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FILE

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

Department Notification Date: 11-09-09
Due Date: 11-08-10

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TRANSIT SERVICES
HEADQUARTERS

INTERNAL AFFAIRS BUREAU INVESTIGATIVE REPORT

CONFIDENTIAL

Officer: 5 (initials)
Reviewed by: 1073-17
Peter Jordan

INTERNAL AFFAIRS BUREAU
RECEIVED
AUG 10 2010
L.A. COUNTY SHERIFF

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COLA 00153

IAB # IV23049

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE: July 8, 2010

DISPOSITION SHEET

FILE NO.: IAB 2255049

FROM: PATRICK J. JORDAN, CAPTAIN
TRANSIT SERVICES BUREAU,
NORTH

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: None

Upon consideration of the facts developed in this investigation, I have determined that the allegations are unfounded for the reasons set forth in the attached documentation.



Patrick J. Jordan, Captain

8-25-10

Date

CASE REVIEWED BY



Daniel Finkelstein, Commander

8-27-10

Date



Michael Grossman, Chief

9/10/10

Date

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Richard Gylfie, #432015
Deputy
Transit Services Bureau, North

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July 8, 2010

DISPOSITION WORKSHEET

The evidence in this case does *not* support the following charges:

1) That in violation of the Department's Manual of Policy and Procedures Sections 3-01/030.05 *General Behavior* and/or 3-01/050.10 *Performance to Standards*, when on or about October 31, 2009, Deputy Gylfie, while working PM shift at Transit Services Bureau North at the Hollywood/Western Pax Terminal, contacted Complainant Shawn Nee who was taking photographs inside the terminal, advised him he was violating MTA policy and stated his name would be added to a watch list. Therefore, Deputy Gylfie brought discredit to the Department and failed to conform to work standards established for his rank or position.

Summary:

On October 31, 2009, Deputy Gylfie contacted photographer's rights activist Shawn Nee while inside the Hollywood/Western Pax Station. Mr. Nee filed a complaint alleging Deputy Gylfie violated his First and Fourth Amendment Rights by prohibiting him from taking photographs inside the turnstile area looking out toward the street. He also stated Deputy Gylfie accused him of "possibly being in cahoots with al queda" and stating his name would be added to a watch list. Mr. Nee appears to have chosen portions of the MTA rules which benefits him and ignores those that might hinder his agenda. Per the MTA guidelines (see www.metro.net/about/filming-metro/metro-filming-photography-guidelines), Mr. Nee is not able to take photographs wherever he chooses. In addition, his camera appeared to be of a professional caliber, leading Deputy Gylfie to question if the photographs were for professional purposes, another violation of MTA policy (absent their prior approval). Mr. Nee's evasive answers furthered Deputy Gylfie's need for questioning to determine his purpose for taking the photographs. Coincidentally, Mr. Nee's fare ticket, an unusual stub given out that night due to the Halloween rush and unfamiliar to Deputy Gylfie, also added to the contact.

Both Deputy Gylfie and his partner that day, Deputy Roberto Bayes, are Terrorist Liaison Officers who have been trained in procedures used by terrorists (including the photographing of targets, security officers, cameras etc.) and are hypersensitive to indicators such as the behavior and evasiveness shown by Mr. Nee. In fact, recovered film footage of various American targets taken from captured terrorists is fairly benign in appearance and differs little from that taken by Mr. Nee. Very innocent looking but the potential for misuse is huge.

Mr. Nee's true purpose for the photography never was determined, but based on his behavior and his stated leadership of a photographer's rights group, and his admission of having sued numerous law enforcement agencies over such issues, it

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Richard Gylfie, #432015
Deputy
Transit Services Bureau, North

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July 8, 2010

would seem a possible purpose might be to bait police officers. The surreptitious nature of his video, coupled with the posting of an edited version on www.youtube.com (he would not respond to requests for the unedited version) suggests he is more interested in litigation and making a name for himself than following rules and working with law enforcement and transit agencies in acknowledging and addressing legitimate terrorist concerns.

The vigilance shown by Deputy Gylfie in detecting suspicious activity is laudable and we are encouraging others to be as pro-active. Recent information pertaining to the London train bombings (the fact that other subway systems were targeted but their plans failed for various reasons) warrants such vigilance.

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**INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY
IAB CASE # IV 2255049**

COMPLAINANT: Shawn Patrick Nee, MW/Adult

SUBJECT: Unknown Deputy
Transit Services Bureau North

LOCATION: Hollywood / Western Station
5450 Hollywood Boulevard
Hollywood, California 90027

DATE/TIME OF INCIDENT: October 31, 2009, 1700 hours

DATE OF DEPARTMENT KNOWLEDGE: November 9, 2009

ALLEGATION

It is alleged by Complainant Shawn Nee that he was detained by Transit Services Bureau deputies for taking photographs at the Hollywood / Western Metro Station. Mr. Nee alleged he was treated like a terrorist, accused of having links to Al-Quaida and threatened to have his name placed on the F.B.I.'s "Hit List."

POLICY SECTIONS

- | | |
|-----------------------------|-------------|
| 1. General Behavior | 3-01/030.05 |
| 2. Performance to Standards | 3-01/050.10 |

SYNOPSIS

On Saturday, October 31, 2009, two deputies from Transit Services North Bureau were conducting security and fare checks at the Hollywood / Western Metro Station. The deputies saw Mr. Shawn Nee taking photographs of the station's subway platform entrance/exit area with a professional-type camera.

The deputies believed Mr. Nee's photographic activity was suspicious and could be related to potential terrorist activity, so they detained him in order to conduct a fare check and to determine if he was violating MTA policy about commercial photography. Deputy Gylfie told Mr. Nee that Al-Quaida would be interested in his photos because the subway system was a terrorist target and he needed to determine why Mr. Nee was taking photos of the entrance area. The deputies established he did have proper proof of fare, but were unable to determine if Mr. Nee violated MTA policy. Deputy Gylfie told Mr. Nee he could submit his name to "TLO" and his name would be put on a "hit list." Prior to Mr. Nee's release, Deputy Gylfie explained to Mr. Nee if he thought he was a terrorist, he would be going to jail.

On Sunday, November 8, 2009, Mr. Nee e-mailed a complaint to Michael Gennaco of the Office of Independent Review regarding his detention. The complaint was documented on Watch Commander's Service Comment form #218702 [Exhibit A].

Mr. Nee's contact with the deputies was videotaped by Mr. Nee and was subsequently posted on YouTube.com and discarted.com websites [Exhibit B]. As a result of the internet postings, Internal Affairs Bureau received several comments and complaints about the incident [Exhibit C]. The involved deputies were identified through documentation of their contact with Mr. Nee in their Deputy Daily Worksheet [Exhibit D]. A copy of the most recent MTA policy briefing regarding photography on MTA property was provided by Transit Services Bureau personnel [Exhibit E].

INVESTIGATION

Witness **Deputy Richard Gylfie** has worked for Transit Services Bureau for approximately five years and has functioned as a unit Terrorist Liaison Officer for six months. On October 31, 2009, Witness Gylfie was assigned to work with Deputy Roberto Bayes as Unit 642F on PM shift.

At approximately 1700 hours, Witness Gylfie and Deputy Bayes saw Mr. Nee taking pictures of the entrance and exit at the Metro Station. Witness Gylfie believed Mr. Nee's behavior was suspicious because the entrance to a mass transit system could be considered a terrorist target.

IAB note: During his interview, Witness Gylfie said he received 8 hours of Terrorist Liaison Officer training. See page 4 of Witness Gylfie's transcribed interview.

As Witness Gylfie and Deputy Bayes walked toward Mr. Nee, they stopped and checked other people's fares. Witness Gylfie told Mr. Nee, "Hey, I need to see proof of fare." Mr. Nee appeared to ignore Witness Gylfie's request, so Witness Gylfie asked

again. Mr. Nee ignored Witness Gylfie again, so he asked Mr. Nee why he was taking pictures in the subway system. Mr. Nee replied, "It's not illegal to take pictures in the subway."

IAB note: MTA restrictions of photography on MTA property in public areas are: (1) Must have proof of fare in marked areas. (2) No commercial photography without prior MTA approval. (3) Hand held equipment only, no tripods. (4) No photography from inside moving trains. (5) No flash photography. (6) Photography must not interfere with passenger movement or safety.

Witness Gylfie asked Mr. Nee a second time why he was taking pictures. Mr. Nee replied, "It's not illegal to take pictures in the subway system." Then Mr. Nee asked if he was being detained. Witness Gylfie told Mr. Nee he was in fact being detained.

IAB note: In his interview, Witness Gylfie said in his mind, he detained Mr. Nee for two reasons: proof of fare and Mr. Nee's suspicious photography of the transit system's entrance. See page 8 of Witness Gylfie's transcribed interview.

Witness Gylfie began asking Mr. Nee questions about why he was taking pictures. During the questions, Mr. Nee kept saying, "It's not illegal to take pictures." Mr. Nee told Witness Gylfie he knew the MTA rules and he was a photography rights advocate. Witness Gylfie said Mr. Nee's camera appeared to be expensive and more likely used for commercial purposes, but that did not make his actions any less suspicious.

Mr. Nee provided Witness Gylfie a proof of fare, but the paper fare was unfamiliar to Witness Gylfie. In order to verify the fare was valid with an MTA employee, Witness Gylfie left Mr. Nee with Deputy Bayes. Witness Gylfie was advised after a few minutes that the fare was valid.

IAB note: In Witness Gylfie's interview, he said MTA was providing a different type of proof of fare due to the large influx of riders on Halloween night. See page 9 of Witness Gylfie's transcript.

Witness Gylfie continued to question Mr. Nee about photographing the subway entrance, but Mr. Nee was uncooperative, evasive and argumentative. In an effort to de-escalate some tension and help Mr. Nee understand why his photography was suspicious, Witness Gylfie explained to Mr. Nee some of the behavior associated with terrorists.

Witness Gylfie was unable to determine if Mr. Nee committed any crime, so he was released. Because Mr. Nee's behavior was suspicious, evasive and uncooperative,

Witness Gylfie submitted Mr. Nee's name to the Joint Regional Intelligence Center. After Mr. Nee's detention was completed, Witness Gylfie notified his Watch Commander about the incident and documented the contact in his Deputy Daily Worksheet [Exhibit D].

Witness Gylfie stated he was unaware his contact with Mr. Nee was being videotaped. Witness Gylfie was made aware of the video by his Captain approximately eleven days after the incident, when the video was placed on YouTube [Exhibit C].

For more information, see Witness Gylfie's attached interview transcription.

Witness Deputy Roberto Bayes was assigned to work with Deputy Richard Gylfie as Unit 642F on PM shift at the Transit Services Bureau to fill an overtime position. Witness Deputy Roberto Bayes' regular assignment was as a detective at the Jail Investigations Unit (JIU), where part of his duties include functioning as a unit Terrorism Liaison Officer.

IAB note: During his interview, Witness Bayes described his basic terrorism training and on-going updates he received from JRIC. See page 10 of Witness Bayes' transcript.

During a check of the Hollywood / Western Metro Station, Witness Bayes and Deputy Gylfie saw Mr. Nee in a crouching position, taking photographs near the subway entrance with a professional-type camera. Witness Bayes and Deputy Gylfie contacted Mr. Nee in an effort to find out why he was photographing the subway entrance.

IAB note: In his interview, Witness Bayes said he thought photography was only permitted on the subway platforms or any metro property with a permit and a tripod. See page 4 of Witness Bayes' transcribed interview.

While Deputy Bayes provided backup and watched the surrounding area, Deputy Gylfie questioned Mr. Nee about his photography and proof of fare. Mr. Nee said he was in a photographers' rights organization and he mentioned the ACLU, which Witness Bayes believed was Mr. Nee's attempt to minimize his contact with the deputies.

Witness Bayes described Mr. Nee's demeanor as confrontational and his answers as evasive because he did not answer the questions asked. When Deputy Gylfie asked Mr. Nee for his identification, he initially said he did not have any. During Mr. Nee's patdown by Deputy Gylfie, Mr. Nee provided Witness Bayes with his photo identification and fare ticket. Deputy Gylfie asked Mr. Nee if he had ever been arrested before. Mr. Nee said he had been detained numerous times by other police agencies for taking photographs, but was never arrested.

Deputy Gylfie did not appear familiar with the fare ticket, so he left Witness Bayes with Mr. Nee in order to confirm the fare ticket's validity. After Deputy Gylfie left, Mr. Nee told Witness Bayes that he sues cops all of the time. After a few minutes, Deputy Gylfie returned and told Mr. Nee he was free to go. After Mr. Nee left the platform, Deputy Gylfie notified the Watch Commander of the contact.

For more information, see Witness Bayes' attached interview transcription.

Several attempts to contact Complainant Shawn Nee were made by telephone. On April 12, 2010, the IAB Investigator was contacted Mr. Nee's attorney (Peter Bibring [REDACTED]), who said Mr. Nee would not return the phone calls. A request for an unedited copy of the videotaped incident was made at that time, but a copy was not provided by Mr. Nee or his attorney.