

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

**FINDINGS OF FACT AND MERITS DETERMINATION**

<b>Complaint No.:</b>	15-0179
<b>Complainant:</b>	COMPLAINANT
<b>Subject Officer(s), Badge No., District:</b>	SUBJECT OFFICER
<b>Allegation 1:</b>	Harassment
<b>Complaint Examiner:</b>	Ricardy Damille
<b>Merits Determination Date:</b>	December 7, 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**

COMPLAINANT, filed a complaint with the Office of Police Complaints (OPC) on March 20, 2015. COMPLAINANT alleged that on March 14, 2015, SUBJECT OFFICER, harassed her by intimidating her in an attempt to prevent her from filing an OPC complaint against him.<sup>1</sup>

**II. EVIDENTIARY HEARING**

No evidentiary hearing was conducted regarding this complaint because, based on a review of OPC's Report of Investigation,<sup>2</sup> 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.

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<sup>1</sup> COMPLAINANT also alleged that SUBJECT OFFICER used language or engaged in conduct toward her that was insulting, demeaning or humiliating when he "yelled" at her, refused to let her talk or listen to her side of the story, was sarcastic toward her, scowled at her, and refused to shake her hand. Pursuant to D.C. Code § 5-1108 (1), on September 13, 2015, a member of the Police Complaints Board dismissed these allegations, concurring with the determination made by OPC's executive director.

<sup>2</sup> SUBJECT OFFICER submitted no objections in this matter.

### **III. FINDINGS OF FACT**

Based on a review of OPC's Report of Investigation, the Complaint Examiner finds the material facts regarding this complaint to be:

1. On March 14, 2015, while driving out of the PARKING LOT OF A GROCERY STORE IN NORTHEAST, D.C., COMPLAINANT was stopped by SUBJECT OFFICER for exiting in the wrong direction.
2. During their interaction, SUBJECT OFFICER accused COMPLAINANT of hitting him with her vehicle to which COMPLAINANT denied.
3. COMPLAINANT requested SUBJECT OFFICER'S badge number and informed SUBJECT OFFICER that she wanted to file a complaint. In response, SUBJECT OFFICER told COMPLAINANT that if she filed a complaint, SUBJECT OFFICER would be asked why he did not arrest COMPLAINANT for assault after she hit him with his vehicle.

### **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." Such allegations may include among other things, harassment.

#### ***Harassment***

Harassment is defined in MPD General Order 120.25, Part III, Section B, No. 2 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: (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 "[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 (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 training of the MPD ... the frequency of the alleged conduct, its severity, and whether it is physically threatening or humiliating." D.C. Mun. Regs. tit. 6A, § 2199.1.

The evidence of record supports a finding that the subject officer violated D.C. Code § 5-1107(a) and MPD General Order 120.25 when he attempted to prevent COMPLAINANT from filing an OPC complaint against him. COMPLAINANT alleged that SUBJECT OFFICER harassed her through means of intimidation. In COMPLAINANT'S statement, she indicates "I felt as though SUBJECT OFFICER was trying to intimidate me and discourage me from filing a complaint because he could say that I had assaulted him" (Exhibit 3). SUBJECT OFFICER in his prepared statement admits that he told COMPLAINANT that his supervisors would ask him why he did not arrest COMPLAINANT for assault after she hit him with her car. However, SUBJECT OFFICER states that he was not trying to discourage COMPLAINANT from filing a complaint or to intimidate her, rather he was only trying to explain to COMPLAINANT how other people could have viewed the situation (Exhibit 4). Even assuming that SUBJECT OFFICER'S intention was to present COMPLAINANT with a different perspective, his statement to COMPLAINANT was in response to her voicing her intent that she wanted to file a complaint. Additionally, SUBJECT OFFICER'S statement clearly conveyed to COMPLAINANT her alleged culpability in the situation, that she committed an arrestable offense and that there would be a renewed focus on her actions if she filed a complaint. Thus, it is reasonable to conclude at a minimum that the purpose of SUBJECT OFFICER'S statement was to prevent COMPLAINANT from filing a complaint.

**V. SUMMARY OF MERITS DETERMINATION**

SUBJECT OFFICER

<b>Allegation 1: Harassment</b>	Sustained
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Submitted on December 7, 2015.

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Ricardy Damille  
Complaint Examiner