

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

**FINDINGS OF FACT AND MERITS DETERMINATION**

<b>Complaint No.:</b>	18-0760
<b>Complainant:</b>	COMPLAINANT
<b>Subject Officer(s), Badge No., District:</b>	SUBJECT OFFICER #1 SUBJECT OFFICER #2 SUBJECT OFFICER #3
<b>Allegation 1:</b>	Harassment by preventing complainant from providing medical treatment to a patient in his care (SUBJECT OFFICER #2, SUBJECT OFFICER #3 and SUBJECT OFFICER #1)
<b>Allegation 2:</b>	Harassment by physical and verbal intimidation (SUBJECT OFFICER #3 and SUBJECT OFFICER #1)
<b>Allegation 3:</b>	Language or Conduct (SUBJECT OFFICER #2 and SUBJECT OFFICER #1)
<b>Complaint Examiner:</b>	Meaghan Hannan Davant
<b>Merits Determination Date:</b>	August 28, 2019

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**

Complainant filed a complaint with the Office of Police Complaints (OPC) on September 18, 2018, alleging that, on August 16, 2018, Metropolitan Police Department (MPD) Officers SUBJECT OFFICER #2, SUBJECT OFFICER #3 and SUBJECT OFFICER #1 harassed him by preventing him from providing medical treatment to a

patient in his care.<sup>1</sup> COMPLAINANT also alleged that SUBJECT OFFICER #3 and SUBJECT OFFICER #1 harassed him through verbal and physical intimidation. Finally, COMPLAINANT alleged that SUBJECT OFFICER #2 and SUBJECT OFFICER #1 used language or conduct toward the complainant that was insulting, demeaning, or humiliating when they used profanity towards him, and when SUBJECT OFFICER #1 shouted at complainant, leaned over him in a domineering manner and overall used an unprofessional tone and demeanor during the interaction.<sup>2</sup>

## **II. EVIDENTIARY HEARING**

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

1. On August 16, 2018, at approximately 8:55 pm, SUBJECT OFFICER #1 and SUBJECT OFFICER #2 were patrolling the area of AN INTERACTION IN NE, WASHINGTON, DC, on foot when they encountered WITNESS #1, who appeared to be intoxicated on an unknown substance.
2. The subject officers failed to initially activate their body worn cameras (BWC), but their report, later filed with MPD, stated that SUBJECT OFFICER #1 could see, in plain sight, a rubber tourniquet band lying next to WITNESS #1. SUBJECT OFFICER #2 asked WITNESS #1 if he had injected any heroin, to which he replied, "no." SUBJECT OFFICER #2 then asked WITNESS #1 if he had any illegal substances on him, to which

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<sup>1</sup> Complainant originally identified WITNESS OFFICER #1 as a subject officer. Based on the investigation, OPC determined that SUBJECT OFFICER #3 was the subject officer in question. WITNESS OFFICER #1 arrived later during the event and did not interact with the complainant.

<sup>2</sup> COMPLAINANT also alleged that SUBJECT OFFICER #3 harassed him by threatening, "You're going to turn it into something you don't want it to be." Pursuant to D.C. Code §5-1108 (I), on May 17, 2019, a member of the Police Complaints Board dismissed this allegation, concurring with the decision made by the OPC's Executive Director.

he answered “no.” SUBJECT OFFICER #2 asked WITNESS #1 if SUBJECT OFFICER #1 could search him, and WITNESS #1 allegedly responded, “yeah.”

3. In his search of WITNESS #1, SUBJECT OFFICER #1 discovered a syringe in WITNESS #1’s rear right pocket and a paper receipt containing brown powder in his right sock. The receipt later tested positive for an opiate-based substance.
4. Once his BWC was turned on, footage showed SUBJECT OFFICER #1 arguing with WITNESS #1 as to whether he was really suffering a medical emergency and needed an ambulance. Specifically, SUBJECT OFFICER #1 asked the patient if he “was lying when he previously said that “he needed an ambulance.” WITNESS replied, “no,” and that he “ha[d] too much in him.” SUBJECT OFFICER #1 then noted that WITNESS #1 had initially said he was fine when the police arrived, but only asked for an ambulance after he was put in handcuffs. “Is it because you don’t want to go to jail?” SUBJECT OFFICER #1 asked in a sarcastic tone. WITNESS #1 repeated that he “he ha[d] too much in him.”
5. On the BWC footage, WITNESS #1 also appeared to be falling asleep and SUBJECT OFFICER #1 directed him to “sit up,” several times. WITNESS #1 responded that he could not. SUBJECT OFFICER #1 asked WITNESS #1 why he could not sit up “now” when he said he was good enough to walk away before they put him in handcuffs. SUBJECT OFFICER #1 then instructed WITNESS #1 to sit down on the ground so that he could lean back against the curb.
6. SUBJECT OFFICER #1 asked SUBJECT OFFICER #2 if she had called for an ambulance and she confirmed that she had. SUBJECT OFFICER #1 stated, it was “strange that [WITNESS #1] suddenly felt bad after they put him in handcuffs,” and that he would “diagnose him with ‘incarcerosis.’” SUBJECT OFFICER #1 then informed WITNESS #1 that the ambulance had arrived, and that WITNESS #1 wouldn’t, “be able to lie to them.”
7. WITNESS #2, an emergency medical technician (EMT) for DC Fire and Emergency Services (DCFEMS) arrived on the scene, responding to the subject officers’ call for an ambulance and medical services to treat a potential overdose victim.
8. SUBJECT OFFICER #1 told WITNESS #2 that WITNESS #1 “took some heroin” and that, once the officers had placed him in handcuffs WITNESS #1 “decided he’s feeling sleepy.”

9. WITNESS #2 began to check WITNESS #1's vitals. COMPLAINANT and WITNESS #2's EMT partner, arrived on the scene and, seeing that WITNESS #1 was handcuffed, asked the subject officers, "is he under arrest?" Neither officer responded. COMPLAINANT then asked for WITNESS #1's name as WITNESS #2 continued to check the patients' vitals. COMPLAINANT told WITNESS #1, that they would have to "wake [him] up," and SUBJECT OFFICER #1 interrupted, telling WITNESS #1 not to fall asleep or they would have to use Narcan on him.
10. In COMPLAINANT's presence, as documented by BWC footage, SUBJECT OFFICER #1 repeatedly tried to convince WITNESS #1 that he was "fine" and did not need to go to the hospital. SUBJECT OFFICER #1 told WITNESS there was "nothing wrong with him," and that "falling asleep was not a reason to go to the hospital," despite having called the EMTs for a potential drug overdose.
11. The EMTs administered the first dose of Narcan to WITNESS. COMPLAINANT then asked WITNESS #1 if he had any medical problems and if he was ready to be transported to the hospital.
12. SUBJECT OFFICER #1 again interjected, arguing as to whether WITNESS #1 really needed to be taken to the hospital if his vitals were good. COMPLAINANT explained that WITNESS #1 could refuse to be taken to the hospital if he did not want to go. COMPLAINANT then asked WITNESS #1 if he wanted to go to the hospital, to which he responded, "yes, I do." WITNESS #1 further stated that his "chest and body [were] hurting." COMPLAINANT stated that they may need to give WITNESS #1 a second dose of Narcan.
13. SUBJECT OFFICER #2, who was observing the scene while on the phone with WITNESS OFFICER #2, asked COMPLAINANT if they could take the patient to A HOSPITAL IN WASHINGTON, DC, because WITNESS OFFICER #2 was already there, and could finish the paperwork for WITNESS #1's case. COMPLAINANT responded, "No. We'll try, but probably not."
14. SUBJECT OFFICER #2 then asked if the subject officers could take COMPLAINANT to A HOSPITAL IN WASHINGTON, DC, themselves. COMPLAINANT responded that, because WITNESS #1 said he wanted to go to the hospital, the EMTs were required to transport him there, and reiterated that they would try to take him to A HOSPITAL IN WASHINGTON, DC. During this exchange, SUBJECT OFFICER #3 arrived on the scene.

15. The BWC showed that WITNESS #1 appeared to be falling asleep again. COMPLAINAINT told WITNESS #1. "We're about to wake you up again buddy," and began administering a second dose of Narcan.
16. While COMPLAINAINT was attending to WITNESS #1, SUBJECT OFFICER #2 continued to speak with WITNESS OFFICER #2 on the phone. On the BWC footage, SUBJECT OFFICER #2 is heard and seen saying, "wow," in a disgusted voice, to which SUBJECT OFFICER #3 replied inaudibly. SUBJECT OFFICER #2 then stated, "I'm saying 'wow' at this asshole." SUBJECT OFFICER #3 motioned toward COMPLAINAINT, and SUBJECT OFFICER #2 confirmed, "At this ambulance guy."
17. COMPLAINAINT looked up from treating WITNESS #1 and asked SUBJECT OFFICER #2, "You said asshole?" She replied, "Yeah." COMPLAINAINT asked, "why?" and the two begin to argue inaudibly. SUBJECT OFFICER #1 then interjected, speaking in a harsh tone towards COMPLAINAINT, "Really? Hey if you're gonna be an asshole you can leave; we don't need you." COMPLAINAINT responded that they did "need an official on scene."
18. COMPLAINAINT then asked the officers "who is going," referring to the fact that two police officers were required to accompany the EMT transport to the hospital. SUBJECT OFFICER #1 responded that they "ha[d] someone coming," to which COMPLAINAINT stated that they couldn't wait any longer. SUBJECT OFFICER #1 responded, "That's a shame. He's going to have to wait." COMPLAINAINT reiterated that they could not wait any longer. SUBJECT OFFICER #1 again told complainant that he could leave, because the police didn't "need him" and that the EMT providers, didn't "do anything, anyway."
19. SUBJECT OFFICER #1 also told COMPLAINAINT that he would not allow him to take WITNESS #1 while the patient was still wearing the officer's handcuffs.
20. SUBJECT OFFICER #1 began to get aggressive with the EMTs, asking why they were not providing lifesaving procedures. COMPLAINAINT responded by stating that he had "been telling" the subject officers that they had already administered two doses of Narcan, that there was nothing more they could do on the scene, and that the patient needed to go to the hospital "that moment."

21. SUBJECT OFFICER #1 responded angrily that he was not preventing the EMTs from touching WITNESS #1 and they were free to perform CPR. COMPLAINAINT again explained that WITNESS #1 did not need CPR, but instead needed a hospital.
22. COMPLAINAINT and WITNESS #3 prepared a stretcher to transport the patient at which time SUBJECT OFFICER #1 asked if he could help the EMTs put WITNESS #1 on the stretcher. COMPLAINAINT asked the patient to sit up and then then told the subject officers that they could not transport him with his hands handcuffed behind his back. SUBJECT OFFICER #1 responded, "Now you're gonna tell me you can't transfer him in handcuffs?"
23. COMPLAINAINT explained that the handcuffs would need to go to the front of the patient's body so that the EMTs could perform CPR if WITNESS #1 went into cardiac arrest. SUBJECT OFFICER #1 reiterated that he would not take them off, and that COMPLAINAINT would need to speak with the WITNESS OFFICER #2, who was on his way.
24. COMPLAINAINT continued to prepare the stretcher to transport the patient and SUBJECT OFFICER #1 suddenly turned and moved into COMPLAINAINT's personal space, looming over him in a threatening manner, as if to prevent him from continuing his work.
25. In his interview with OPC, WITNESS #2 stated that he felt that SUBJECT OFFICER #1 got "too close," to COMPLAINAINT and that he felt the need to intervene, stepping between the two men. WITNESS #2 also described SUBJECT OFFICER #1 as having "a temper" and being "aggressive" in his interactions with COMPLAINAINT. WITNESS #2 cited concerns that SUBJECT OFFICER #1 was going to escalate the situation to violence.
26. WITNESS #4, who was participating in an MPD ride-along with SUBJECT OFFICER #2 and SUBJECT OFFICER #1, told OPC that SUBJECT OFFICER #1 stepped right up to COMPLAINAINT and was "very close," to him, causing WITNESS #2 to have to intervene. WITNESS #4 stated that she felt "frantic," and thought the situation escalated quickly. She worried the subject officers were going to utilize their weapons against the EMTs.
27. The BWC camera footage shows both SUBJECT OFFICER #1 and SUBJECT OFFICER #3 entering into COMPLAINAINT's personal space in an intimidating

manner. SUBJECT OFFICER #3 leaned over COMPLAINANT and butted him with his chest. In response, COMPLAINANT asked him to “back up.” SUBJECT OFFICER #3 stepped even closer as if to taunt him, and answered, “What do you mean, ‘back up off me?’” COMPLAINANT responded, “Just what I said.”

28. SUBJECT OFFICER #1 placed his hand in between SUBJECT OFFICER #3 and COMPLAINANT as if to deescalate, but then moved closer to COMPLAINANT and shouted aggressively in his face, “[The patient’s] life’s in danger, right? You just told us his life is in danger! Come on!” COMPLAINANT asked SUBJECT OFFICER #1 to “back up” and SUBJECT OFFICER #3 stepped toward COMPLAINANT again and threatened, “You need to chill, you doing too much.”
29. COMPLAINANT again attempted to explain to the subject officers that WITNESS #1 was complaining of chest pains, that they had already given him the maximum dose of Narcan, and that he needed to be immediately transported to a hospital immediately.
30. WITNESS OFFICER #2 arrived on the scene and COMPLAINANT again explained the situation. WITNESS OFFICER #2 instructed the officers to move the handcuffs from behind the patient’s back and to re-handcuff him, attaching each wrist to either side of the stretcher.
31. The officers complied and WITNESS #1 was placed in an ambulance and taken to the hospital, more than 20 minutes after COMPLAINANT first stated that the patient needed to be transported and more than 25 minutes after the EMTs had arrived on the scene.
32. In his interview with the OPC, COMPLAINANT stated that, after initially evaluating and treating the patient on the scene, he believed that WITNESS #1’s medical status had begun to deteriorate, and that he needed to be taken to a hospital immediately for further treatment.
33. WITNESS #2 concurred in his own interview, stating that the patient needed to go to the hospital because his medical status had become more serious, and that he felt the EMT team had been on the scene for “too long,” as in general they tried to limit their initial assessment and treatment to no more than 12 minutes. WITNESS #2 also told the OPC that he believed that the main obstacle to getting WITNESS #1 to the hospital in a timely

manner was that none of the officers on the scene wanted to accompany the ambulance to the hospital.

34. WITNESS #4 told OPC that she thought the officers did not want the patient to be transferred to the hospital even though he appeared to be “out of it.” WITNESS #4 further stated that she thought that the patient’s medical status declined during the course of the arrest and did not understand why the subject officers insisted on waiting for their sergeant instead of letting the EMTs take the patient to the hospital.
35. In his interview with OPC, SUBJECT OFFICER #1 stated that he thought the patient only exhibited signs of physical duress after he had been placed in handcuffs. SUBJECT OFFICER #1 repeated his claim that the patient suffered only from “incarcerosis,” a slang term he used to describe prisoners without any legitimate medical issue who hoped to put off their trip to jail by instead going to the hospital. SUBJECT OFFICER #1 acknowledged that it was possible that the patient’s medical status had changed during the course of the arrest, and that he does not have medical training that would qualify him to determine if an individual had “incarcerosis,” or if they actually needed to go to a hospital.
36. In their interviews with the OPC, SUBJECT OFFICER #2 and SUBJECT OFFICER #3 each admitted that they questioned the validity of COMPLAINANTS’s medical determination. The Officers also both admitted that they are not medical professionals, and not qualified to make a diagnosis, or determine whether a patient required further medical treatment.
37. SUBJECT OFFICER #1 also told OPC that he knew that MPD policy requires that a two-man police unit must follow the patient to the hospital. SUBJECT OFFICER #1 argued that neither he, nor his partner SUBJECT OFFICER #2, could follow the ambulance because they needed to handle the arrest, complete the paperwork, and process the prisoner’s property.

## **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.”

### **A. 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 ... mistreatment ... 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 ... 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.

#### ***1. SUBJECT OFFICER #2, SUBJECT OFFICER #3 and SUBJECT OFFICER #1 Harassed Complainant by Preventing Him From Providing Medical Treatment to a Patient in His Care.***

Complainant first alleged that subject officers SUBJECT OFFICER #2, SUBJECT OFFICER #3 and SUBJECT OFFICER #1 harassed him by preventing him from providing medical treatment to WITNESS #1, a patient in his and his partner's care. Here, the subject officers not only failed to provide WITNESS #1 with “timely medical care,” but played in active role in thwarting that care, putting the patient at extreme risk to his health and well-being.

When SUBJECT OFFICER #2 and SUBJECT OFFICER #1 arrived on the scene, they observed that WITNESS #1 appeared to be suffering from an overdose of some kind. As further evidence, the officers observed a rubber tourniquet laying at WITNESS #1's side, in plain sight. Despite their inclinations that WITNESS #1 might be under the influence of illegal drugs (and thereby lacking the mental acuity to give valid consent), SUBJECT OFFICER #2 nonetheless asked WITNESS #1 to allow SUBJECT OFFICER #1 to perform a bodily search and allegedly (because neither officer had properly turned on their body worn cameras as required) procured it. SUBJECT OFFICER #1's search produced a syringe, as well as a paper receipt that they suspected contained residue of illegal drugs, a suspicion that was later confirmed. Based on these findings, the officers requested an ambulance at the scene, as later confirmed by a conversation between SUBJECT OFFICER #2 and SUBJECT OFFICER #1 once their cameras were activated. The subject officers thereby initially complied with MPD Special Order 88.24, which states that:

members who suspect, observe, or have knowledge that an individual has swallowed drugs shall immediately ... request an ambulance to transport the individual to the nearest hospital. Members shall no longer transport these individuals to a hospital unless the member, in his/her best judgment, has reason to believe that there is an immediate life-threatening situation which requires immediate medical attention and the ... ambulance has been or will be delayed.

Once the officers' respective body worn cameras were turned on—prior to the ambulance arriving—it can also be seen that WITNESS #1 is acting in a manner that suggests he is under the influence of drugs - slurring his speech, slumping over as if he cannot stand, and repeatedly closing his eyes as if to fall asleep. Even witness WITNESS #4, who was participating in an MPD ride-along with SUBJECT OFFICER #2 and SUBJECT OFFICER #1, told OPC that WITNESS #1 appeared to be “out of it.” WITNESS #1 also admitted (despite previous denials) that he, “took too much,” and needed an ambulance, before emergency services arrived on the scene.

When the emergency medical technicians - COMPLAINANT and his partner WITNESS #2 – arrived on the scene, they immediately began taking WITNESS #1's vitals and observed that he appeared to be falling asleep or losing consciousness, which could lead to death depending on the drug the patient may have taken. Within minutes, the EMTs administered a first dose of Narcan, a drug used to counteract heroin and other opioids.

Despite initially recognizing, and responding to, the multiple signs that WITNESS #1 could be in a life-threatening situation, SUBJECT OFFICER #1 and SUBJECT OFFICER #2 persistently delayed the EMTs' attempts to transport him to the hospital in a timely manner. SUBJECT OFFICER #1 continued to insist that the patient was "lying," or suffering from "incarcerosis," to avoid being taken to jail. SUBJECT OFFICER #1 was unnecessarily confrontational with COMPLAINAINT, attempting to convince him that WITNESS #1 did not need to go to the hospital because his vitals were fine. COMPLAINAINT explained that WITNESS #1 could refuse to be taken to the hospital if he did not want to go. However, when asked, WITNESS #1 answered, "yes, I do," and further stated that his "chest and body [were] hurting."

Special Order 88.24 states that it applies "in particular to those individuals in police custody" and that the "Ambulance Service has agreed to transport individuals in our custody who have swallowed drugs, *even if these individuals refuse medical treatment.*" (emphasis added). Here, substantial evidence pointed to the fact that WITNESS #1 may have taken a potentially life-threatening drug and he specifically asked to be taken to a hospital. Moreover, the medical professionals called to the scene by the subject officers (who themselves later admitted that they lacked the medical training to diagnose or treat the patient) repeatedly told the officers that they had done all that they could do and that WITNESS #1 should be transferred immediately.

Even after the EMTs administered a *second* dose of Narcan (the legal limit), the subject officers continued their attempts to prevent the EMTs from transporting the patient to the hospital. As SUBJECT OFFICER #2, SUBJECT OFFICER #3 and SUBJECT OFFICER #1 each admitted in their subsequent interviews with OPC, they were aware that a police officer was required to accompany the EMTs when they transferred a patient to the hospital. Special Order 88.24 requires that any person that has "been arrested shall be accompanied by a member of our department in the patient compartment of the ambulance unit." MPD General Order 502.07 further states that members "are to provide prisoners who have reported an illness with timely medical care to ensure safety and well-being," that if an ambulance arrives on the scene and must depart immediately, an official shall assign an MPD officer to ride in the ambulance. Finally, the general order states that transportation of a prisoner to a hospital shall be conducted by two members, unless exigent circumstances exist, in which case the watch commander can approve changes.

When SUBJECT OFFICER #2 and SUBJECT OFFICER #1 were alone on the scene with the EMTs, they refused to accompany WITNESS #1 to the hospital, claiming that they instead needed to process the paperwork incident to the arrest. In her interview with OPC,

SUBJECT OFFICER #2 cited to the “lively standard,” which requires officers to process paperwork incident to an arrest within 4 hours. However, it is unclear why *one* of the two officers could not have accompanied the hospital transfer while the other completed the paperwork. Even after SUBJECT OFFICER #3 arrived on the scene, the officers singularly refused to leave to accompany the transport.

SUBJECT OFFICER #1 also refused to allow the patient to be transferred on the basis that WITNESS #1 was still wearing the officer’s handcuffs; which SUBJECT OFFICER #1 refused to remove, or even reposition to allow WITNESS #1 to be placed on a stretcher. SUBJECT OFFICER #1 later told the OPC that this was a “safety measure,” in case WITNESS #1 were to become violent. However, it is clear from the BWC footage of the incident that WITNESS #1 was never aggressive or threatening in any way. In fact, it appears—and witnesses concur—that he was “out of it,” unable to stand, and practically unconscious after two doses of Narcan. Further, when COMPLAINANT clarified that the handcuffs did not need to be removed entirely, but merely repositioned to the patient’s front, in case the patient entered cardiac arrest and the EMTs needed to perform CPR—the subject officers continued to refuse their reasonable requests. The subject officers reasoned that they had responded to numerous similar calls and that “protocol” prevented them from removing the handcuffs. Yet, when WITNESS OFFICER #2 finally arrived on the scene, he immediately recognized COMPLAINANT’s request as reasonable and ordered the officers to reposition the handcuffs in the front, belying any argument that to do so was unreasonable, or against protocol. The subject officers readily complied.

Based on the totality of the circumstances, subject officers SUBJECT OFFICER #2, SUBJECT OFFICER #3 and SUBJECT OFFICER #1 prevented complainant from providing medical treatment to a patient in his care, despite the patient’s demonstrated need, and in direct violation of their own obligations of care, and thereby harassed the complainant in violation of D.C. Code§ 5-1107(a) and MPD General Order 120.25.

***2. SUBJECT OFFICER #3 and SUBJECT OFFICER #1 Harassed Complainant through Physical and Verbal Intimidation.***

When COMPLAINANT attempted to prepare the stretcher to transport WITNESS #1 to the hospital, both SUBJECT OFFICER #2 and SUBJECT OFFICER #1 became physically and verbally aggressive, moving into COMPLAINANT’s personal space as if to prevent him from carrying out his duties. According to complainant, and WITNESS #2 and WITNESS #4—and based on a review of the BWC footage of the incident—SUBJECT OFFICER #3 leaned over

COMPLAINANT and butted him with his chest. In response, COMPLAINANT asked him to “back up,” to which SUBJECT OFFICER #3 responded by stepping closer and aggressively asking, “What do you mean, ‘back up off me?’”

SUBJECT OFFICER #1 placed his hand in between SUBJECT OFFICER #3 and COMPLAINANT as if to stop their argument, only to then move closer to COMPLAINANT, and shouting aggressively in his face, “[The patient’s] life’s in danger, right? You just told us his life is in danger! Come on!”

In his interview with OPC, COMPLAINANT stated that he felt “intimidated” and “threatened” by the officers’ conduct. His partner, WITNESS #2 stated that SUBJECT OFFICER #1 had a temper and was “aggressive” in his interactions with the EMTs. WITNESS #4 stated that the interactions made her feel “frantic,” and that the quickly escalating situation made her fear that the officers might use their weapons against the EMTs.

As above, MPD General Order 120.25, Part III, Section B, No. 2 defines 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: (a) subject the person to ... mistreatment.” The regulations governing OPC further state that, in determining whether conduct constitutes harassment, [OPC] will look to the totality of the circumstances ... including, where appropriate, whether the officer adhered to applicable orders, policies, procedures, practices, and ... whether it is physically threatening or humiliating.” D.C. Mun. Regs. tit. 6A, § 2199.1.

Based on the totality of the circumstances, subject officer SUBJECT OFFICER #3 and SUBJECT OFFICER #1’s verbal and physical contacts with COMPLAINANT were unreasonably aggressive, reasonably causing COMPLAINANT to feel intimidated, and thereby harassed the complainant in violation of D.C. Code§ 5-1107(a) and MPD General Order 120.25.

### **B. Insulting, Demeaning, or Humiliating Language or Conduct**

According to MPD General Order 201.26, Part V, 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, coarse, 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 alleged that SUBJECT OFFICER #2 and SUBJECT OFFICER #1 used language that was insulting, demeaning and/ or humiliating towards him.

It is clear, from a review of the BWC footage of the incident, that SUBJECT OFFICER #2 openly and brazenly referred to COMPLAINANT as an “asshole,” for refusing to comply with her request to direct the ambulance on the scene to A HOSPITAL IN WASHINGTON, DC, where WITNESS OFFICER #2 was already located on other business, instead of the nearest hospital. Although COMPLAINANT stated that he would “try,” to fulfill her request, SUBJECT OFFICER #2 responded with outright disgust. When COMPLAINANT questioned SUBJECT OFFICER #2, as to whether he had correctly heard her using profanity against him—perhaps giving her an opportunity to regain composure—she defiantly repeated, “Yeah,” and again called him an “asshole.” Moreover, SUBJECT OFFICER #2’s request to redirect the ambulance was in direct violation of MPD regulations, as above, which require ambulances to be routed to the “nearest hospital,” and not that of the officer’s choosing. SUBJECT OFFICER #2’s use of profanity was unprovoked and unwarranted, and unbecoming of an MPD officer, particularly where the MPD relies on DC’s Fire and Emergency Services and owes its members both respect and professional courtesy.

COMPLAINANT also claimed that SUBJECT OFFICER #1 used language that was insulting, demeaning or humiliating when he screamed in complainant’s face, and acted in an overall belligerent and disrespectful manner. The BWC camera footage, as well as the testimony of COMPLAINANT, WITNESS #2 and WITNESS #4 fully support that SUBJECT OFFICER #1 consistently behaved in a manner that was overly aggressive and insulting to both EMTs.

WITNESS #4 went as far as to say that SUBJECT OFFICER #1’s behavior was “scary,” and led her to fear that the he would use his weapon in his heated exchanges with COMPLAINANT. SUBJECT OFFICER #1 also referred to COMPLAINANT as an “asshole,” and told him that he could leave the scene because EMT services didn’t “do anything.” SUBJECT OFFICER #1’s conduct was clearly unwarranted, offensive and unprofessional, and certainly not in compliance with MPD’s regulations that officers remain “courteous, calm, and professional in the performance of [their] duties.”

Based on the totality of the circumstances, SUBJECT OFFICER #2 and SUBJECT OFFICER #1 used language and conduct with COMPLAINANT that he reasonably interpreted as insulting, demeaning and/or humiliating, and thereby harassed the complainant in violation of D.C. Code§ 5-1107(a) and MPD General Order 120.25.

**IV. SUMMARY OF MERITS DETERMINATION**

SUBJECT OFFICER #2

<b>Allegation 1:</b>	Harassment by preventing complainant from providing medical treatment to a patient in his care	Sustained
<b>Allegation 3:</b>	Language or Conduct	Sustained

SUBJECT OFFICER #3

<b>Allegation 1:</b>	Harassment by preventing complainant from providing medical treatment to a patient in his care	Sustained
<b>Allegation 2:</b>	Harassment by physical and verbal intimidation	Sustained

SUBJECT OFFICER #1

<b>Allegation 1:</b>	Harassment by preventing complainant from providing medical treatment to a patient in his care	Sustained
<b>Allegation 2:</b>	Harassment by physical and verbal intimidation	Sustained
<b>Allegation 3:</b>	Language or Conduct	Sustained

Submitted on August 28, 2019.

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Meaghan Hannan Davant  
Complaint Examiner