

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

FINDINGS OF FACT AND MERITS DETERMINATION

Complaint No.:	18-0221
Complainant:	COMPLAINANT
Subject Officer(s), Badge No., District:	SUBJECT OFFICER
Allegation 1:	Failure to Identify
Complaint Examiner:	Meaghan Hannan Davant
Merits Determination Date:	May 29, 2018

Pursuant to D.C. Official Code § 5-1107(b-1), the Office of Police Complaints (OPC) has the sole 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 § 5-1107(a). 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

The complainant filed a complaint with the OPC on January 8, 2018. COMPLAINANT alleged that, on December 28, 2017, the subject officer, Metropolitan Police Department (MPD) SUBJECT OFFICER failed to provide his name and badge number, when requested to do so.¹

II. EVIDENTIARY HEARING

No evidentiary hearing was conducted regarding this complaint because, based on a review of OPC's Report of Investigation, 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 Complaint Examiner finds the material facts regarding this complaint to be:

¹ COMPLAINANT also alleged that SUBJECT OFFICER harassed her and her family by knocking on the door of their home at 4:00 a.m. Pursuant to D.C. Code § 5-1108(1), on March 30, 2018, a member of the Police Complaints Board dismissed this allegation, concurring with the decision made by the OPC's Executive Director.

1. On December 28, 2017 between the hours of approximately 2:00 a.m. and 4:00 a.m., SUBJECT OFFICER was on duty, investigating the scene of a car accident in the vicinity of COMPLAINANT's home, located IN SE, WASHINGTON, DC.
2. At approximately 4:00 a.m., COMPLAINANT was awoken by the sound of loud knocking at her front door, which she described as "feverishly violent" and "continuous." The noise awakened not only COMPLAINANT, but also her grandchildren.
3. COMPLAINANT went to her front door and, without opening the door, observed a man standing on her front porch. COMPLAINANT attempted to address the man, shouting "hello?" through the front door.
4. The man on the porch, later identified as SUBJECT OFFICER, responded from the other side of the door, "is the house next door vacant or occupied?"
5. COMPLAINANT asked the man, whom she now believed might be an MPD police officer, to identify himself by name, give her his badge number, or slide one of his business cards through her mail slot.
6. SUBJECT OFFICER again asked whether or not the house next to COMPLAINANT's was occupied, to which COMPLAINANT responded to the effect that she did not know.
7. SUBJECT OFFICER then vacated COMPLAINANT's front porch, without ever responding to her request for his name, badge number or business card.
8. COMPLAINANT thereafter exited her house in her bathrobe, despite frigid winter temperatures, and approached SUBJECT OFFICER as he was sitting in his patrol car on the street behind her house. After circling the car several times and calling out "hello," SUBJECT OFFICER rolled down his window to speak with her.
9. COMPLAINANT asked SUBJECT OFFICER if there had been a police officer standing on her front porch, to which SUBJECT OFFICER responded "Yes." COMPLAINANT then again asked SUBJECT OFFICER for his name, badge number and/or identification. SUBJECT OFFICER refused to identify himself or provide the requested information.
10. COMPLAINANT telephoned the Watch Commander and spoke with WITNESS OFFICER 1. WITNESS OFFICER 1 assured COMPLAINANT that SUBJECT OFFICER 1 would provide his identification. However, when COMPLAINANT again asked SUBJECT OFFICER to provide his identification, he first asked her why she needed the information and then responded, "I don't have to give that to you."
11. As she walked away from the patrol car, COMPLAINANT made a note in her cell phone that the car was number REDACTED and heard SUBJECT OFFICER call out "have a nice day!" in what she perceived was a "very sarcastic tone."

12. COMPLAINANT returned to her home, called 9-1-1 and was again connected with WITNESS OFFICER 1. COMPLAINANT gave WITNESS OFFICER 1 the number of the patrol car, REDACTED, at which point he provided her with SUBJECT OFFICER's name.
13. Shortly thereafter, WITNESS OFFICER 1 called SUBJECT OFFICER, informing him of his previous conversation with COMPLAINANT and specifically noting that SUBJECT OFFICER was required to give his name and identification upon request. In an interview with OPC, WITNESS OFFICER 1 stated that SUBJECT OFFICER responded that he hadn't provided his name or identification to COMPLAINANT because he "did not know her agenda."
14. Even with this the clear directive from WITNESS OFFICER 1, SUBJECT OFFICER then asked another MPD officer on the scene, WITNESS OFFICER 2, whether or not he was truly required to provide his name and badge number upon request.
15. In a later interview, SUBJECT OFFICER stated that he was unsure of the General Order that required MPD officers to provide their name and identification on request.

IV. DISCUSSION

Pursuant to D.C. Code § 5-1107(a), (b-1), OPC has the sole authority 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 requires MPD officers to "give their first and last name and badge numbers in a respectful and polite manner" when requested to do so by a member of the public. MPD officers are also required to identify themselves by displaying their badge or identification folder before taking police action, "except when impractical, unfeasible, or where their identity is obvious."

In this case, COMPLAINANT was awakened in the middle of the night, along with her grandchildren, by a man knocking "violently" on her front door, a scenario that would reasonably make any person uneasy, if not terrified. After twice asking SUBJECT OFFICER to give his name or provide her with identification, he refused. COMPLAINANT was thereafter forced to exit her home in the cold of winter, wearing her bathrobe, to locate SUBJECT

OFFICER sitting in his patrol car on the street behind her house. Even then, SUBJECT OFFICER repeatedly refused to identify himself or provide his credentials, instead asking her why she needed it and erroneously telling her that he was not required to provide that information.

In his interview with the OPC, SUBJECT OFFICER provided no additional facts that would support any finding that it was “impractical or unfeasible” to provide his name or identification at the time, nor that his identity was “obvious.” In fact, COMPLAINANT stated that she was unsure as to whether the person knocking on her door in the middle of the night was a police officer.

That SUBJECT OFFICER claimed to be “unsure” about his duty to identify himself is irrelevant, as MPD officers are required to familiarize themselves with General Orders governing their conduct. Moreover, SUBJECT OFFICER’s statement that he did not know COMPLAINANT’s “agenda” at the time she asked for his name and identification suggests that he willfully withheld the information to protect himself from being held accountable for his previous actions.

Finally, General Order 201.26 requires that officers give their name and badge number on request in a “respectful and polite manner,” and further provides in Part V.C.3. that officers “[r]efrain from ...sarcastic or insolent language...which might be interpreted as derogatory, disrespectful, or offensive to the dignity of any person.” Here, SUBJECT OFFICER’s refusal to provide his name and identification is only compounded by the fact that he thereafter dismissed COMPLAINANT in a sarcastic manner, yelling at her to “have a nice day.”

Based on the totality of the circumstances, SUBJECT OFFICER failed to identify himself by name and badge number when requested to do so by a member of the public, without any exigent circumstances that might justify his conduct, and in a manner that was impolite and sarcastic, thereby violating § 5-1107(a) and MPD General Order 201.26.

V. SUMMARY OF MERITS DETERMINATION

SUBJECT OFFICER

Allegation 1: Failure to Identify	Sustained.
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Submitted on May 29, 2018.

Meaghan Hannan Davant
Complaint Examiner