

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

FINDINGS OF FACT AND MERITS DETERMINATION

Complaint No.:	14-0122
Complainant:	COMPLAINANT
Subject Officer(s), Badge No., District:	SUBJECT OFFICER
Allegation:	Insulting, Demeaning, or Humiliating Language or Conduct
Complaint Examiner:	Richard S. Ugelow
Merits Determination Date:	June 2, 2015

Pursuant to D.C. Official Code § 5-1107(a), the Office of Police Complaints (OPC) 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

On the evening of January 23, 2014, the SUBJECT OFFICER and other police officers responded to a police dispatch report at a single-family home in Washington, DC, which is owned by COMPLAINANT. COMPLAINANT does not reside at this location, but rents it to others. He happened to be on site when the MPD police officers responded to the call. During a search of the house, SUBJECT OFFICER observed what he believed to be numerous safety violations. After the premises were secured, SUBJECT OFFICER had a conversation with COMPLAINANT about the conditions he observed. During this conversation, SUBJECT OFFICER admits that he called COMPLAINANT a “slumlord.” OPC determined that there was reasonable cause to believe SUBJECT OFFICER violated DC Code § 5-1107(a) and MPD General Order 201.26 (effective April 5, 2011) because he used language that was insulting, demeaning or humiliating.¹

¹ COMPLAINANT also alleged that SUBJECT OFFICER and other MPD officers harassed him and used unnecessary or excessive force against him when they unlawfully entered his rental property with their guns drawn, but not pointed at any person. Pursuant to D.C. Code § 5-1108 (1) on March 24, 2015, a member of the Police Complaints Board dismissed these allegations, concurring with the determination made by OPC’s executive director.

II. EVIDENTIARY HEARING

No evidentiary hearing was conducted regarding this complaint because, based on a review of OPC's Report of Investigation, the objections submitted by the Fraternal Order of Police on behalf of SUBJECT OFFICER on April 23, 2015, and OPC's response to the objections, dated May 7, 2015, the Complaint Examiner determined that the Report of Investigation presented no genuine issues of material fact in dispute that required a hearing. *See* D.C. Mun. Regs. tit. 6A, § 2116.3.

III. FINDINGS OF FACT

Based on a review of OPC's Report of Investigation, the objections submitted by the Fraternal Order of Police on April 23, 2015 on behalf of SUBJECT OFFICER, and the OPC's response to the objections, dated May 7, 2015, the Complaint Examiner finds the material facts regarding this complaint to be:

1. On February 10, 2014, COMPLAINANT filed a complaint with the Office of Police Complaints regarding an incident that occurred on January 23, 2014 at a single-family home he owned in Northwest Washington.
2. At approximately 7:30 pm on January 23, 2014, SUBJECT OFFICER and other police officers responded to a police dispatch call at the house in Northwest Washington.
3. While the exact nature of the dispatch call is unclear, there is no doubt that the call was serious in that it may have involved the use of a gun or knife and warranted an immediate response and entry into and search of the premises.
4. The house in question here is owned by COMPLAINANT, but rented to others.
5. COMPLAINANT does not reside at the home in Northwest Washington.
6. COMPLAINANT and other occupants (presumably tenants) were present when the police officers arrived at the house in Northwest Washington.
7. COMPLAINANT stated that he was present to correct housing deficiencies identified by the Department of Consumer and Regulatory Affairs (DCRA).
8. COMPLAINANT objected to and was upset by the search of the premises by SUBJECT OFFICER and the other police officers.
9. The police officers patted down all of the occupants and conducted a search of the premises, but did not find any threat.

10. During the search of the house, SUBJECT OFFICER encountered individuals and several families living in the house, whom he believed to living there in violation of DCRA regulations.
11. SUBJECT OFFICER identified what he believed to be serious safety violations including: a lack of heat, use of extension cords to power space heaters, a lack of exit signs, and too many occupants.
12. According to DC Police Union Exhibit 6, SUBJECT OFFICER is certified by DCRA and authorized to enforce housing code violations.
13. SUBJECT OFFICER reported the housing violations to DCRA. (DC Police Union Exhibit 5).
14. SUBJECT OFFICER discussed his observations about the state of the premises with COMPLAINANT.
15. SUBJECT OFFICER was interviewed by OPC on January 22, 2015.
16. In the written statement, prepared by the OPC investigator, SUBJECT OFFICER stated that he referred to COMPLAINANT as a “slumlord.”

IV. DISCUSSION

Pursuant to D.C. 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; (2) use of unnecessary or excessive force; (3) use of language or conduct that is insulting, demeaning, or humiliating; (4) discriminatory treatment based upon a person's race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, physical handicap, matriculation, political affiliation, source of income, or place of residence or business; (5) retaliation against a person for filing a complaint pursuant to [the Act]; or (6) failure to wear or display required identification or to identify oneself by name and badge number when requested to do so by a member of the public.”

MPD General Order 201.26, Part V, Section C states: “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.”

COMPLAINANT admittedly was upset when 10-15 MPD police officers, including SUBJECT OFFICER, entered his house on January 23, 2014. He questioned their authority to search the premises without his permission and not being allowed to accompany the officers.

During the search SUBJECT OFFICER discovered what he believed to be an excessive number of individuals and families living in various parts of the house. In addition, SUBJECT OFFICER observed what he considered to be serious housing code violations, including a lack of heat, the use of extension cords, a lack of exit signs and fire extinguishers. SUBJECT OFFICER reported these and other violations to the DCRA and the Fire Marshall.

SUBJECT OFFICER discussed these and his other observations with COMPLAINANT. In addition to the safety violations, SUBJECT OFFICER gave COMPLAINANT gratuitous advice about the economics of rental housing and maintenance costs. During this conversation, SUBJECT OFFICER admittedly called COMPLAINANT a “slumlord,” although he did not intend the term to be demeaning or insulting.

Certainly, an individual who is called a slumlord by a police officer rightfully would be offended, insulted, or humiliated. The Complaint Examiner finds that when SUBJECT OFFICER described COMPLAINANT as a “slumlord” it was insulting, disrespectful, humiliating, derogatory, disrespectful, and/or offensive to his dignity.

For these reasons, the Complaint Examiner finds that SUBJECT OFFICER violated D.C. Code § 5-1107(a) and General Order 201.26, Part V, Section C when he called COMPLAINANT a “slumlord.”

V. SUMMARY OF MERITS DETERMINATION

SUBJECT OFFICER

Allegation 1: Language or Conduct	Sustained
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Submitted on June 2, 2015.

Richard S. Ugelow
Complaint Examiner