



Law Enforcement Integrity Bureau

**Report on the Criminal Investigation into the
Mount Vernon Police Department's Narcotics Division**

May 10, 2023

The Law Enforcement Integrity Bureau of the Westchester County District Attorney's Office ("WCDAO") conducted an investigation into potential criminal activity involving the Narcotics Division of the Mount Vernon Police Department ("MVPD"). The investigation stemmed from allegations contained within multiple recordings surreptitiously made by a Mount Vernon police officer speaking with several other members of the MVPD (the "Recordings"). Although the allegations contained in the Recordings focused primarily on specific Narcotics Division officers, our investigation expanded beyond the Recordings and focused on general allegations of misconduct related to the MVPD Narcotics Division. Given the public, extensive and detailed nature of the allegations contained in the Recordings, and the understandable significant public interest in the outcome of the Office's investigation, we summarize here the areas of alleged misconduct that were investigated; some of our findings; and reasons for our conclusion that due to the lack of legally sufficient evidence to overcome the high burden of proof of beyond a reasonable doubt, no criminal charges can be brought. Due to constraints imposed by law, this Office is limited in publicly disclosing all the facts and information related to this investigation.

Challenges with the Investigation:

Inadmissibility of the recordings as evidence: The recordings, while a legitimate basis for journalistic and law enforcement investigations, have limited, if any, value in a criminal proceeding. In order to establish proof beyond a reasonable doubt, the People would need to present evidence through witness testimony subject to cross examination, such as police officers who had first-hand knowledge of acts of misconduct.

Recantation by Officer who made many of the allegations: After he learned that his statements had been recorded, the MVPD police officer that made the most extensive allegations of corruption on the Recordings ("Officer-1"), broadly recanted those allegations.

Delay in Investigation and Lack of Cooperation by Necessary Witnesses: The current District Attorney took office in January 2021. The majority of the Recordings were provided to this Office in February 2019, with additional recordings provided in February 2020. There were missed opportunities by the WCDAO before contents of the recordings were published by the press. Throughout the investigation, this Office attempted to conduct interviews with potential civilian witnesses and some current and former MVPD officers. While the MVPD leadership offered and provided assistance, without cooperation from certain civilian and law enforcement witnesses, developing corroborating evidence to prove any potential criminal charge beyond a reasonable doubt was impossible.

Areas of Investigation:

As part of the investigation, the WCDAO reviewed several hundreds of pages of documents produced by the MVPD, dozens of civilian complaints, videos, and carefully transcribed and listened to nearly 20 hours of audio from the Recordings, as well as interviewed dozens of

potential witnesses and complainants. Notwithstanding the recantation by Officer-1, this Office continued to pursue the investigation because the serious allegations made when the speakers did not know they were being recorded required it. We considered potential criminal activity dating back to 2010 based upon the statute of limitations imposed by Criminal Procedure Law section 30.10. Our investigation found the following:

1. **Excessive Force:** This Office investigated allegations of the use of excessive force by members of the Narcotics Division referenced in the Recordings, and complaints made by civilians submitted to the MVPD and the WCDAO. Some of the allegations were too general in nature, and we were ultimately unable to obtain sufficient information to identify any specific victims, and were, therefore, unable to gather any evidence to support those claims. In cases where we could identify specific victims, we were not able to secure the cooperation of the necessary civilian and law enforcement witnesses, or could not corroborate the purported victims' claims sufficiently to meet the evidentiary burden of proof beyond a reasonable doubt.
2. **Unlawful Searches:** This Office did not find legally sufficient evidence to bring criminal charges in relation to any specific allegations of unlawful searches. However, the volume and consistency of the allegations regarding unlawful searches led us to conclude that the MVPD should revisit its policies and training related to strip and cavity searches. We set-forth our concerns about the improper use of such searches in a [March 17, 2021 letter](#) from the District Attorney to Commissioner Glenn Scott.
3. **Misidentifications:** An independent review of a 2017 Mount Vernon undercover narcotics operation (the "Operation") was conducted by the WCDAO's Conviction Review Unit (the "CRU") stemming from allegations heard on the Recordings as well as complaints received by the public. The CRU found that those Operation cases did not have corroborative evidence sufficient to overcome the identified inconsistencies and unreliability of the undercover and MVPD officer accounts and problematic identifications. The District Attorney, upon CRU's findings, is seeking to vacate those convictions. However, the Law Enforcement Integrity Bureau's investigation did not garner sufficient evidence to support a criminal charge against the undercover officer, or any MVPD officer, in relation to the Operation.
4. **False Reporting:** The investigations looked into allegations of false reporting, including an allegation from the Recordings that Narcotics Division officers filed a false report. According to the allegation, the officer claimed to have used force against a defendant in order to cover for another officer who was actually responsible for the use of force. Due to a lack of cooperation, we were unable to sufficiently corroborate the allegation and, therefore, are not able to sustain any related criminal charges.
5. **Planting of Evidence:** This Office investigated a specific allegation of planting of evidence against a particular defendant made in the course of the Recordings, and another similar allegation that surfaced during the investigation. We were unable to find additional evidence to corroborate these claims sufficient to meet the burden of proof of beyond a reasonable doubt. The Recordings also contained allegations that certain Narcotics Division officers hid drugs in the ceiling of the police department to be used

on a “rainy day.” We were unable to determine whether, in fact, this occurred and, therefore, are unable to bring criminal charges.

6. Confidential Informants: This Office looked into an allegation that a confidential informant was permitted by two specifically-named officers from the Narcotics Division to sell drugs without threat of arrest. It was further alleged that Narcotics Division officers stashed and returned drugs to that same confidential informant. Although we found evidence to support that drugs were, in fact, illegally returned, we were unable to find sufficient evidence to determine which officer, or officers, were responsible for that misconduct.

Steps Taken by the WCDAO as a Result of Its Investigation:

Although no criminal charges can be brought, as explained above, the District Attorney found troubling conduct and practices that warranted action.

Referral to the Department of Justice Civil Rights Division

Information about improper searches and other allegations of misconduct that this Office learned of during the investigation prompted the District Attorney’s request on April 30, 2021 for the United States Department of Justice (“DOJ”) to investigate the MVPD for potential civil rights violations. On December 3, 2021, the DOJ announced that it would be conducting a pattern or practice investigation into the MVPD, which is on-going.

Conviction Integrity Reviews and Vacating Convictions

Concerns about the officers’ conduct and handling of the 2017 Narcotics Division Operation were referred to the CRU, which had separately received requests to review certain convictions stemming from that Operation. The CRU conducted an extensive review of these cases, and the Operation as a whole, and upon the presentation of its findings, the District Attorney determined that the WCDAO should seek to vacate the convictions related to the Operation and dismiss all charges.

Structural and Systemic Changes in WCDAO Operations

At least 30 ADAs handled the cases connected to the Operation at issue without sufficient central oversight. This allocation of work and lack of sufficient central oversight hampers critical information-sharing among prosecutors and defense counsel. Since taking office in January 2021, the District Attorney has streamlined the office structure to implement and promote “vertical” prosecutions (each prosecutor keeps their case from start to finish), with robust, centralized, supervisory oversight for large-scale operations and investigations. In addition, our newly-created Discovery Bureau coordinates the disclosure of impeachment material to defense attorneys as required by CPL Article 245. These steps help increase prosecutorial accountability and efficient communication in order to prevent disclosure issues in the first place.