

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF POLICE COMPLAINTS**

**FINDINGS OF FACT AND MERITS DETERMINATION**

<b>Complaint No.:</b>	10-0049
<b>Complainant:</b>	COMPLAINANT
<b>Subject Officer(s), Badge No., District:</b>	SUBJECT OFFICER, Third District
<b>Allegation 1:</b>	Harassment
<b>Allegation 2:</b>	Insulting, Demeaning or Humiliating Language or Conduct
<b>Complaint Examiner:</b>	Stephen D. Kong
<b>Merits Determination Date:</b>	May 8, 2013

Pursuant to D.C. Official Code § 5-1107(a), the Office of Police Complaints (OPC), formerly the Office of Citizen Complaint Review (OCCR), has the authority to adjudicate citizen complaints against members of the Metropolitan Police Department (MPD) that allege abuse or misuse of police powers by such members, as provided by that section. This complaint was timely filed in the proper form as required by § 5-1107, and the complaint has been referred to this Complaint Examiner to determine the merits of the complaint as provided by § 5-1111(e).

**I. SUMMARY OF COMPLAINT ALLEGATIONS**

COMPLAINANT alleges that on the morning of November 4, 2009, SUBJECT OFFICER harassed him when she prevented him from walking his dog on public school property, ordered him to move along, and then threatened to issue him a citation. COMPLAINANT further alleges that during the incident, SUBJECT OFFICER used language or engaged in conduct toward him that was insulting, demeaning, or humiliating when SUBJECT OFFICER yelled at him, shook her finger at him, and told him he was “rude.”

**II. EVIDENTIARY HEARING**

On May 1, 2013, an evidentiary hearing was conducted regarding this complaint. The Complaint Examiner heard the testimony of WITNESS #1.

**III. FINDINGS OF FACT**

The Complaint Examiner reviewed the following materials: (a) OPC’s Report of Investigation (“ROI”), dated December 4, 2012, and attached exhibits; (b) OPC’s letters to COMPLAINANT and SUBJECT OFFICER, dated December 4, 2012; (c) Objections submitted by SUBJECT OFFICER on December 19, 2012, and attached exhibits; and (d) Memorandum

submitted by OPC to correct, clarify or respond to the Objections of SUBJECT OFFICER, dated January 7, 2013, and attached exhibits; (e) OPC Memorandum of Investigative Activity prepared in response to the Complaint Examiner's Request for Additional Investigation, dated February 21, 2013, and attached exhibits; and (f) Transcript of evidentiary hearing conducted on May 1, 2013, and exhibits introduced into evidence. Based on a review of these documents, the Complaint Examiner finds the material facts regarding this complaint to be:

1. Cardozo Senior High School is a public school located at 1200 Clifton Street, N.W., between 11th and 13th Streets, N.W. The front of the school faces Clifton Street, and Florida Avenue runs parallel to Clifton Street in the back of the school grounds.
2. In 2011, the school was temporarily relocated to another location because the building needed significant renovations, and is slated to return to its original site in August 2013.
3. On November 4, 2009, at approximately 7:10 a.m., COMPLAINANT was walking his dog in a grassy field on the 11th Street, N.W. side of Cardozo Senior High School. There was no one else in the immediate vicinity.
4. COMPLAINANT walked his dog in this area on the school's property almost every morning. To his knowledge there were no signs about trespassing, prohibiting dogs on the property or about the school grounds being public property. In addition, he had never been told by anyone that he could not walk his dog in the grassy field.
5. After standing with his dog in the field for approximately five minutes, COMPLAINANT heard the sound of an air horn.
6. The source of the air horn was a marked MPD cruiser operated by SUBJECT OFFICER, who was in full MPD uniform and on visibility patrol for the day. The cruiser was parked across the street from where COMPLAINANT and his dog were situated, near the intersection of 11th Street and Florida Avenue, NW.
7. SUBJECT OFFICER drove her vehicle closer to COMPLAINANT and his dog, and from across the street yelled out her window, "You are on private property," and ordered him to move on. COMPLAINANT replied that he thought that the school's grounds were public property since the school was a public school. SUBJECT OFFICER then yelled back at him "Do you want a ticket?" to which COMPLAINANT responded "No."
8. This was not the first time that COMPLAINANT had interacted with SUBJECT OFFICER. Several weeks before, he had witnessed a truck run a stop sign in front of SUBJECT OFFICER at the corner of Fairmont Street and 13th Street. COMPLAINANT walked up to SUBJECT OFFICER and asked her why she didn't stop the vehicle, and she responded, "I have more important things to do."

9. As COMPLAINANT began cleaning up after his dog, SUBJECT OFFICER again yelled, "You are on private property. Do you want a ticket?" COMPLAINANT told SUBJECT OFFICER that he was picking up his dog's droppings, which prompted SUBJECT OFFICER to again yell, "Do you want a ticket?" COMPLAINANT asked SUBJECT OFFICER if he should continue or not. SUBJECT OFFICER relented and allowed him to finish his cleanup.
10. COMPLAINANT headed down the hill and exited onto the sidewalk through a broken section of the wall that surrounds the school. As he began walking North, SUBJECT OFFICER pulled away and drove her cruiser to the intersection of Clifton and 11th Streets. There, she made a U-turn and drove South past COMPLAINANT and his dog. SUBJECT OFFICER then stopped in the middle of the street and rolled down the passenger side window. SUBJECT OFFICER shouted "Sir," which caused COMPLAINANT to stop and turn around. COMPLAINANT then heard SUBJECT OFFICER direct him to approach the vehicle.
11. COMPLAINANT complied and was now facing SUBJECT OFFICER. COMPLAINANT stated to SUBJECT OFFICER, "You yelled at me." SUBJECT OFFICER once again told COMPLAINANT that he had been on private property and threatened to issue him a ticket. COMPLAINANT explained that he thought that the school grounds were public property and expressed his belief that everyone in the neighborhood walked their dogs in the grassy area. SUBJECT OFFICER shook her finger at COMPLAINANT and stated, "I don't see them. I see you." SUBJECT OFFICER continued, telling COMPLAINANT that other officers issue tickets to those walking their dogs on school grounds without having to further explain what the person had done wrong. COMPLAINANT repeated his claim that everyone he knew walked their dog in the field, including a friend of his who was a policeman. For a second time, SUBJECT OFFICER told COMPLAINANT "I don't see them. I see you" as she shook her finger at him. During this exchange SUBJECT OFFICER was "nasty" and spoke to COMPLAINANT in a "raised" voice.
12. COMPLAINANT then asked SUBJECT OFFICER for her badge number. However, instead of providing the information, SUBJECT OFFICER reiterated that she did not understand why people thought that school grounds were public property and that other officers issue tickets to people walking their dogs on school property. COMPLAINANT asked SUBJECT OFFICER again for her badge number. After SUBJECT OFFICER asked why COMPLAINANT wanted her badge number, COMPLAINANT responded, "Because you've been rude and belligerent." SUBJECT OFFICER replied, "No, you've been rude," and added that COMPLAINANT had repeatedly interrupted her. More back-and-forth between the two ensued, with COMPLAINANT denying that he had interrupted SUBJECT OFFICER, SUBJECT OFFICER telling COMPLAINANT that she would issue him a ticket, and COMPLAINANT following with another request that SUBJECT OFFICER provide her badge number. SUBJECT OFFICER responded, "XX-

XX, SUBJECT OFFICER,” and informed COMPLAINANT that he could file a complaint with her captain, but he would then ask her why she did not issue COMPLAINANT a ticket. COMPLAINANT stated that this issue did not involve him, and would have to be resolved by SUBJECT OFFICER and her captain.

13. Subsequently, the parties went their separate ways. The entire encounter between COMPLAINANT and SUBJECT OFFICER lasted approximately five to seven minutes.
14. Later that same day, COMPLAINANT filed a complaint against SUBJECT OFFICER with OPC.<sup>1</sup>

#### IV. DISCUSSION

Pursuant to D.C. Official Code § 5-1107(a), “The Office [of Police Complaints] shall have the authority to receive and to ... adjudicate a citizen complaint against a member or members of the MPD ... that alleges abuse or misuse of police powers by such member or members, including: (1) harassment; . . . [or] (3) use of language or conduct that is insulting, demeaning, or humiliating . . . .”

##### **Harassment**

Harassment is defined in MPD General Order 120.25, Part III, Section B, No. 2 as “[w]ords, conduct, gestures, or other actions directed at a person that are purposefully, knowingly, or recklessly in violation of the law, or internal guidelines of the MPD, so as to: (a) subject the person to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien, or other infringement of personal or property rights; or (b) deny or impede the person in the exercise or enjoyment of any right, privilege, power, or immunity.”

The regulations governing OPC define harassment as “words, conduct, gestures or other actions directed at a person that are purposefully, knowingly, or recklessly in violation of the law or internal guidelines of the MPD ... so as to (1) subject the person to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien, or other infringement of personal or property rights; or (2) deny or impede the person in the exercise or enjoyment of any right, privilege, power or immunity. In determining whether conduct constitutes harassment, [OPC] will look to the totality of the circumstances surrounding the alleged incident, including, where appropriate, whether the officer adhered to applicable orders, policies, procedures, practices, and

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<sup>1</sup> COMPLAINANT also filed a separate complaint with the MPD. MPD conducted an internal investigation of the incident and on December 14, 2009, concluded that there were “insufficient facts” to sustain the allegation that SUBJECT OFFICER was rude and unprofessional during her contact with COMPLAINANT. SUBJECT OFFICER was cited, however, for two counts of adverse action due to her insubordination for initially refusing to provide a written statement in connection with the investigation. But it must be emphasized that the MPD’s determinations are not in any way binding on the Complaint Examiner in this case.

training of the MPD ... the frequency of the alleged conduct, its severity, and whether it is physically threatening or humiliating.” D.C. Mun. Regs., title 6A, § 2199.1.

The incident in question can be broken down into two stages: (1) SUBJECT OFFICER’S air horn warning to COMPLAINANT and the subsequent verbal exchange, culminating with SUBJECT OFFICER permitting COMPLAINANT to pick up after his dog; and (2) SUBJECT OFFICER making the U-turn and turning back to again engage with COMPLAINANT, ending with SUBJECT OFFICER eventually providing her name and badge number.

COMPLAINANT’S claim of harassment focuses on the first stage. He asserts that SUBJECT OFFICER harassed him by initiating the dog-walking encounter, ordering him to get off the school grounds and move on, and then threatening to issue him a citation, all without a valid law enforcement purpose.

As a threshold matter, the Complaint Examiner finds that COMPLAINANT is a credible witness. He has submitted three written statements relating to the facts of this case—November 4, 2009, OPC complaint, November 9, 2009, statement for the MPD investigation and November 12, 2009, OPC post-interview statement)—and his detailed account of the incident in all three is strikingly consistent. In addition, it is significant that COMPLAINANT provided each of these statements mere hours and days after the events transpired, when his recollection of the events would be clear and reliable and giving him little time, if he was inclined to do so, to manipulate the facts to support his claims. Moreover, although COMPLAINANT has acknowledged a prior interaction with SUBJECT OFFICER, given the non-adversarial circumstances of that contact it makes little sense that COMPLAINANT would retaliate against her by blatantly lying and initiating a lengthy, formal process where he himself would be subjected to scrutiny.

By contrast, SUBJECT OFFICER’S conduct during both the OPC and MPD investigations reflect a considerable lack of candor. The OPC Investigator who interviewed SUBJECT OFFICER on March 10, 2011, described her as “not cooperative,” “argumentative,” “rude” and “defensive,” and noted that SUBJECT OFFICER attempted to “disrupt” the process. Similarly, SUBJECT OFFICER disobeyed two directives from her superior officer relating to her preparation of a written statement for the MPD investigation. This is not the attitude and behavior of someone willing to be completely transparent and forthcoming about what occurred during her encounter with COMPLAINANT.

Also, quite telling is that during her OPC interview, SUBJECT OFFICER denied ever threatening to issue COMPLAINANT a citation and insisted that she does not make threats. But when she was asked whether she “advis[ed] him that he could be issued a ticket,” SUBJECT OFFICER did not answer the question and instead replied, “I never say anything stupid.” Moreover, she later acknowledged that she told COMPLAINANT that the next time she would give him a ticket, an obvious threat and thus, a material inconsistency. Her calculated and disingenuous parsing as to what entails a “threat,” damages her trustworthiness. Weighing the credibility of COMPLAINANT against that of SUBJECT OFFICER, this Complaint Examiner

finds that any differences in their factual accounts of the incident should be resolved in favor of COMPLAINANT.<sup>2</sup>

But the analysis does not end here. This Complaint Examiner must next, having credited COMPLAINANT'S version of what occurred on November 4, 2009, determine whether the conduct of SUBJECT OFFICER rises to the level of harassment. The merits of COMPLAINANT'S harassment claim can be distilled down to one essential question: Has COMPLAINANT demonstrated, by a preponderance of the evidence, that SUBJECT OFFICER'S actions of preventing COMPLAINANT from walking his dog, directing him to get off the school grounds and move on, and then threatening to give him a ticket was performed "purposefully, knowingly, or recklessly in violation of the law, or internal guidelines of the MPD?" MPD General Order 120.25, Part III, Section B, No. 2; D.C. Mun. Regs., title 6A, §§ 2118.5(a), 2199.1.

COMPLAINANT claims that there was no valid law enforcement rationale for SUBJECT OFFICER'S conduct. According to COMPLAINANT, at the time of the incident he was not violating any policies imposed by the school or engaging in any sort of unlawful activity. SUBJECT OFFICER counters by asserting that she had a lawful basis for initiating the contact with COMPLAINANT—namely, that she observed COMPLAINANT curbing his dog (i.e., allowing your dog to go to the bathroom) on District of Columbia's government property, there were signs posted on the property stating "No Dogs," and that the school itself had rules prohibiting dogs from being on the property.

a. Evidence of Signs

COMPLAINANT argues that on November 4, 2009, there were no signs posted on or about the school property indicating that COMPLAINANT was prohibited from walking his dog on school grounds. He states that he had never seen any "no trespassing" signs, "no dogs" signs or signs indicating that the school grounds were public property. To further support his contention, COMPLAINANT relies on the fact that OPC conducted a canvass of the school property on April 5, 2011, and saw no signs posted on the grounds that stated "No Trespassing" or "No Dogs" or anything to that effect. However, as SUBJECT OFFICER correctly points out, the canvass was performed 17 months after the events in question and thus, has minimal probative value.

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<sup>2</sup> SUBJECT OFFICER argues that this case presents the classic "he said, she said" scenario that automatically warrants live testimony from both SUBJECT OFFICER and COMPLAINANT in order to determine who is more credible. This Complaint Examiner rejects SUBJECT OFFICER'S argument. There is simply no authority mandating hearing testimony from an officer and the complainant if they are the sole witnesses to an incident. If there already exists sufficient evidence to make a credibility determination, as is the case here where both have submitted multiple and detailed written statements, reliance on the existing testimonial and documentary record is appropriate.

SUBJECT OFFICER responds with her own affirmative evidence on the issue. In her Statement of Objections, she proffered three photographs of signs posted on the boundaries Cardozo Senior High School that read: “NO DOGS. NO DOGS ALLOWED ON SCHOOL GROUNDS BETWEEN 6 A.M. AND 8 P.M. MON. THRU SAT. (D.C. CODE 8-1808) DOGS MUST BE LEASHED AND UNDER THE CONTROL OF OWNER AT ALL TIMES. OWNER MUST CURB DOGS. FAILURE TO COMPLY MAY RESULT IN FINES UP TO \$250.00. (D.C. CODE 1-303.05) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.” But SUBJECT OFFICER’S photographic evidence has the same infirmity as the OPC canvass—the photos, taken on December 10, 2012, confirm that signs were up on that particular day, but do nothing to answer the question as to whether they were up on November 4, 2009.

COMPLAINANT notes that in his April 5, 2011, statement to OPC, WITNESS #1, an Assistant Principal at Cardozo Senior High School at the time of the incident, testified that “[W]e have no signs regarding dogs posted on the property. There are also no ‘No Trespassing’ signs.” But this statement was directly contradicted by WITNESS #1’s own testimony at the May 1, 2013, hearing. There, he backtracked from his original position and acknowledged that because of his operational responsibilities, he was inside of the building for most of a typical school day and therefore didn’t have unequivocal, first-hand knowledge whether or not such signs were posted on school grounds at the time of the incident, or even when he provided his written statement (12:16-22; 14:19-15:7; 15:16-16:6; 25:4-25:14; 31:1-32:5; 47:5-48:12; 53:8-54:7; 71:10-72:1; 73:18-74:9).<sup>3</sup> WITNESS #1 also stated that he was aware that signs were continually being put up and taken down around the school grounds, making it difficult for him to accurately pinpoint if “No Dogs” or “No Trespassing” signs were posted on November 4, 2009 (26:10-27:13; 41:2-9; 49:2-17). Although hearsay, he added that the long-time Dean of Students at Cardozo Senior High School had told him on several occasions both before and after the incident that “No Trespassing” and “No Dogs” signs were in fact present on school grounds (24:5-25:3; 73:18-74:9; 83:16-86:4). WITNESS #1’S inconsistent statements provide COMPLAINANT with no evidentiary support.

Finally, COMPLAINANT attempts to substantiate his claim by relying on a Google Maps photograph of the corner of 11th Street and Florida Avenue, N.W. with an “Image Date” of July 2009. The photograph, unlike SUBJECT OFFICER’S later photograph of the same corner of the school grounds, does not show any signs posted. Although this photograph of one isolated area of the school provides some objective corroboration of COMPLAINANT’S claim because of its closeness in time to the date of the encounter, it is far from compelling. Without more, this photograph is simply an insufficient basis for proving that no signs existed on the Cardozo Senior High School grounds prohibiting COMPLAINANT’S actions on November 4, 2009.

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<sup>3</sup> Citations designated by “(\_\_: \_\_)” reference the page number and line number, respectively, of the May 1, 2013 hearing transcript.

On the issue of signs, both sides have presented a swirl of conflicting and barely relevant evidence to support their positions. In such a situation, what controls is who has the burden of proof. Based on the evidence, it is quite possible, at least in the view of this Complaint Examiner, that signs were posted on school grounds on November 4, 2009, forbidding COMPLAINANT and others from walking or curbing his dog on the school grounds. In fact, WITNESS #1 in his hearing testimony recalls that he spoke to SUBJECT OFFICER at some point before he provided his April 5, 2011, written statement and she mentioned the presence of such a sign on school grounds (56:5-16; 77:7-17; 78:6-78:11). Thus, COMPLAINANT has not satisfied his burden of demonstrating that no signs were posted barring dog walking on school property.

b. School Rules

COMPLAINANT also contends that there were no school rules in place on November 4, 2009, prohibiting him from walking his dog on the property of Cardozo Senior High School. He was not aware of any rules, and he had never been stopped from walking his dog on the grounds.

It is true that WITNESS #1, in his April 5, 2011, written statement, expressed that “I do not know if there are any specific rules against dogs on the property, but as far as I can recall, there is no set rule.” Besides the fact that this statement is ambivalent, at best, COMPLAINANT’S position is undermined to some degree by WITNESS #1’S subsequent hearing testimony.

At the hearing, WITNESS #1 outlined that since he arrived at the school in 2008, it has always had an “unofficial” and unwritten policy regarding dogs on school grounds (22:19-24:4 34:10-35:4; 51:7-14; 52:3-7; 58:7-60:14; 83:6-15). More specifically, WITNESS #1 explained that the school generally did not welcome the presence of dogs because of the “safety” issues involved with dog owners leaving feces on the school grounds and the risk associated with dogs being startled by children (14:19-15:12; 15:20-16:12; 17:5-18:16; 21:16-22:18; 30:3-32:5; 59:19-60:6; 74:13-75:2; 75:3-76:13; 86:5-87:3). Nevertheless, stated WITNESS #1, the school “tolerated” dog walking in order to maintain good relations with the community (17:5-15; 31:13-21; 32:6-17; 33:13-34:6). But in the end, stated WITNESS #1, he did not believe that any school official had ever expressly and “officially” permitted people to walk their dogs on the property (51:7-52:-2).

WITNESS #1 did state at the hearing, however, that to his knowledge, these “informal” rules had not been formally communicated to the public or the MPD (87:4-88:1). In addition, during SUBJECT OFFICER’S conversation with WITNESS #1 sometime after the incident, she inquired about the school’s policy of dogs on its property (35:10-36:22; 37:17-39:3; 54:14-56:4; 77:3-78:11). COMPLAINANT contends that this evidence tends to show that SUBJECT OFFICER’S reliance on school rules is a mere after-the-fact justification for her misconduct.

But this Compliant Examiner finds, instead, that SUBJECT OFFICER may have been made aware of the school’s concerns regarding dogs through discussions that school officials had



with MPD officers prior to November 4, 2009, and ordered COMPLAINANT to leave the premises based on what she knew or reasonably believed. For example, WITNESS #1 testified at the hearing that school officials had frequent face-to-face discussions with MPD officers, and that everyone should know that on school grounds there is “no trespassing” and that with “children and pets . . . anything can happen” (27:4-13; 32:18-33:12; 35:10-36:22; 37:20-38:15; 59:14-60:14; 79:11-20). COMPLAINANT, as he must, has not rebutted a reasonable inference from the evidence that SUBJECT OFFICER was indeed enforcing school policy (albeit an informal one).

c. Summary

COMPLAINANT has failed to demonstrate, by a preponderance of the evidence, that SUBJECT OFFICER harassed COMPLAINANT in violation of D.C. Official Code § 5-1107(a) and MPD General Order 120.25. The record as to this issue is riddled with inconsistent testimony, still unanswered questions of material fact, and significant ambiguities. There are simply insufficient facts to show that SUBJECT OFFICER’S activities during the first stage of the encounter were undertaken “purposefully, knowingly, or recklessly in violation of the law, or internal guidelines of the MPD.”<sup>4</sup>

### **Language or Conduct**

According to MPD General Order 201.26, Part I, Section C, “All members of the department shall be courteous and orderly in their dealings with the public. They shall perform their duties quietly, remaining calm regardless of provocation to do otherwise . . . . Members shall refrain from harsh, violent, course, profane, sarcastic, or insolent language. Members shall not use terms or resort to name calling which might be interpreted as derogatory, disrespectful, or offensive to the dignity of any person.”

For the reasons discussed above, see supra at pp. 5-6, this Complaint Examiner concludes that COMPLAINANT is a more credible witness than SUBJECT OFFICER. Thus, it is COMPLAINANT’S factual account, when in conflict with SUBJECT OFFICER’S version of the events, that will be credited and adopted here.

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<sup>4</sup> SUBJECT OFFICER maintains that on November 4, 2009, COMPLAINANT was in violation of D.C. Code § 8-8108(e), providing yet another legal justification for her conduct. This provision, known as the “leash law,” states: “No dog shall be permitted on any school ground when school is in session or on any public recreation area, other than a dog park, unless the dog is leashed.”

A significant portion of the testimony at the hearing focused on this claim, and specifically when, during the day, Cardozo Senior High School was “in session.” However, given that this Complaint Examiner has already concluded, on other grounds, that there are insufficient facts to demonstrate that SUBJECT OFFICER harassed COMPLAINANT, resolving the merits of this argument is unnecessary.

COMPLAINANT takes issue with a number of the alleged actions of SUBJECT OFFICER. First, COMPLAINANT believes that SUBJECT OFFICER acted unprofessionally when SUBJECT OFFICER “yelled” at him several times from across the street that he was on private property and that she would give him a ticket.

This Complaint Examiner does not find that SUBJECT OFFICER’S words and actions during this stage of the incident constitute police misconduct. Apparently, there was a normal flow of traffic on the street, so it makes perfect sense that both SUBJECT OFFICER and COMPLAINANT needed to speak loudly in order to be heard. In addition, although the manner in which they were delivered was not ideal, SUBJECT OFFICER’S warnings to COMPLAINANT did reflect her reasonable belief (whether wrong or not) that COMPLAINANT was violating the law or school rules by walking his dog on the school grounds.

However, the second, and more problematic issue arose after SUBJECT OFFICER made a U-turn at the corner of 11th and Clifton Streets and again engaged COMPLAINANT. SUBJECT OFFICER was “nasty” to COMPLAINANT and spoke to him in “raised” tone of voice despite the fact that they were conversing face-to-face. As the dispute between SUBJECT OFFICER and COMPLAINANT continued, she shook her finger at him when she told him on two occasions, “I don’t see them. I see you,” and later called him “rude.” This Complaint Examiner finds that SUBJECT OFFICER used language and conduct towards COMPLAINANT during this second stage of the incident that was insulting, humiliating, or demeaning in a violation of D.C. Official Code § 5-1107(a) and MPD General Order 201.26.

SUBJECT OFFICER denies these accusations. According to SUBJECT OFFICER, she remained professional during the entire incident and was only “advising” him of the reason for her contact. She also claims that she never shook her finger at COMPLAINANT, but that instead he either misconstrued her actions because she speaks with her hands or she may have been pointing in the direction of where the COMPLAINANT was walking his dog. Further, SUBJECT OFFICER states that she didn’t say that COMPLAINANT was “rude,” only that what he was saying was “rude.” These explanations and rationalizations are simply too crafty and too clever to be believable and thus, do not dictate a different result.

In essence, SUBJECT OFFICER made a bad decision by turning back to confront COMPLAINANT and then made it worse by failing to keep her composure and ultimately losing control. Even if COMPLAINANT was, as SUBJECT OFFICER describes, “agitated” and “offended” during their exchange, it was incumbent upon SUBJECT OFFICER to remain poised and resist the temptation to argue with COMPLAINANT. But she did not and hence, the finding of misconduct.

**V. SUMMARY OF MERITS DETERMINATION**

SUBJECT OFFICER

<b>Allegation 1: Harassment</b>	<b>Insufficient Facts</b>
<b>Allegation 2: Insulting, Demeaning or Humiliating Language or Conduct</b>	<b>Sustained</b>

Submitted on May 8, 2013.

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Stephen D. Kong  
Complaint Examiner