

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

FINDINGS OF FACT AND MERITS DETERMINATION

Complaint No.:	21 - 0453
Complainant:	COMPLAINANT
Subject Officer(s), Badge No., District:	SUBJECT OFFICER
Allegation 1:	Insulting, Demeaning, or Humiliating Language or Conduct
Complaint Examiner:	Peter W. Tague
Merits Determination Date:	November 19, 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, complains that the subject officer, SUBJECT OFFICER, spoke to him and his friends in an insulting or humiliating way by using profanity while demeaning a friend of theirs.

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 SUBJECT OFFICER on November 2, 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 (ROI), the objections submitted by SUBJECT OFFICER on November 2, 2021, and OPC's response to the objections, the Complaint Examiner finds the material facts regarding this complaint to be:

1. UNDER THE AGE OF EIGHTEEN, COMPLAINANT and his friends were on the playground at the PUBLIC PARK FACILITY when SUBJECT OFFICER and his partner, WITNESS OFFICER, approached them to learn whether they were armed. When the young men refused to consent to a search, the officers walked away, and searched the playground for weapons.
2. The young men taunted the officers as they walked about, and after they returned to their patrol vehicle. SUBJECT OFFICER was in the driver's seat, facing the cellphone camera held by COMPLAINANT. The patrol car appears to be thirty or more feet from COMPLAINANT.
3. Per COMPLAINANT, SUBJECT OFFICER then said "[d]on't get shot like your little shithead friend out here." See ROI Exhibit 4 (COMPLAINANT interview). COMPLAINANT understood the remark to refer "to a friend of ours whom [sic] just got killed a month or so prior." See ROI Exhibit 1 (COMPLAINANT complaint).
4. When interviewed by the OPC, SUBJECT OFFICER initially claimed not to remember whether he used profanity in speaking to the young men. When prompted, he agreed that he had said "something along [these] lines:" "Where's your boy COMPLAINANT'S FRIENDS NAME at? The little shithead who got shot. Where's he at?" See ROI Exhibit 6 (SUBJECT OFFICER interview).
5. The officers then drove away.

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 ... (3) use of language or conduct that is insulting, demeaning, or humiliating"

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."

The complainant, COMPLAINANT, accuses SUBJECT OFFICER of speaking to him and his friends in an insulting or humiliating way by using profanity while demeaning a friend of theirs who had been shot (and apparently murdered, according to COMPLAINANT).

Neither officer turned on his body-worn camera. COMPLAINANT took two short videos with his cellphone. The longer of the two (29 seconds) captures the exchange at issue in this complaint.

The objective facts are not disputed. The young men taunted the officers as SUBJECT OFFICER, sitting in the patrol car's driver's seat, said "[d]on't get shot like your little shithead friend out here" (to use COMPLAINANT's report).

In his interview with OPC, SUBJECT OFFICER conceded that he had spoken as COMPLAINANT reported.

He also agreed that using profanity was prohibited by the MPD's policies and procedures.

SUBJECT OFFICER sought to ameliorate his objectively derogatory words by explaining that his purpose was not to malign the young men's friend but rather to use that friend's shooting to illustrate the danger of firearms.

Spoken from the driver's seat of the patrol car, some thirty or more feet from the young men, COMPLAINANT's comment and the tone in which he expressed it do not sound avuncular, and what he said was understandably not interpreted as such by COMPLAINANT.

Nor is SUBJECT OFFICER excused by noting that when bantering with his adult friends and siblings they use the word "shithead."

In his objection to the ROI's conclusion that his statement violated the MPD's General Order, SUBJECT OFFICER, through the DC Police Union, offered another explanation. He "decided to use the word 'shithead' to be bombastic and catch the individuals' attention, which it obviously did." Defined as "high-sounding but with little meaning," bombastic is not an adjective that accurately describes the sense of "shithead" in this context. To be true, what he said "caught" COMPLAINANT's and his friends' "attention," but it did so not by sobering but rather by upsetting them.

The general order requires officers to be civil and respectful, and to exercise patience and discretion. It underscores the importance of an officer's behavior when interacting with citizens no matter the provocation (here, the young men's taunting).

SUBJECT OFFICER's profanity and tone demeaned the young men's friend who was shot and insulted them for their relationship to him.

His behavior violated D.C. Code § 5-1107 and MPD General Order 201.26.

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V. SUMMARY OF MERITS DETERMINATION

SUBJECT OFFICER

Allegation 1: Insulting, Demearing, or Humiliating Language or Conduct	Sustained
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Submitted on November 19, 2021.

Peter W. Tague

Peter W. Tague
Complaint Examiner