



## ***CLOSED CASE SUMMARY***

ISSUED DATE: OCTOBER 5, 2020

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0222

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	5.001 – Standards and Duties 10. Employees Shall Strive to Be Professional	Not Sustained (Unfounded)

#### **Named Employee #2**

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

### **EXECUTIVE SUMMARY:**

The Complainant alleged that the Named Employees were biased towards her and that Named Employee #1 treated her unprofessionally.

### **ANALYSIS AND CONCLUSIONS:**

#### **Named Employee #1 - Allegation #1**

##### ***5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing***

The Named Employees were flagged down by a bus driver concerning a woman who was trying to board his bus – the Complainant in this case. The bus driver informed the Named Employees that the Complainant frequently caused disturbances on his bus and he said that he did not want her to board. At the time the Named Employees were contacted, the Complainant had not yet gotten on the bus. However, she had placed her bicycle on the front of the bus. Her bicycle was removed from the bus with the assistance of the officers and the bus continued on its route. The Complainant asked for a Metro Transit supervisor and one was called to the scene.

Named Employee #1 (NE#1) was the primary officer on the call and he spoke with both the bus driver and the Complainant. The Complainant became upset at NE#1 because he would not provide her with the bus driver's name. She then stated that she wanted to speak with Named Employee #2 (NE#2). She explained that she preferred to speak with NE#2 because he was White while NE#1 was Black. The Complainant said that, as a Black woman, she



spoke “plenty White.” NE#1 continued the contact with the Complainant, explaining to her what occurred and providing her with a business card that had the incident number written on it. Ultimately, a Metro Transit supervisor arrived on scene and that Complainant spoke with him. After ensuring that there were no further issues needing their attention, the Named Employees then departed.

The Complainant later filed this OPA complaint, in which she alleged that the Named Employees were biased towards her and that NE#1 treated her unprofessionally.

With regard to her bias claim, the Complainant asserted that the officers were biased because they had NE#1 speak with her instead of NE#2. She felt that this suggested that they only wanted a Black officer to speak with a Black woman, which appeared to her to be biased.

OPA’s investigation conclusively established that NE#1 interacted with the Complainant because he was the primary officer on the call not because of his race. There was no indication on the Body Worn Video of any discussion or agreement between the officers that NE#1 would be assigned to speak with the Complainant simply because he is Black. As such, OPA finds that Complainant’s allegation of bias to be completely unsupported by the evidence.

For the above reasons, OPA recommends that this allegation be Not Sustained – Unfounded as against both NE#1 and NE#2.

Recommended Finding: **Not Sustained (Unfounded)**

#### **Named Employee #1 - Allegation #2**

##### ***5.001 – Standards and Duties 10. Employees Shall Strive to Be Professional***

The Complainant further asserted that NE#1 treated her unprofessionally by speaking to her disrespectfully, by not providing her with the bus driver’s name, and by approaching her when she went to speak with the Metro Transit supervisor. She also contended that NE#1 put on gloves, which made her feel that he was going to assault her.

As with the Complainant’s bias allegation, her unprofessionalism claim against NE#1 is also disproved by the evidence. First, there is no basis for the conclusion that NE#1 spoke to her rudely or dismissively. To the contrary, NE#1 was respectful and did his best to address the Complainant’s concerns. Second, it was not unprofessional for NE#1 to decline to provide the bus driver’s name to the Complainant. That information was more appropriately conveyed to her by the Metro Transit supervisor who had already been summoned to the scene. Third, NE#1 approached the Complainant when she was speaking to the Metro Transit supervisor because she rode her bicycle directly towards that individual, because she was escalated at the time, and because NE#1 had an interest in ensuring that the situation remained under control. Once he determined that it was, he left the scene. Notably, NE#1 did not interfere in the Complainant’s discussion with the Metro Transit supervisor. Fourth and last, there is no support for the claim that NE#1 and NE#2 put on gloves because they were preparing to assault the Complainant.

For the above reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**



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**Named Employee #2 - Allegation #1**

***5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing***

For the same reasons as stated above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**