manner of arrest documentation. Further, it is concluded that technical equipment failures led to processing delays, which led to long periods of detention. Further, it is determined that allegations of excessive force are unfounded.

A meeting was recently held by the Office of the General Counsel and attended by representatives from the Office of the Corporation Counsel, Civil Rights and Force Investigation Division, and Special Services Command. This was an important first step in analyzing current practices with a view toward reducing liability to the department while maintaining order.

It is suggested that the recommendations made in this report be used as a foundation for specialized civil disturbance management training for all police managers, as well as be considered in the future development of major demonstration operational plans.

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