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Fact Finding Report

TO: Dr. Gill C. Wright III, Director of MPHD

FR: Les Bowron, HR Manager MPHD/Leigh Anne Lee, HR Analyst 3 Metro HR

RE: Complaints of Brian Todd, PIO and Dr. Stephanie Kang, DEI Bureau Director

DA: December 21, 2021

Background

At 8:07AM on November 23, 2021 a “Health Announcements Email” drafted by the staff of the MPHD Diversity Equity and Inclusion Bureau (DEI), concerning a jury verdict from a homicide trial in Kenosha, Wisconsin, was sent to all employees of MPHD. The email read as follows:

“On November 19th, 2021, Kyle Rittenhouse, a young white man who shot and killed two people and wounded one other during last year’s demonstrations following the shooting of Jacob Blake by a Kenosha Police Department officer, received a not-guilty verdict.

We recognize that these injustices can cause distress and harm for BIPOC communities and exacerbate trauma instilled daily through acts of racism and the pervasiveness of white supremacy and oppression. We must move forward collectively to disrupt systemic racism and reaffirm our shared values of equity and inclusion publicly and through practice. MPHD is committed to providing a space for healing for anyone struggling to process, experiencing distress, and/or needs additional resources to support their colleagues.

If you are feeling impacted by these events, please do not hesitate to reach out to the Director, Dr. Gill Wright III, Deputy Director, Dr. Melva Black, or the Bureau Director of Health Equity, Dr. Stephanie Kang.”

Prior to November 23, 2021, MPHD Health Announcements Emails were used to alert MPHD employees about employee service awards, updates to the Metro and MPHD Covid 19 policy and vaccine availability, dates and times for employees to receive flu shots, messages from the Employee Assistance Program (EAP), requests for employees to wear certain colors in honor of specific health and charitable causes, healthy eating recipes, exercise recommendations, fund-raising challenges, the annual Metro Makes A Difference campaign, and other topics designed to keep staff informed of current Metro-wide and Department events, policies and training opportunities.

To ensure that Health Announcements Emails were used “judiciously,” MPHD implemented the “Health Announcements Email Policy” in November of 2016. The Policy was amended in March of 2019 to read that “all Health Announcements must be routed through the Public Information Office.” As will be confirmed below, the authors and senders of what has been dubbed as the “Rittenhouse” email failed to route the message through the MPHD Public Information Office, resulting in MPHD Public Information Officer (PIO) Brian Todd having no knowledge of the content of the email until he saw it in his Inbox on the morning of November 23, 2021. Please Note: This Report will refer to the investigators as “HR.”

Persons Interviewed:

- Dr. Gill C. Wright, III, MPHD Director
- Dr. Melva E. Black, Ed. D, MPHD Deputy Director
- Brian Todd, MPHD Health Manager 3 (Public Information Officer)
- Dr. Stephanie Kang, MPHD Bureau Director of Health Equity
- Matthew Peters, MPHD Public Health Administrator 1 (Marketing Coordinator)
- Ms. Martha Bickley, MPHD Administrative Specialist- Health

A. Events of November 23-26, 2021.

1. Brian Todd:

Brian Todd told HR that he has been employed with the Health Department for twenty-five (25) years. He stated that during that time he had never seen an MPHD Health Announcements email like the Rittenhouse email, confirming HR's statement above about typical Health Announcements Email content. He added that weather-related information is also a common topic of Health Announcements messages. Mr. Todd shared that on the morning of November 23, an employee stopped him in the hallway and asked why he (Mr. Todd) would "send out an email like that." Mr. Todd said that the employee was upset. Mr. Todd told HR that he didn't know what the employee was referring to, so he went back to his office and read the Rittenhouse email for the first time. He told HR that he had not seen any drafts of this message nor had anyone from the Director's Office or Dr. Kang's DEI Bureau discussed the message with him before it was sent to all MPHD employees.

Mr. Todd stated that MPHD has a Policy which requires Health Announcements email to be routed through his office, and that in his absence, such messages could go through MPHD Director of Policy and Intergovernmental Affairs, Tom Sharp. Mr. Todd shared that Mr. Sharp was out of the office, so he assumed that the Rittenhouse email had not gone through Mr. Sharp. Mr. Todd told HR that he felt that the authors' failure to follow the Health Announcements Email Policy might put the Department at risk. Mr. Todd shared that he always wants to be prepared if the media calls about an issue related to MPHD. He told HR that by mid-morning on November 23, 2021, he learned that the Rittenhouse email had been shared with one or two media outlets and stated that he was already getting media requests for information and/or comment.

Mr. Todd explained that MPHD Director Dr. Gill Wright was in a meeting downtown on the morning of November 23 and was not available for discussion. He recalled that while he waited for Dr. Wright to return to MPHD, he was preparing to discuss how the Department might respond to the media interest. He told HR that he was getting phone calls from inside and outside the Department and was receiving comments from employees he passed in the hallway that morning who felt the Rittenhouse email was inappropriate. Mr. Todd told HR that as the PIO, he was trying to do his job and figure out how to fix the problem.

Mr. Todd noted that at around 2:45PM he checked the Department Facebook page and saw that WWTN had mentioned the Metro Public Health Department. When he clicked on the link, he noted that radio personality Brian Wilson would be on air at 3:00PM to discuss an email written by Dr. Kang. Mr. Todd told HR he became aware that the Mayor's office had received the Rittenhouse email, so he called Ben Eagles, one of the Mayor's senior advisors to discuss the issue.

Mr. Todd shared that he was then called by Bill Phillips, the Mayor's Chief of Staff. Mr. Todd told HR that Mr. Phillips told him that he knew Mr. Todd was not involved in the Rittenhouse email. According to Mr. Todd, Mr. Phillips told him that he (Phillips) had called Dr. Wright and told him that he (Dr. Wright) had "crossed a line" by sending the Rittenhouse email. Mr. Todd recalled Mr. Phillips saying that he had also told Dr. Wright that the Mayor's office would refer any calls about the Rittenhouse email to Mr. Todd, so Dr. Wright needed to prepare Mr. Todd with a response.

Mr. Todd stated he was already thinking of a Department response along the lines that "MPHD cares for its employees but recognized upon further review that the email didn't help the employees and the city that they served" or something to that effect. Mr. Todd stressed to HR the importance of apologizing when you make a mistake, so that the media has nothing else to say and you can move past it. Mr. Todd really wanted to get that kind of message out.

Mr. Todd said that he had just gotten off the phone with Mr. Phillips who had told him to go talk to Dr. Wright, when he was told that Dr. Wright and Dr. Black wanted to see him. Mr. Todd told HR that he went into Dr. Wright's office, already feeling pressure from the tumult caused by the Rittenhouse email. He said that Dr. Wright admitted it was a learning experience and that he knew Health Announcements emails usually go through Mr. Todd or Mr. Sharp. According to Mr. Todd, Dr. Wright acknowledged that he had not followed protocol and apologized for not doing so. Mr. Todd recalled that he told Dr. Wright that he understood that, but now they needed to fix it.

Mr. Todd shared that he told Drs. Wright and Black that in responding to the media "you have to be contrite, you've got to admit what went wrong, and that you're going to fix it." Mr. Todd stated that at that point, Dr. Black "shoved a piece of paper" toward him and said "You look at this. This is from Stephanie Kang." Mr. Todd told HR that he explained that all he was looking for was for Dr. Wright and Dr. Black to tell him what to say, because that was the direction that he understood to have been given to Dr. Wright by Bill Phillips. Mr. Todd said he told the two leaders that he just wanted to know what to say, because they "needed to get out in front of this." He said he told Drs. Wright and Black that it was already after 3:00PM and that he (Mr. Todd) knew that radio personality Brian Wilson was already on the radio discussing the Rittenhouse email. Mr. Todd shared with HR that he told Dr. Wright and Dr. Black that he was getting more and more calls about the Rittenhouse email. He told his superiors, "I need your guidance. I need you to tell me what it is that you want me to say, because my phone continues to ring."

Mr. Todd stated that Dr. Black pushed the paper toward him again and said, "You read this." Mr. Todd told HR that he again asked Dr. Wright and Dr. Black to tell him what to say. He recalled that when they couldn't, he rose from his chair and said, "I'm done. I'm going to tell media who call now that I will send them a response as soon as I have something." When HR asked him, Mr. Todd acknowledged telling Drs. Wright and Black something to the effect of, "I'm not going to craft any language. I need you to tell me what you want me to say." Mr. Todd explained that he didn't know what else to do. He explained to HR that ultimately the Director needs to make the decision on what to say on behalf of the Department.

Mr. Todd was asked if, at some point in the conversation with Drs. Wright and Black, he had risen from his chair and pointed his finger at them and said, "You all got yourselves into this. You can get yourselves out. I'm out of here." Mr. Todd admitted that he probably said something along those lines because he was very upset. Mr. Todd admitted that when he rose out of his chair, he was red faced and frustrated. Mr. Todd told HR that he then left the office for the day.

Mr. Todd stated that he spoke with Dr. Wright later that evening, after he had gone home and had begun drafting a potential response. He explained to HR that he was trying write a statement that would bring an end to the discussion around the Rittenhouse email. Mr. Todd told HR that he sent Dr. Wright an email and said, "Here is kind of the gist." Mr. Todd told HR that when Dr. Wright emailed the draft response back, that the sentences that offered an apology had been removed. Mr. Todd said that it became apparent later that evening when he was communicating with Dr. Wright that those responsible for the Rittenhouse email were not going to take any responsibility for an MPHD communique that many people believed had crossed a line. Mr. Todd said that at that point, he felt that he couldn't do anything further.

Mr. Todd told HR that on Friday November 26, 2021, radio personality Brian Wilson started in again about the Rittenhouse email on his radio show, getting callers "revved up." Mr. Todd stated that he was very frustrated that Drs. Wright and Black didn't already have a response, as he believed a mea culpa would help. Mr. Todd said that others, including Dr. Wright, were getting repeated calls from Councilman Steve Glover in which the Councilman was saying "this makes me sick, this is inappropriate, what is your response?" Mr. Todd did not believe that Dr. Wright had responded to Councilman Glover, which Mr. Todd believed got the Councilman more upset. Mr. Todd said that Councilman Glover ended up back on Brian Wilson's Friday, November 26 radio show, "really starting to ramp things up."

2. Dr. Melva Black:

Dr. Black has been employed as MPHD Deputy Director since October 18, 2021. She admitted that she was unaware of the Health Announcements Email Policy and was not fully aware of the protocol for routing Department-wide messaging through the Public Information Officer, prior to the day that the Rittenhouse email was sent. She told HR that by mid-morning of November 23,

it had come to her attention that an email had been sent by two MPHD school health nurses, voicing their concerns about the Rittenhouse email. Dr. Black shared with HR that Dr. Kang had sent a responsive email to the two school health nurses who had complained. She stated that at that point, she believed that the two nurses were the only two people who had complained about the Rittenhouse email. Dr. Black advised HR she was under the impression that there would not be any further response. She recalled that earlier in the day, she had been asked about her thoughts on how to respond to complaints about the Rittenhouse email, and that she had discussed with Dr. Wright the idea of not making any public comment about it.

Dr. Black said that was where they (she and Dr. Wright) left the issue until there was some concern that they needed to craft a statement, because WKRN Channel 2 had sent a message to Mr. Todd. Dr. Black added that Dr. Wright had alerted her that Bill Phillips from the Mayor's office had contacted both Mr. Todd and Dr. Wright, wanting to know what was going on and stating that the Rittenhouse email was "creating a fury." Dr. Black said that the calls were coming in, putting a little more pressure on the Department to issue a statement. Dr. Black explained that these developments led her to go to Dr. Wright's office.

Dr. Black stated that in the middle of the afternoon on November 23, she went to Dr. Wright's office to talk to him about preparing a response. At that time, Dr. Black asked Dr. Wright if they should invite Mr. Todd to the meeting to get his thoughts on how best to respond. Dr. Black stated that Mr. Todd came into Dr. Wright's office with a writing pad and pen and that he sat down in a chair. Dr. Black told HR that Mr. Todd was visibly upset.

Dr. Black recalled that Dr. Wright apologized to Mr. Todd, telling him that that he (Dr. Wright) knew he had not followed protocol and that he should have vetted the Rittenhouse email with Mr. Todd before it went out. Dr. Black stated that Dr. Wright told Mr. Todd that he took full responsibility for that decision. Dr. Black stated that Mr. Todd said "this is not good. Basically, it comes on the heels of putting out the release about the accreditation, which was a really great thing publicly to support the work of the Department, and now that (the Rittenhouse email) would undo all of that recognition."

She stated that Mr. Todd told them that he was not going to craft any language and that they should just tell him what to say, because the Rittenhouse email was their doing. Dr. Black recalled telling Mr. Todd "You are the communications director - we're looking to you to assist us in having a response to this."

Dr. Black shared with HR that she printed the email that Dr. Kang had sent to the two school health nurses who had complained about the Rittenhouse email, and that she brought the email to Dr. Wright's office. Dr. Black told HR that she put her hand on the printed message and started to slide it toward Mr. Todd, and told him that "Stephanie (Dr. Kang) had created some language, and maybe that was something that he could use." Dr. Black said that Mr. Todd told her that he did not want to see the email, and that he reiterated that they needed to tell him what to say. Dr.

Black recalled that Mr. Todd looked even angrier at this point and got up from his chair, pointing his finger in both Dr. Black's and Dr. Wright's faces, and said, "It's you and you that did this."

Dr. Black recalled that when Mr. Todd stood up, he was yelling. Dr. Black described Mr. Todd as visibly infuriated and that he was pointing his finger at both Dr. Wright and Dr. Black, arms flailing. Dr. Black stated that this was not a comfortable conversation. Dr. Black said that Dr. Wright kept saying "Brian, Brian," in an effort to calm Mr. Todd down. Dr. Black recalled Mr. Todd saying, "Fire me, fire me," and she remembers that he then said, "I'm out of here." Dr. Black recalled Dr. Wright saying, "Brian, no one is going to fire you." Dr. Black said that she was looking at what was transpiring, not saying anything, and that Mr. Todd said, "I can just retire. You all did this. You did this." Dr. Black said that at that point, Mr. Todd said, "you got yourselves into this, you can get yourselves out, and I'm out of here," and that he left the office.

Dr. Black told HR that she then turned to Dr. Wright and said, "Let's get a paper and pen, and let's start crafting a message." She explained that they then started working on a response.

3. Dr. Gill C. Wright, III:

Dr. Wright has been employed with MPHD since May 30, 2017. He served as co-interim director of the Department after the departure of Dr. Michael Caldwell in December of 2020 and was named sole Director of MPHD in August of 2021.

Dr. Wright explained to HR that prior to the Rittenhouse email, for all Health Announcements emails, he always went through Tom Sharp and/or Brian Todd for their input and approval. Dr. Wright said that it was late in the day on November 22, when he received the Rittenhouse email for his review and approval and that he understood it had been reviewed by a couple of people. Dr. Wright told HR that he did not recall if Mr. Todd was still at work at that time and that Tom Sharp was not at work that day. Dr. Wright shared with HR that prior to the transmission of the Rittenhouse email, "We just didn't do what we should have done. It was our fault that the process hadn't been followed." Dr. Wright shared that as a result, Mr. Todd would have seen the Rittenhouse email when the rest of the Department did, meaning Mr. Todd did not get an advance look at it. "I doubt that he saw it in advance." Dr. Wright went on to say that he had heard from the Mayor's office; that he knew Mr. Todd had also heard from the Mayor's office; that he knew that the email had been leaked to the media; and that he was "sure that it (November 23) was a very stressful day for Brian."

Dr. Wright stated that his meeting with Dr. Black on November 23 began between 3:00 and 4:00PM. He told HR that he and Dr. Black were in his office, trying to figure out a response to the backlash from the Rittenhouse email. Dr. Wright said that Mr. Todd came into his office and was obviously very upset and red in the face. He told HR that Mr. Todd proceeded to say things to the effect that this (the Rittenhouse email) was their (Dr. Wright's and Dr. Black's) problem, that they needed to fix it, and that he wasn't happy about it. Dr. Wright said that he apologized for putting Mr. Todd in that situation, telling Mr. Todd that he knew that he had been getting a

lot of outside contact and that he understood that Mr. Todd was having to respond to multiple parties who were either upset or questioning the content of the Rittenhouse email. Dr. Wright shared that Mr. Todd reiterated to them that the email was their problem and that they would have to come up with their own solution.

Dr. Wright recalled that Dr. Black tried to show Mr. Todd something on a piece of paper, and that Mr. Todd was upset and didn't want to have anything to do with the document. Dr. Wright believes that this may have preceded Mr. Todd becoming more upset as he (Mr. Todd) then became loud and very animated, saying "it's your problem, you have to fix it." When asked if Mr. Todd ever pointed his finger at them, Dr. Wright said that Mr. Todd very well could have, but that his memory was not clear on that.

Dr. Wright remembered Mr. Todd saying, "I'm done, I'm leaving, I'm not sure I'll be back." Dr. Wright said that Mr. Todd may have then said something along the lines of "Fire me," or "I can retire," but he doesn't specifically remember that.

Dr. Wright shared that the following morning, November 24, 2021, Mr. Todd came to work and was helpful in trying to get them to finalize the response to the Rittenhouse email. Dr. Wright did not recall Mr. Todd apologizing for his behavior the previous day.

B. Events of November 29, 2021.

1. Brian Todd:

Mr. Todd told HR that he came to work on Monday, November 29 and spoke to Tom Sharp. He told HR that he and Mr. Sharp agreed upon a statement for the Rittenhouse email that they felt was "really good." He recalled that he was frustrated that a statement had not been issued before Thanksgiving, as he believed that would have calmed the situation down. Mr. Todd told HR that he thought that Mr. Sharp sent the statement to Councilman Glover. Mr. Todd told HR that he was hopeful that their statement, which included an apology for the Rittenhouse email, had ended the issue. Mr. Todd told HR that for the balance of the morning of November 29, that he went back to focusing on emission testing, what their response would be, Covid boosters, and other public health issues. Mr. Todd said he felt that the Rittenhouse issue had been addressed, and that he had answers if he was contacted with additional questions. When we interviewed Mr. Todd on December 15, 2021, he was unaware or had forgotten that the statement he and Mr. Sharp had crafted on November 29 was not actually released to anyone outside of MPHD until Wednesday, December 1.

2. Dr. Stephanie Kang:

Dr. Kang was appointed as the first Director of MPHD's DEI Bureau on July 24, 2021. Dr. Kang told HR that at approximately 2:00PM on November 29, she entered Mr. Todd's office and asked if they could speak. Dr. Kang closed the office door, sat down, and told Mr. Todd she

wanted to apologize for not looping him in properly for the Rittenhouse email that was sent the week prior. Dr. Kang told HR that Mr. Todd stated, “It’s fine, it’s not a big deal.” She said that Mr. Todd noted that Dr. Wright had also told him that he recognized Mr. Todd should have been looped into the process. Dr. Kang said that Mr. Todd then added “When I saw the Health Announcement I didn’t expect there would be such a public response.” Dr. Kang related that in response she said, “Oh? Hearing that actually makes me feel better.”

Dr. Kang recalled telling Mr. Todd that she understood the statement caused some pushback, but that she and her team had also received many positive comments and she wanted to make sure they were also recognized. Dr. Kang said she handed Mr. Todd a single sheet of paper that listed collected comments from MPHD employees regarding the Rittenhouse statement. According to Dr. Kang, Mr. Todd looked at the document, said, “okay”, and put it down on his desk.

Dr. Kang said that Mr. Todd mentioned that he and Dr. Kang still needed to set a time for an interview with Brett Kelman, a reporter from the Tennessean. Dr. Kang told HR that Mr. Todd then called Mr. Kelman and they were able to agree on a time for the interview. Dr. Kang stated that she then made a comment about how nice the leather folder Mr. Todd had on his desk was and asked if he had made it himself. According to Dr. Kang, Mr. Todd laughed and said “no,” that his wife gave it to him as a gift.

Dr. Kang stated that she then thanked Mr. Todd again for his time and asked if they could discuss one more item. Dr. Kang shared that she referred to the page of comments that she had handed to him when she first sat down. Dr. Kang recalled telling Mr. Todd that she wanted to hear his feedback about what the process for future similar statements should look like. She recalled asking for his suggestions to make the vetting process work better and asking for his approach to make an effective statement. Dr. Kang told HR that Mr. Todd stated that he loves public health but that he was paid to do a specific job, and everyone else who shows up at MPHD to work is paid to do a job, and that he did not believe it was their job at MPHD to focus on these issues as they were not relevant to public health.

Dr. Kang told HR that Mr. Todd said that for him, his greatest concern was why immunization rates for children were dropping, and that he asked her what the Rittenhouse email had done to help that. Dr. Kang recalled that Mr. Todd also noted that the event related to the Rittenhouse email occurred in a different state and questioned why it should be a concern for those in Tennessee. Dr. Kang said she told Mr. Todd that while an issue may not impact him, it doesn’t mean it isn’t relevant or that it doesn’t impact other people at the Department, and that ensuring the well-being of the MPHD workforce is critical to delivering public health services.

She told HR that Mr. Todd then noted that public health wasn’t what it used to be and that the Department was “changing too fast.” Dr. Kang recalled that Mr. Todd also said that the Department wasn’t the Department he used to know and that it might be time to retire because he “didn’t care about these issues.” Dr. Kang said she told him “I’m really sad to hear that, Brian,

because your work is so important to the Department.” According to Dr. Kang, Mr. Todd replied sarcastically, “well, I’m sorry you’re sad” as he shrugged.

Dr. Kang recalled that Mr. Todd then said “Well, I still don’t understand why we made that statement in the first place. It seems that someone from your team just got upset so you sent that.” Dr. Kang told HR that she responded, “No, that’s not true. Several people across the Department came to me or my team personally sharing their concerns and asking if leadership would be responding, which is what prompted the statement draft.”

Dr. Kang said she picked up the document she had shown Mr. Todd earlier and reiterated her feelings about what the statement meant to people from whom she had received responses. Dr. Kang stated that she pointed to the top of the paper where several anonymous comments were listed. According to Dr. Kang, Mr. Todd laughed again, and said “Why are they anonymous? Who are they?” Dr. Kang said she told Mr. Todd that “people did not feel comfortable sharing their name, so we gave them the option of being anonymous.” Dr. Kang said that Mr. Todd then pressed her again by asking, “But who are they?” Dr. Kang stated that she responded, “I am not comfortable sharing who they are.” She said that Mr. Todd then stated “Well, I’ve never heard anyone say anything like this. Why aren’t they comfortable talking to me then?” Dr. Kang told HR that she responded by saying “Well, it’s not always easy to talk to a white man in leadership about race issues.”

According to Dr. Kang, Mr. Todd then stood up very fast and started to scream as his hands flew up above his head. She told HR that Mr. Todd flung the leather folder onto his desk. Dr. Kang stated that when the folder hit the table, it made a very loud noise that made her body jump. However, she told HR that she did not feel that she could voluntarily move. She stated that her eyes were very wide, that her hands gripped the chair and that her heart was beating very fast. Dr. Kang told HR that she leaned back in her chair when Mr. Todd got closer to her and stood over her. She stated that Mr. Todd continued to yell and screamed loudly, “That’s it, this conversation is over, get out of my office!”

According to Dr. Kang, Mr. Todd then stormed toward her, his face very red, hands still raised, standing very close to her screaming, “You are going to accuse me of being a white man in leadership? This is over, get out!” Dr. Kang stated that Mr. Todd continued screaming this over and over. Dr. Kang stated that she remained sitting in shock, feeling confused, intimidated, and scared as Mr. Todd stood over her. She told HR that she then watched him swing open the door of his office and walk out as he continued to scream about being called “a white man in leadership.” Dr. Kang told HR that after a couple of moments, she walked down the hallway and stood near Mr. Todd, who had opened the door into Dr. Wright’s office. Dr. Kang recalled that Mr. Todd was screaming as he stood in the doorway of Dr. Wright’s office.

According to Dr. Kang, as Mr. Todd continued to scream about her, she stood behind him saying “I’m very confused, I did not mean anything offensive, this is being taken out of context.” She

told HR that Mr. Todd yelled to Drs. Wright and Black that “I will not deal with her telling me that I am a white man in leadership. She is bringing race politics into this place and I will not be a part of it! I am done, I am done.” Dr. Kang told HR that Mr. Todd then left the office.

Dr. Kang recalled that “after Brian stormed out,” she was in “complete shock.” She recounted feeling her heart pounding in her chest. Dr. Kang stated that she looked into Dr. Wright’s office and observed that he was meeting with Dr. Black. Dr. Kang stated that Dr. Wright then asked her to come into his office and close the door. Dr. Kang stated that she entered Dr. Wright’s office “completely in shock, scared, and confused about what had just happened.” Dr. Kang explained that she couldn’t feel her hands and could barely speak. Dr. Kang stated that when Dr. Wright and Dr. Black asked her if she was okay, she couldn’t pull her words together.

Dr. Kang recalled that she had to take a few deep breaths and that she tried to explain but her thoughts were racing. Dr. Kang stated she felt embarrassed, and that she couldn’t get her heart rate to slow down. After a little longer, Dr. Kang stated that she spoke with Dr. Wright and Dr. Black through heavy breaths. Dr. Kang recalled telling Drs. Wright and Black, “I had gone to Brian to apologize about the process from last week. I didn’t mean anything; I don’t understand what happened. I’m so confused.” Dr. Kang said she described a few of the remarks that she had exchanged with Mr. Todd.

Dr. Kang told HR that after speaking with Dr. Wright and Dr. Black, she walked to her office noting it was a little before 2:40PM. Dr. Kang stated that she saw Anthony Johnson, a member of her DEI team, and said to him, “Oh my God, I don’t know what just happened, but Brian was just screaming at me. We need to talk.” She told HR that as she continued walking down the hallway, she motioned to the rest of her team, Raquel de la Huerga and Timothy McDaniel to join her inside her office. She recalled that they all took a seat in her office and that at first she couldn’t speak. Dr. Kang stated that she finally told her team, “the craziest thing just happened.” She indicated to HR that she was then was silent for a while longer as she was still processing her interaction with Mr. Todd.

Dr. Kang recalled tears starting to come to her eyes but stated that she didn’t want to cry in front of her team, so she took several breaths to slow down the urge to cry. She shared that she started to explain what had happened, going through line by line of the conversation she had with Mr. Todd and then described his reaction to her team. Dr. Kang stated that her team told her that they were “so sorry this happened” and that she needed to file an HR complaint right away. Dr. Kang stated that after her team left her office, she cried for a few moments, then got back to work.

3. Dr. Black:

Dr. Black stated that she had a meeting with Dr. Wright mid-afternoon on November 29. She described sitting in Dr. Wright’s office, hearing elevated voices outside in the waiting area, and then seeing Dr. Wright’s office door abruptly flung open, with no prior knock or announcement. She said that Mr. Todd stepped into the room, and described him as red faced, visibly angry,

with his arms waving and his voice elevated. Dr. Black said that Mr. Todd was standing there, saying “I will not be called a white man. Don’t call me a white man.” Dr. Black did not recall if Mr. Todd said, “I will not be called a white man in power” or “I will not be called a white man in leadership.” She stated that she certainly remembered Mr. Todd saying, “I will not be called a white man.” Dr. Black said Mr. Todd shouted, “You will not call me a white man” and that he said that he was “out of here” and that he then left the office.

Dr. Black said that after Mr. Todd’s sudden appearance and outburst, she heard someone saying, “No no no, no no no,” and that she saw Dr. Kang behind Mr. Todd. Dr. Black described Dr. Kang as “kind of in a state of disbelief” and said that she had “a trauma look on her face.” Dr. Black stated that Dr. Kang entered the office after Mr. Todd’s departure and that she (Dr. Kang) was gesturing downward with her hands, as if trying to push the volume level down. Dr. Black said Dr. Kang was just standing there looking at the floor, and that she (Dr. Kang) started pacing and shaking her head. Dr. Black told HR that Dr. Kang asked if she could offer her account of what had just happened, and Dr. Black said “yes.”

As Dr. Black recalled, Dr. Kang explained that she went to Mr. Todd’s office to apologize for not vetting the Rittenhouse email prior to it going out. She said Dr. Kang described asking for Mr. Todd’s feedback on how to handle the situation if there was a future need to address staff concerns about something that happened in the community or globally. Dr. Black recalled that Dr. Kang said that Mr. Todd had asked her why people would not come to him, and Dr. Black recalled Dr. Kang’s response was something like “Because some people don’t feel comfortable coming to a white male in leadership, or his position, something that alluded to a person in leadership.” Dr. Black said that Dr. Kang told them that at that point, Mr. Todd jumped up and said, “You will not call me a white man” and that Mr. Todd then screamed as he opened the door and walked out of his office to Dr. Wright’s office with his arms flailing. HR notes that Dr. Black’s recount of what Dr. Kang told her and Dr. Wright did not corroborate Dr. Kang’s description of Mr. Todd standing over her (Dr. Kang) and repeatedly telling her to “get out” of his office.

4. Dr. Gill Wright III:

Dr. Wright told HR that on the afternoon of November 29, he and Dr. Black were sitting in his office having a discussion with the door closed. Dr. Wright said that Mr. Todd came into his office unannounced, very animated and upset. He shared that Mr. Todd said, “I’m leaving, not sure I will be back.” Dr. Wright recalled that Mr. Todd told them that he’d been in a meeting with Dr. Kang and that she had referred to him as a “white man in power.” Dr. Wright said that it seemed as though Mr. Todd had taken Dr. Kang’s words as an offense. Dr. Wright said that Mr. Todd returned to his office, gathered his things, and left.

Dr. Wright said that as Mr. Todd was leaving the office, Dr. Kang entered. Dr. Wright recalled that Dr. Kang was very quiet. Dr. Wright told HR that he didn’t know Dr. Kang very well, but it

seemed that she was a little dazed and upset. Dr. Wright recounted, “I don’t know that she was shaking. I know that she verbalized that she was just, ‘stunned,’ and ‘I can’t believe that just happened’ kind of thing.”

According to Dr. Wright, Dr. Kang told them that she went to Mr. Todd to better understand the process to make announcements or send out emails, so that she could follow the proper procedure in the future. According to Dr. Wright, Dr. Kang told them that Mr. Todd told her that he didn’t understand why people would not come to him regarding issues such as the Rittenhouse email. Dr. Wright told HR that Dr. Kang explained that she told Mr. Todd that people may not be comfortable coming to him, and that Mr. Todd had asked, “why not?” Dr. Wright told HR that Dr. Kang said that she told Mr. Todd “because you’re a white man.”

Dr. Wright then told HR, “I remember Stephanie walking in and saying, ‘I did say that’ and then saying, ‘but what I was trying to do was explain to him why people wouldn’t feel comfortable talking to him.’” Dr. Wright said Dr. Kang admitted that she used the word “power,” but that “since then she has said ‘leadership.’” Dr. Wright stated, “I don’t know that she actually said ‘power’ (in her meeting with Mr. Todd), but I know that she told us, ‘I did say that’” (referring to the phrase “white man in power”).

Dr. Wright recalled that Dr. Kang sat quietly for a moment after describing her conversation with Mr. Todd. Dr. Wright stated that Dr. Kang told them that she was still in shock at what had just happened with Mr. Todd, and that she needed to think about it.

Dr. Wright said that Dr. Kang shared with them that she was just trying to explain why people may not feel comfortable talking with Mr. Todd about race issues, and that she did not mean to offend him with the terminology or language she used. It was Dr. Wright’s impression after talking with Mr. Todd that Mr. Todd believed that Dr. Kang was trying to offend him, and that she did offend him.

5. Brian Todd (re: meeting with Dr. Kang):

Mr. Todd said that Dr. Kang came to his office around 2:00 that afternoon. He explained that as far as he was concerned, by that time an appropriate response to the Rittenhouse email had been written. He told HR that he and Mr. Sharp had created the message and it was ready, so he felt as though the issue was over.

Mr. Todd recalled that Dr. Kang apologized for any stress that she had caused and said she wanted to know what he would suggest doing differently in the future, since incidents such as the Rittenhouse trial would happen again. Mr. Todd shared that he told Dr. Kang that he didn’t know who came to her to complain about the verdict. He stated that he asked Dr. Kang if it was only the members of her team, or if those concerned included other employees in the Department. Mr. Todd said that he told Dr. Kang if an employee came to someone and they were hurting and it was affecting their work, that he would suggest that they contact EAP.

Mr. Todd told HR that Dr. Kang asked how he would have written an email in that situation. Mr. Todd stated that he told Dr. Kang that he saw no reason to make it political. He said that Dr. Kang told him that the Rittenhouse email wasn't political and that saying that it was political was wrong. Mr. Todd said that he told Dr. Kang that a lot of people saw it as political. He recalled telling Dr. Kang that he did not see the connection between someone in the Health Department in Tennessee and someone in Wisconsin, where there is a judicial system that was followed. Mr. Todd said he told Dr. Kang that he felt that whether he believed that Rittenhouse should have been convicted shouldn't matter, that it didn't affect him directly. Mr. Todd recalled telling Dr. Kang that he believed that as far as the Health Department goes, that it didn't connect to them directly, so at most, he would have sent a Health Announcement just saying, "we are going into the holiday season, that there are a lot of decisions that get made, and if anyone is hurting or has concerns, there is a free, confidential service and here's the phone number and contact information."

Mr. Todd told HR that he shared with Dr. Kang that he was concerned that the email instructed employees to speak with Dr. Wright, Dr. Black, or Dr. Kang if they had problems, but noted that none of them had certification or experience in counseling. Mr. Todd stated that he shared with Dr. Kang that he would have directed employees to the EAP. Mr. Todd said that he told Dr. Kang he would not have written the email as it was sent out, and that he felt it was inappropriate. According to Mr. Todd, Dr. Kang told him that the Rittenhouse email was in draft form when she sent it to Dr. Wright, and that she didn't expect it to be sent verbatim. Mr. Todd said he told Dr. Kang that he hadn't seen the email before it was sent, so he couldn't speak to what she and Dr. Wright discussed or didn't discuss.

Mr. Todd shared that he told Dr. Kang that his job as PIO was to protect the Health Department and to communicate in a way that is effective. According to Mr. Todd, he told Dr. Kang that he was concerned that children's immunization rates in the community had dropped. He said he told Dr. Kang that he could not see how the Rittenhouse email would impact children's immunization rates in the community. Mr. Todd recalled advising Dr. Kang that it's "a given that they (Public Health employees) work long hours, they have been beaten up by both sides, and they had people who had been sick and died in the community, and somehow Public Health has become a villain." He recalled telling Dr. Kang that these were the things he cared about. According to Mr. Todd he told Dr. Kang that he couldn't care about the fact that someone's feelings had been hurt. He told HR that he shared with Dr. Kang that he cares about and loves Public Health.

He recalled telling Dr. Kang that he was worried about the Omicron variant and that his focus that day was Omicron, as he was getting lots of questions about the variant, if they had cases within the community, etc. Mr. Todd shared that his responsibility was to do his job, and that he was sorry if someone was impacted by the verdict in Waukesha, but he couldn't care about that. According to Mr. Todd, Dr. Kang said that it was "sad that the communications person doesn't care." Mr. Todd told HR that he said he can't care; that the PIO is not a person who can heal these feelings, and that no one would expect it from him.

HR asked Mr. Todd if Dr. Kang shared with him a document which included responses from several employees regarding the Rittenhouse email, thanking her for writing it. Mr. Todd told HR that he did not look at the document. HR asked Mr. Todd if he had asked Dr. Kang who had contributed the anonymous responses. Mr. Todd denied asking. Mr. Todd stated that he told Dr. Kang that he really wanted to talk to someone who had gone to the DEI employees prior to the Rittenhouse email being sent, so he could understand their concerns.

Mr. Todd told HR that Dr. Kang then said to him: "You can see why they wouldn't bring their concerns to a white man in leadership." Mr. Todd stated that he was not sure if Dr. Kang used the word "power" or "leadership." He admitted to HR that he might have mixed the words up when he went to Dr. Wright's office a few moments later. Mr. Todd said he thought the word Dr. Kang used "might have been 'leadership.'"

Mr. Todd explained to HR that Dr. Kang's remark caught him off guard, and kind of "scared" him to hear someone say, as though they were untouchable, that "you could understand that they wouldn't bring their concerns to a white man in power." Mr. Todd shared with HR that many people have come to him with concerns over the years, from all races and all backgrounds, and that he treats everyone the same. Mr. Todd said that he felt that Dr. Kang's comment was an attack on him. He told HR that people seem to think that comments such as Dr. Kang's are okay, but he believed that it wasn't appropriate, and in his mind, her statement was a racist, sexist thing to say.

Mr. Todd stated that at that point he said to Dr. Kang that he was finished, that the discussion was over. He told HR that he felt Dr. Kang was forming an opinion of him based on the color of his skin and his gender, and he was finished with the conversation. Mr. Todd admitted that he was probably "red faced" at that time. He recalled opening his office door and walking down the hall to talk with Dr. Wright. Mr. Todd said that when he opened Dr. Wright's door that Dr. Black was in Dr. Wright's office. He admitted that he did not knock first before entering the Director's office, but simply walked in without announcing himself. Mr. Todd said he was very upset, and that he said, "She's trying to turn this into a racist, sexist issue, and I'm not going to do that. It's inappropriate. She said that these people who had concerns would not bring their concerns to me as a white male in charge. I'm done with this conversation. I'm leaving." Mr. Todd admitted that he raised his voice, and that his face was red. He told HR that it was late in the day and he had been in the office since early that morning. Mr. Todd recalled that he decided to go home.

When HR asked Mr. Todd whether he noticed Dr. Kang's reaction when he said, "that was it," and that he was finished with their meeting, Mr. Todd said that Dr. Kang had a mask on, and he didn't notice her expression. He said that he was looking at the door to his office, not at Dr. Kang.

When asked by HR if he threw or tossed his binder on his desk, Mr. Todd said that he did not recall doing that, but it was possible. He shared that he might have just forcefully closed his

binder. Mr. Todd told HR that he got up, said he was done with the conversation, opened the door to his office and walked out. He denied that he told Dr. Kang to get out of his office, insisting that he had never told anyone to get out of his office. Mr. Todd recalled that he was the one who got up and said he was done with the conversation, and that he simply walked out.

HR asked Mr. Todd if he stood over Dr. Kang and told her to get out of his office, which she couldn't do because he was blocking the doorway, and then left the office. Mr. Todd told HR that he did not remember the events that way. He reiterated having told her that he was done with the conversation, that she couldn't turn it into a race/sex issue. He explained that he had to stop next to where she was sitting just to open the door to walk out. Mr. Todd shared that he was "as frustrated as could be," that someone would make a judgment about him without knowing him. Mr. Todd agreed that he probably repeated something to the effect, "She's not going to call me a white man in leadership" as he walked down the hall towards Dr. Wright's office. Mr. Todd recalled that Martha Bickley, an Administrative Assistant to Dr. Wright was present when he went to Dr. Wright's office.

Mr. Todd recalled that Dr. Kang stood by the chairs in the waiting area outside of Dr. Wright's office while his conversation with Dr. Wright and Dr. Black took place. According to Mr. Todd, Dr. Kang did not enter Dr. Wright's office until he had left the office, at which point he believes she went inside and closed the door. Mr. Todd told HR that he recalled that Dr. Kang saying, "That's not what I said" while she was standing in the waiting area.

Mr. Todd admitted to HR that he would have been much more receptive to Dr. Kang if she had approached the subject differently. He stated that he didn't understand why Dr. Kang wanted to close the door for their conversation. He explained that he felt as though Dr. Kang wanted to argue that she had handled the Rittenhouse email the right way.

6. Matthew Peters/Martha Bickley:

HR interviewed both Mr. Peters and Ms. Bickley. However, neither employee could add any significant details regarding the events of November 23-26 or November 29.

C. Summary of Complaints/Remedies Desired:

1. Mr. Todd made his complaint by email to Dr. Wright dated November 30, 2021. Mr. Todd told Dr. Wright that he believed that Dr. Kang was "judging me by my race and sex." Mr. Todd cited Title VII of the Civil Rights Act of 1964 and its protection for employees against "discrimination based on race, color, religion, sex and national origin." While his complaint did not cite the MPHD Civil Service Rules, CSR 6.5B (29) could arguably be implicated as it prohibits unlawful "discrimination based on race, color, national origin, gender..." and other protected classes. MPHD CSR 6.5B (31) "Conduct unbecoming an employee of the Metropolitan Government" may also be implicated. Mr. Todd's complaint asked Dr. Wright to address his concern with Dr. Kang and let him know the results of the conversation.

2. Dr. Kang made her complaint by written submission to MPHD HR on December 6, 2021. While she did not cite any law, regulation or any MPHD Civil Service Rule, her description of the events of November 29, 2021 contains allegations that implicate CSR 6.5B (3) "Insubordination or disrespect," and 6.5B (31) "Conduct unbecoming an employee of the Metropolitan Government." When HR interviewed Dr. Kang she indicated that angry and intimidating behavior toward any staff person should not be tolerated and that the safety and wellbeing of the MPHD workforce should be of paramount concern for Dr. Wright and his leadership team.
3. In addition to concerns about Mr. Todd's alleged behavior toward Dr. Kang, HR was asked to investigate Mr. Todd's behavior toward Drs. Wright and Black on both November 23 and 29, and to determine whether his alleged conduct warranted coaching, corrective action, or discipline. The events of November 23 and November 29 contain allegations that implicate CSR 6.5B (3) "Insubordination or disrespect," and 6.5B (31) "Conduct unbecoming an employee of the Metropolitan Government."

D. Employment Law Framework

Title VII renders it "an unlawful employment practice for an employer ... to discriminate against any individual with respect to their compensation, terms, conditions, or privilege of employment, because of such individual's race, color, religion, sex, or national origin." 42 U.S.C. 2000e-2(a)(1). Harris v. Forklift Sys., Inc., 510 U.S. 17, 21 (1993).

To establish a prima facie case of discrimination, an employee must show that: (1) the employee is a member of a protected group, (2) the employee was subject to an adverse employment decision, (3) the employee was qualified for the position, and (4) the employee was replaced by a person outside of the protected class or treated differently than a person outside of the protected class concerning compensation, terms, conditions, or privileges of employment. McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802 (1973), Williams v. AT&T Mobility Servs. LLC, 847 F.3d 384, 395 (6th Cir. 2017).

MPHD Civil Service Rules that are implicated in this matter have been previously identified.

E. Conclusion – Todd Complaint

1. HR finds no violation of Title VII concerning Mr. Todd's complaint against Dr. Kang. At present, Mr. Todd cannot demonstrate that his compensation, terms, conditions, or privilege of employment have suffered any damage because of Dr. Kang's conduct and the statements she made in his office on November 29, 2021.
2. Although Dr. Kang's conduct did not violate Title VII, her statement, made as if it were a statement of fact - that employees may not be willing to speak to Mr. Todd because of his race and gender - was inappropriate, presumptuous, and rude, and unbecoming of an employee of MPHD and the Metropolitan Government.
3. It was clear from HR's interview with Mr. Todd that Dr. Kang's characterization of him was hurtful, intimidating and completely foreign to him given the long history he described to HR of having helped all MPHD employees who sought his assistance,

regardless of their membership in a protected class. Whether she intended it or not, Dr. Kang's behavior and comments subtly conveyed a level of rudeness and insensitivity that Mr. Todd believed and believes, demeaned his racial and gender identity.

F. Conclusion – Kang Complaint

1. HR finds that Mr. Todd's behavior in reaction to Dr. Kang's comment about "a white man in power" or a "white man in leadership" is a living example of conduct unbecoming an employee of MPHD and the Metropolitan Government.
2. Dr. Kang's choice of words arrived just days after she and her staff had by-passed Mr. Todd's office and published an email that decried "the pervasiveness of white supremacy and oppression." However, having an explanation for why he reacted to Dr. Kang's judgment of him based upon his race and gender only goes so far. Mr. Todd's explosive reaction was unprofessional at best, intimidating and frightening at worst.
3. It was clear from HR's interview with Dr. Kang that Mr. Todd's behavior shocked and scared her as she sat in a small office with a man who towered over her when he rose from his chair to his full standing position. Drs. Wright and Black confirmed that Dr. Kang was visibly shaken when she came into the Director's office immediately following the explosive conclusion to her meeting with Mr. Todd.

G. Conclusion - Dr. Wright and Dr. Black's Concerns

1. HR finds that Mr. Todd's behavior toward Drs. Wright and Black on November 23 and 29, violated both MPHD CSR 6.5B (3) "Insubordination or disrespect," and 6.5B (31) "Conduct unbecoming an employee of the Metropolitan Government."
2. The reason for Mr. Todd's outburst on November 23 is clear. The frustration of being excluded from the Health Announcements Email protocol combined with the intense scrutiny he was facing from internal and external sources could frustrate and unsettle even the most reasonable PIO. However, the explanation does not excuse the behavior, and Mr. Todd's loss of control resulted in a display of temper that saw him yelling, flailing his arms, and pointing his finger in the faces of the Director and Deputy Director of the Department.
3. HR's interviews with Drs. Wright and Black indicated a level of concern for Mr. Todd and the stress his position can involve. However, they also expressed frustration with Mr. Todd for his outbursts, as he is an employee occupying a critically important position.

H. Recommendations:

1. Reprimand for Brian Todd:

HR recognizes Mr. Todd's 25 years of service, which includes an unblemished record with no corrective or disciplinary actions found in his personnel folder. However, this Report is not the first documentation of Mr. Todd having lost control of his emotions. (See "Fact Finding Report" of Metro HR dated December 7, 2020, resulting from an investigation of Dr. Michael Caldwell in which witnesses described Mr. Todd as "yelling" or "screaming" at Dr. Caldwell concerning MPHD's public identity or

branding). HR recommends that the reprimand for Mr. Todd be accompanied by a statement from the Director which makes it clear that any further loss of emotional control will result in the Director seeking disciplinary action against Mr. Todd, up to and including dismissal from employment.

2. Coaching for Dr. Kang:

- a. On following MPHD policy and protocol concerning statements to be issued to the Department, the media and/or the public.
- b. On using positive strategies for obtaining buy-in for DEI initiatives from all MPHD employees. The Director needs to have confidence that the DEI Bureau will use an approach that seeks to narrow rather than expand the divisions that exist in our Department and community. The Rittenhouse email did not serve the former approach. HR notes reports of problems for external DEI programs that have taken an aggressive approach to unsettling existing white male hierarchies. These reports suggest that overly aggressive DEI efforts run the risk of unintentionally creating an increase in reverse discrimination claims against employers. The DEI Bureau must recognize that in addition to taking action to improve equity internally and externally, they have an underlying obligation to educate internally and externally. The Rittenhouse email and Dr. Kang's approach with Mr. Todd did not assist the DEI Bureau in meeting that obligation.
- c. On judging an employee based upon their membership or non-membership in a protected class, without first taking the time to get to know them and obtain an understanding of their beliefs on issues related to diversity, equity, and inclusion.

END REPORT