

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

FINDINGS OF FACT AND MERITS DETERMINATION

Complaint No.:	20-0777
Complainant:	COMPLAINANT
Subject Officer(s), Badge No., District:	SUBJECT OFFICER #1 SUBJECT OFFICER #2
Allegation 1:	Failure to Provide Identification
Complaint Examiner:	Meaghan Hannan Davant
Merits Determination Date:	July 8, 2021

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, COMPLAINANT, filed a complaint with the Office of Police Complaints (OPC) on September 1, 2020, alleging that, on August 31, 2020, several officers at the scene of his arrest did not provide their names and badge numbers at his request. On review of the evidence from the incident, including body worn camera (BWC) footage, OPC determined that both Metropolitan Police Department (MPD) SUBJECT OFFICER #1, and SUBJECT OFFICER #2, failed to provide their names and badge numbers upon request. Pursuant to D.C. Code Section 5-1107 (g-1)(1), which allows the Executive Director to initiate a complaint against subject officers when the Executive Director discovers evidence of abuse or misuse of police powers that was not alleged the original complaint, the allegations against SUBJECT OFFICER #1 and SUBJECT OFFICER #2 were added by OPC.¹

¹ Complainant COMPLAINANT also alleged that MPD WITNESS OFFICER #1 harassed him when she unlawfully stopped him on August 31, 2020. In addition, COMPLAINANT alleged that WITNESS OFFICER #2, WITNESS OFFICER #3, WITNESS OFFICER #4, and WITNESS OFFICER #5 mishandled his property when they misplaced two of his earrings and when they unlawfully seized his phone and camera as evidence of a crime. The complainant also alleged that WITNESS OFFICER #6, WITNESS OFFICER #7, and WITNESS OFFICER #8 denied medical treatment to three unidentified arrestees. The complainant further alleged that WITNESS OFFICER #1 used unnecessary or excessive force against him when she pushed his face into the ground. Additionally,

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 on behalf of SUBJECT OFFICER #1 and SUBJECT OFFICER #2 on May 26, 2021 and OPC's response to the objections, 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 on behalf of SUBJECT OFFICER #1 and SUBJECT OFFICER #2 on May 26, 2021 and OPC's response to the objections, the Complaint Examiner finds the material facts regarding this complaint to be:

1. On the night of August 30, 2020, continuing into the early hours of August 31, 2020, there was a First Amendment assembly at A LOCATION IN NW, WASHINGTON, DC. The complainant, COMPLAINANT, a journalist, attended that assembly and was arrested for felony rioting, along with a group of other people (the "arrestees").
2. COMPLAINANT was brought to the MPD DISTRICT police station and detained briefly before being released early on the morning of August 31, 2020. Upon release, COMPLAINANT was instructed to collect any personal property seized at the time of his arrest.
3. On August 31, 2020, SUBJECT OFFICER #1 was on duty at the MPD DISTRICT police station assisting the station staff with returning personal property to arrestees. SUBJECT OFFICER #2 was also on duty at the MPD DISTRICT police station at that time, assigned to the SPECIALIZED UNIT, and assisting the station staff with returning property to the arrestees.
4. OPC searched for, but could not locate, any BWC footage recorded by SUBJECT OFFICER #1 and SUBJECT OFFICER #2 on August 31, 2020. OPC was able to locate and review BWC from WITNESS OFFICER #9, who was on duty at the MPD

COMPLAINANT alleged WITNESS OFFICER #2 forcefully removed his earrings from his ears. The complainant also alleged that WITNESS OFFICER #8 broke a suspect's leg when he knelt on the suspect's knee and that a group of unidentified MPD officers unlawfully used oleoresin capsicum (OC) spray, flashbang grenades, and rubber bullets to disperse a First Amendment assembly. Lastly, COMPLAINANT alleged that WITNESS OFFICER #2 and several unidentified MPD officers failed to provide their names and badge numbers when he requested them to do so during his arrest. Pursuant to D.C. Code § 5-1108 (1) on May 4, 2021, a member of the Police Complaints Board dismissed these allegations, concurring with the determination made by OPC's executive director.

DISTRICIT police station on August 30-31, 2020, and clearly shows the interactions between the complainant and the subject officers.

5. WITNESS OFFICER #9's BWC footage shows that SUBJECT OFFICER #1 was the MPD member who returned COMPLAINANT's personal property following his arrest and that SUBJECT OFFICER #2 stood nearby witnessing the interaction. The BWC footage shows that the complainant then requested SUBJECT OFFICER #1's badge number, but that subject SUBJECT OFFICER #1 ignored the request and instead asked the complainant whether he would like to review the contents of the property bag prior to signing for the items.
6. Complainant then reviewed the property bag and notified the subject officers that there were items missing from the property bag. WITNESS OFFICER #9 subsequently produced a second property bag. The complainant looked through the second bag and reported that two earrings were still missing from his personal property.
7. SUBJECT OFFICER #1 then checked the property book entry and determined that the earrings were not listed. The complainant responded by requesting SUBJECT OFFICER #1' and SUBJECT OFFICER #2's badge numbers, but neither provided that information.
8. As seen in the BWC footage, SUBJECT OFFICER #1 became visibly irritated with the complainant after the second request for his badge number, curtly telling COMPLAINANT, "You either want [the property] or you don't want it." The complainant responded by once again requesting both subject officers' badge numbers. Again, these requests were ignored.

IV. DISCUSSION

Failure to Provide Identification

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 his interview with OPC, SUBJECT OFFICER #1 confirmed that he was on duty at the MPD DISTRICT police station on August 30-31, 2020, assisting the station staff with returning personal property to a group of individuals who had been arrested for felony rioting. OPC questioned SUBJECT OFFICER #1 as to his understanding of his duty to give his name and badge number upon request and he confirmed that he was required to do so under MPD policies and practices. When asked to provide a potential reason he might *not* comply with an arrestees' request for this information, he reiterated that he would have at least provided the information

verbally. SUBJECT OFFICER #1 had no specific recollection of his interaction with complainant on the night in question. However, it is clear from a review of the BWC footage that complainant, who identified himself as a journalist on at least two occasions, clearly requested SUBJECT OFFICER #1's name and badge number three times during the course of their interaction and did so in a calm and reasonable manner. SUBJECT OFFICER #1 never responded to any of complainant's three requests, as clearly required under MPD policy. Further, in contrast to the complainant's demeanor, which remained polite and civil, SUBJECT OFFICER #1 grew visibly frustrated with the complainant's repeated requests and responded not in "a respectful and polite manner," but in a sarcastic tone unbecoming an MPD officer.

In her interview with OPC, SUBJECT OFFICER #2 was also asked whether any of the arrestees on the night of August 30-31, 2020 requested her name and badge number. She replied that she could not recall but acknowledged that it was MPD policy and procedure to provide an officer's name and badge number when requested by a member of the public. Upon review of WITNESS OFFICER #9's BWC footage, the complainant asked for SUBJECT OFFICER #2's name and badge number at least twice; SUBJECT OFFICER #2 never provided the requested information.

Thereby, based on a review of the evidence, including the BWC footage and their respective interviews with OPC, both of the subject officers were aware of their duty to provide their name and badge numbers upon complainant's request and each had multiple opportunities to do so, but did not comply. Neither subject officer was able to articulate any particular conditions or circumstances that would have made providing this information "impractical" or "unfeasible," nor that their identities were "obvious," – particularly where the complainant made repeated requests.

Consequently, this complaint examiner concludes that SUBJECT OFFICER #1 and SUBJECT OFFICER #2 failed to provide their names and identification upon request by a member of the public, in violation of D.C. Code § 5-1107 and MPD General Order 201.26.

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V. SUMMARY OF MERITS DETERMINATION

SUBJECT OFFICER #1

Allegation 1: Failure to Provide Identification	Sustained.
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SUBJECT OFFICER #2

Allegation 1: Failure to Provide Identification	Sustained.
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Submitted on July 8, 2021.

Meaghan Hannan Davant
Complaint Examiner