

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

**FINDINGS OF FACT AND MERITS DETERMINATION**

<b>Complaint No.:</b>	21-0617
<b>Complainant:</b>	COMPLAINANT
<b>Subject Officer(s), Badge No., District:</b>	SUBJECT OFFICER
<b>Allegation 1</b>	Language or Conduct
<b>Complaint Examiner:</b>	Jennifer A. Fischer, Esq.
<b>Merits Determination Date:</b>	March 10, 2022

Pursuant to D.C. Official Code § 5-1107(a), the Office of Police Complaints (OPC), formerly the Office of Citizen Complaint Review (OCCR), 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**

The complainant, COMPLAINANT (Complainant), filed a complaint with the Office of Police Complaints (OPC) on July 9, 2021. COMPLAINANT alleged that on July 9, 2021, the subject officer, Metropolitan Police Department (MPD) SUBJECT OFFICER (Subject Officer), used language or engaged in conduct that was insulting, demeaning or humiliating toward a child, CHILD (Child), and his mother, MOTHER (Mother), when he used profanity and behaved in an aggressive and unprofessional manner during his interaction with them.

Specifically, Complainant stated that on July 9, 2021, while she was providing crisis intervention services at the home of a client, located at AN ADDRESS IN SE, WASHINGTON, DC, she witnessed Subject Officer scold a child, CHILD. Although she could not recall specific statements, Complainant alleged that Subject Officer used profanity while speaking to Child. She interpreted Subject Officer's language and conduct toward Child as inappropriate and unprofessional. Furthermore, Complainant alleged that Subject Officer used profanity and made inappropriate comments while speaking to Mother. Subject Officer turned off his body worn camera (BWC) and instructed Mother to "Put [her] foot up [her] son's ass and beat him" She explained that during the interaction, Subject Officer directed Mother to use an open hand and not a fist when physically disciplining Child, asserting that it would prevent her from leaving a mark or a bruise on Child. Based on Subject Officer's guidance to Mother, Complainant grew concerned regarding Child's safety. Complainant generally described Subject Officer's language

and conduct as unwarranted and unprofessional, maintaining that he behaved outside the scope of his role as a police officer.

## **II. EVIDENTIARY HEARING**

No evidentiary hearing was conducted regarding this complaint because, based on a review of OPC's Report of Investigation, Body Worn Camera Footage recorded by Subject Officer on July 9, 2021, objections submitted by Subject Officer on February 2, 2022 (Subject Officers' Objections), and OPC's response to the objections dated February 8, 2022, 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, Body Worn Camera Footage recorded by Subject Officer on July 9, 2021, objections submitted by Subject Officer on February 2, 2022, and OPC's response to the objections dated February 8, 2022, the Complaint Examiner finds the material facts regarding this complaint to be:

1. Complainant filed a complaint with Office of Police Complaints on July 9, 2021.
2. At approximately 3:45 p.m. on July 9, 2021, Subject Officer arrived at A HOME IN SE, WASHINGTON, DC, in response to a 911 call about a child who was destroying things in the home. When Subject Officer arrived, he approached Mother, Child's brother, and two crisis specialists with A CHARITY ORGANIZATION on the porch of the home.
3. Mother explained to Subject Officer that her son had been tearing up the home and disrespecting her earlier, but that he had calmed down, cleaned up, and was watching TV. Subject Officer reminded her that he had previously been to the home in response to Child's behavior. Mother explained that Child had been making threats and damaged furniture. Subject Officer asked what Complainant wanted from him and Complainant replied that she would do what Mother wanted them to do. Mother again explained that the situation was quiet in the moment, but that the situation was toxic. Brother wanted Child to go to the hospital, but Mother said he would not go. Subject Officer said they might be able to make him go.
4. Subject Officer then asked Complainant and her associate to accompany him inside to make an assessment. Complainant told him, however, that they had already completed an assessment and had no cause to FD-12 Child. Subject Officer explained to Mother that she could take him to Washington Hospital Center if she felt it necessary.
5. Subject Officer, Complainant, and her associate entered the home and approached Child who was sitting at a desk in the living room, playing video games. Subject Officer asked him what was happening and he said that he got mad, but that he was "good now." Subject Officer continued to ask what happened and Child said he got mad at his sister.

Subject Officer said that Child wasn't telling him anything and that he wasn't going to leave until he did. Child responded that he had already told him.

6. Subject Officer continued to ask Child what had happened in various forms, and then said "You ain't got no right to be in here fucking shit up" and told the child that if he continued his behavior, he'd end up in a group home.
7. Child remained silent and Subject Officer mentioned his last visit to the home, then asked Child to turn the music off. Child yelled that he had nothing to say. Subject Officer then turned the music off and again asked him what happened. Child repeatedly responded that he had nothing to say and that he was fine now.
8. After a few minutes, Subject Officer raised his voice and started arguing with Child. He told Child, "You are A MINOR. You're going to find yourself in a group home real fast" and then that if he continued to act up, he would end up in Washington Hospital Center or in jail. As Subject Officer argued with Child, insisting that he wasn't telling him anything, he again repeated that Child would be placed in Washington Hospital Center or youth Division if he continued to misbehave.
9. As the conversation went on, Subject Officer made statements about Child breaking something and Child became visibly agitated and his voice was getting higher and louder as he insisted that he hadn't broken anything. Child kept trying to return to his videogame, but Subject Officer kept insisting Child needed to tell him what happened and threatened to unplug his computer.
10. Finally, Subject Officer went back outside with Complainant and her associate.
11. Outside, Subject Officer told Mother that he had "no problem taking his ass to either Washington Hospital or PIW or just locking his ass up when he breaks something."
12. Child walked out to the porch and said, "Ya'll be calling the police for nothing."
13. Subject Officer continued to talk with Mother about her calling if she needed any further help and then said he was going to turn off his BWC to continue talking.
14. Subject Officer then turned off his BWC as he continued talking with Mother.

#### **IV. DISCUSSION**

Pursuant to D.C. Official 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, including: (3) Use of language or conduct that is insulting, demeaning, or humiliating..."

Insulting, demeaning or humiliating language or conduct is defined under D.C. Mun. Regs. Tit. 6A, § 2199.1 as "language or conduct that is intended to or has the effect of causing a reasonable person to experience distress, anxiety or apprehension."

MPD General Order 201.26 requires that "All members shall: (1) Be courteous and orderly in their dealings with the public. (a) Members shall perform their duties quietly,

remaining calm regardless of provocation to do otherwise. (3) 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.” MPD General Order 201.26 (effective April 5, 2011), Part V. Section C. Nos. 1(a) & 3.

Subject Officer violated General Order 201.26 when he used profane language (“fucking” and “ass”), threatened Child with going to a group home, Washington Hospital Center, jail, or youth division, when he turned off the child’s music despite the child being calm, and ultimately, when he lost his temper, raised his voice and sounded no more mature than the child he was arguing with.<sup>1</sup> SUBJECT OFFICER BWC 9:27, 11:16, 12:46, 13:30.

Subject Officer’s language and conduct had “the effect of causing a reasonable person to experience distress, anxiety or apprehension.” Child stayed calm for much of the interaction, but became visibly agitated over time by Subject Officer’s manner of asking questions, making threats, and other behavior and Child’s voice became higher, louder, and ever more insistent in response. SUBJECT OFFICER BWC 13:30. Subject Officer’s language and conduct also caused apprehension in the Complainant such that she was prompted to file this Complaint. In her Complaint she stated that Subject Officers’ language and conduct caused her to fear for Child’s safety. Exh. 1. In her interview with OPC, Complainant stated that Subject Officer’s behavior made her feel uncomfortable. Exh. 2 at 8:23. Mother, in her interview with OPC stated that she was upset with Subject Officer’s approach, which she said seemed to be trying to intimidate Child, and that she wanted him to speak to Child in a professional manner. Exh. 4 at 3:25, 7:18, 8:27.

Subject Officer explained in his interview with OPC that he had to be stern with Child to get him to answer questions and that Mother was a mental health consumer who avoids using physical discipline. Exh. 6 at 2:40. He said that Child needs a male figure in his life who is not afraid of him. Exh. 6 at 4:20. He conceded that he probably used profanity because it was the only thing Child understood. Exh. 6 at 5:35. He stated that if Child was coddled that he would continue to do whatever he wanted to do. Exh. 6 at 5:43. He was not there to be Child’s parent, but because Mother couldn’t control him. Exh. 6 at 6:02. Yet, Subject Officer acknowledged that his profanity was “probably not” appropriate. Exh. 6 at 6:15. He also conceded that he probably used profanity with Mother, but that it was not disrespectful and that he had developed a good banter with Mother. Exh. 6 at 6:36, 7:22. Nonetheless, he said that his choice of words might not have been professional and that he probably could have worded it differently. Exh. 6 at 8:03. Ultimately, Subject Officer in his interview with OPC conceded that his language and conduct were not in accordance with MPD general orders. Exh. 6 at 14:25.

He claimed that he turned off the BWC prior to the end of the conversation with Mother because he was concerned that Mother and the older brother would make incriminating statements. Exh. 6 at 9:14, 10:00. Subject Officer acknowledged, however, that he was not

<sup>1</sup> In their interviews with OPC, Complainant and Mother made additional allegations of language and conduct by Subject Officer after he turned off his BWC. Because these additional allegations are not necessary to reach a decision in this case, there is no BWC corroboration of the statements, and they were not made during a hearing under oath, they have not been relied upon in this decision or included in the determination of facts. Nonetheless, the consistency of some of Complainant and Mother’s allegations supports a likelihood that Subject Officer continued to use improper language after turning off his BWC.

supposed to turn off his BWC during such interactions with civilians and that the deactivation was not in accord with general orders. Exh. 6 at 10:57.

In his objections to the ROI, Subject Officer claims that Subject Officer's language or conduct did not cause distress, anxiety or apprehension because Mother did not complain about it during the BWC footage. That Mother did not complain about it while she was in Subject Officer's presence is hardly the standard of review. Nonetheless, even if her own interview was completely removed from evidence, Subject Officer's language and conduct clearly caused distress, anxiety and apprehension for Child, as witnessed on the BWC footage, and in Complainant, as corroborated by her decision to file a Complaint and her consistent statements on the topic. An additional objection focuses on a criticism of Mother's recollection of events during her interview with OPC. However, Mother's recollection of events is not relied upon here; all references to statements made by Subject Officer used as evidence supporting the allegation were viewed in Subject Officer's BWC footage. Additional objections to the ROI are focused on the lack of interviewing Child, and the lack of interview with Complainant's associate. Here again, there was plenty of evidence using BWC footage to sustain the allegation. Thus, Subject Officer's objections to the ROI are without merit.


Therefore, Subject Officer's language violated MPD General order 201.26 to be courteous and orderly in his dealings with the public, and to refrain from harsh profane and insolent language. His words and conduct were insulting, demeaning, and humiliating in violation of DC Code § 5-1107. Thus, Complainant's language or conduct allegation is sustained.

**V. SUMMARY OF MERITS DETERMINATION**

**SUBJECT OFFICER**

Allegation	Language or Conduct	Sustained
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Submitted on March 10, 2022.

  
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Jennifer A. Fischer, Esq.  
Complaint Examiner