

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

**FINDINGS OF FACT AND MERITS DETERMINATION**

<b>Complaint No.:</b>	24-0310
<b>Complainant:</b>	COMPLAINANT
<b>Subject Officers, Badge No., District:</b>	SUBJECT OFFICER
<b>Allegation 1:</b>	Unnecessary/Excessive Force
<b>Allegation 2:</b>	Language or Conduct (Insulting, Demeaning, or Humiliating Language or Conduct)
<b>Allegation 3:</b>	Language or Conduct (Profanity)
<b>Complaint Examiner:</b>	Rebecca Goldfrank
<b>Merits Determination Date:</b>	October 30, 2024

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 D.C. Code § 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 COMPLAINANT filed a complaint with the Office of Police Complaints on February 6, 2024. COMPLAINANT alleges that on February 5, 2024, SUBJECT OFFICER used unnecessary or excessive force and used language or engaged in conduct that was threatening, insulting, demeaning or humiliating.<sup>1</sup>

Specifically, COMPLAINANT stated that at approximately 2:00 am he and his friend, WITNESS, observed an assault inside the MARKET located at NW, WASHINGTON, DC. WITNESS called the police and several MPD officers responded to the scene. WITNESS was upset about the assault and that the officers would not take his statement. Several officers told COMPLAINANT and WITNESS to leave the scene and attempted to get WITNESS into a vehicle with his friends. According to COMPLAINANT, when SUBJECT OFFICER approached him and WITNESS

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<sup>1</sup> COMPLAINANT also alleged that another officer on the scene, WITNESS OFFICER #1, harassed him by unlawfully ordering him and his friend WITNESS to leave the MARKET and by threatening to arrest WITNESS. Pursuant to D.C. Code § 5-1108(1), on July 21, 2024, a member of the Police Complaints Board dismissed these allegations concurring with the determination made by OPC's executive director. *See* Exhibit 2, Dismissal.

directing them to leave the scene, she spoke to them in an aggressive tone and was dismissive of WITNESS's concerns. COMPLAINANT asserts that SUBJECT OFFICER unnecessarily shoved COMPLAINANT against the side of his car using both of her hands. As COMPLAINANT tried to get WITNESS to leave the scene, SUBJECT OFFICER's language was unprofessional and insulting and she used profanity.

## **II. EVIDENTIARY HEARING**

No evidentiary hearing was conducted regarding this complaint because, based on a review of OPC's Report of Investigation, various segments of body-worn camera footage, the objections submitted on behalf of SUBJECT OFFICER, and OPC's response to those 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 body-worn camera footage of SUBJECT OFFICER, WITNESS OFFICER #1, and WITNESS OFFICER #2, and the interviews by the Office of Police Complaints Investigator of SUBJECT OFFICER and the complainant, the Complaint Examiner finds the material facts regarding this complaint to be:

1. At approximately 2 am on February 5, 2024, COMPLAINANT (COMPLAINANT) and WITNESS (WITNESS) and a second friend (second friend) were at the MARKET convenience store located at NW, WASHINGTON, DC.
2. WITNESS called 911 and reported an assault within the MARKET to the police dispatcher. At times during WITNESS's call with the 911 operator he raised his voice and cursed at the dispatcher.
3. Multiple police officers responded to the scene. Several officers stood with WITNESS and COMPLAINANT near the vehicle that they identified as theirs. The officers spoke to WITNESS and COMPLAINANT for several minutes directing them to get into the vehicle and leave the scene. WITNESS repeated several times that he wished to go back into the MARKET. WITNESS OFFICER #1 directed him to get in the car and not to enter the MARKET and for someone else to drive the vehicle because WITNESS and the complainant had been drinking.
4. On this night, SUBJECT OFFICER was working an overtime shift and stopped at the MARKET to get a beverage. However, SUBJECT OFFICER instead stopped where the officers and the complainant and WITNESS stood on the sidewalk by the vehicle. She engaged WITNESS and stated "Hey, hey, it's time to go home. Now!" WITNESS asked if SUBJECT OFFICER spoke Spanish and she stated that she did. SUBJECT OFFICER repeated in Spanish the directive to go home.

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5. SUBJECT OFFICER stood on the sidewalk alongside COMPLAINANT, who had his arms crossed over his chest. WITNESS stood with other officers on the street side of the car. COMPLAINANT appeared to move toward WITNESS and the other officers. SUBJECT OFFICER then put her right hand up while motioning for COMPLAINANT to back up touching his shoulder and chest stating, "You, back up." COMPLAINANT put his hands up and stated, "You don't need to touch me." SUBJECT OFFICER responded, "Then you back the hell up." COMPLAINANT remained standing where he was and said the officers had no reason to touch him. SUBJECT OFFICER stated, "Today is not the night."
6. COMPLAINANT then followed WITNESS and the second friend to the street by the driver's side door. COMPLAINANT and the second friend pleaded with WITNESS to get into the car. SUBJECT OFFICER followed them to the street side of the car.
7. SUBJECT OFFICER spoke with the second friend. WITNESS inserted himself in the conversation speaking to SUBJECT OFFICER. SUBJECT OFFICER interrupted him and stated, "No, no, no, be quiet. I'm not talking to you." She pointed her finger in WITNESS's face. COMPLAINANT held WITNESS back, although they moved towards SUBJECT OFFICER. COMPLAINANT stood in between WITNESS and SUBJECT OFFICER as he held WITNESS back with his left arm. SUBJECT OFFICER pushed COMPLAINANT's right arm and then placed both hands on COMPLAINANT's chest and pushed him. SUBJECT OFFICER said, "Be quiet, you got the wrong one." WITNESS and COMPLAINANT then both up stood against the car with other officers restraining them in place.
8. WITNESS continued speaking loudly, repeating that there had been an assault in the MARKET and that he wanted to return to the store. He stated that the police were not doing their job. SUBJECT OFFICER repeatedly told him to be quiet. COMPLAINANT said to SUBJECT OFFICER, "You don't talk to me." COMPLAINANT pulled WITNESS towards the driver's side passenger door of the car. SUBJECT OFFICER said in Spanish, "No, now you're leaving." WITNESS stood in the doorway of the back seat. COMPLAINANT said, "Don't worry, we're gonna file charges on them." He said he wanted SUBJECT OFFICER's card. SUBJECT OFFICER responded, "Okay. You're absolutely gonna get it. You're absolutely gonna get it. Have a good freaking day, that's fine." She handed the complainant her business card.
9. SUBJECT OFFICER told WITNESS, "Get in the car. Get in the car, now!" WITNESS OFFICER #1 also stood by the door of the car. He told SUBJECT OFFICER, "Let me grab it, SUBJECT OFFICER, I got it." WITNESS began to cry and said the woman was scared. WITNESS OFFICER #1 said he had a report, and he had WITNESS's information as well. COMPLAINANT stated the officers just care about finding a reason to get WITNESS in trouble. WITNESS walked back towards the sidewalk and COMPLAINANT followed. SUBJECT OFFICER told other MPD officers, "The boy in the white shirt needs to watch his fucking hands, because the thing is, if you get your hands near my face, yes absolutely, you're gonna get shoved right back into that car."
10. SUBJECT OFFICER walked away from the complainant and WITNESS toward the MARKET as she told WITNESS in Spanish "Ya ve te a la casa. Dios mio." ("Go home

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already. My God.”). WITNESS OFFICER #1 and other officers continued to engage with WITNESS and COMPLAINANT by the car. SUBJECT OFFICER entered the MARKET stating, “Yeah, we’re shit, who cares.” An officer tells her not to entertain them. SUBJECT OFFICER said, “But the guy in the white shirt, it’s like, boy get your ass out of my face. Get, I’m sorry, get away.”

11. SUBJECT OFFICER was interviewed regarding this complaint by an Office of Police Complaints Investigator on May 7, 2024. *See* Exhibit 5.

#### IV. DISCUSSION

Pursuant to D.C. Code § 5-1107(a) (2,3,6), (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 “...unnecessary or excessive use of force,” and the “use of language or conduct that is insulting, demeaning or humiliating.”

The allegations of abuse or misuses of police powers that were not dismissed will be discussed below in chronological order as the events unfolded in the early morning of February 5, 2024.

##### A. USE OF FORCE

“Members of the Metropolitan Police Department (MPD) shall value and preserve the sanctity of human life at all times, especially when lawfully exercising the use of force. In situations where the use of force is justified, the utmost restraint should be exercised. Members shall minimize the force that is used while protecting the lives of members and other persons, and continuously reassess the perceived threat in order to select the reasonable use of force response that is proportional to the threat faced by him, her, or others.” MPD General Order 901.07 Use of Force, Section I. Purpose (effective January 1, 2022).

The MPD’s use of force framework “provides an organized way of making decisions about how they shall act in situations that may involve potential uses of force.” “The general order is intended to ensure that de-escalation techniques are used whenever feasible, that force is only used when necessary, and that the amount of force used is proportionate to the situation that the member encounters.” *Id.* Members shall only use force that is objectively reasonable. *Id.* (citing *Graham v. Connor*, 490 U.S. 386 (1989) (Establishing that the facts and circumstances related to the use of force should drive the analysis, rather than any improper intent or motivation by the officer who used the force). This standard “acknowledges the difficult decisions that members are forced to make under rapidly evolving and unpredictable circumstances.” *Id.*

The general order also states, “Members shall attempt to defuse use of force situations with de-escalation techniques whenever feasible... through advice, warning, verbal persuasion, tactical communication, or other de-escalation techniques.” MPD General Order 901.07 Use of Force, Section II. Procedures A. Use of Force Principles. “When using force, members must be able to articulate the facts and circumstances surrounding their tactics, decision making, and the extent of force used in any given situation.” *Id.* at Part 3c. Members shall only use the amount of

force that is proportionate to the circumstances. If de-escalation tactics are not effective or feasible, the member may use an increasing level of force to overcome the level of resistance, as long as the force response remains proportionate to the perceived threat.” *Id.* at Part 4. Members shall also consider whether the subject’s failure to comply is due to an external factor such as drug interaction, or other factor beyond the subject’s control, and whether specific techniques would help resolve the situation. *Id.* at Part 3b.

SUBJECT OFFICER failed to abide by the basic principles undergirding the General Order pertaining to use of force. SUBJECT OFFICER injected herself into an incident, with individuals who appeared to be under the influence of alcohol or another substance, that multiple officers were actively addressing. Between twenty to thirty seconds after approaching the scene, SUBJECT OFFICER had touched the complainant’s shoulder thereby escalating the conflict. When the complainant responded saying “you don’t need to touch me,” SUBJECT OFFICER heightened the conflict with a profane response: “Then you back the hell up.” Less than a minute later, SUBJECT OFFICER had followed the complainant and COMPLAINANT to the driver’s side door and raised her finger toward COMPLAINANT’s face. The complainant stood between SUBJECT OFFICER and WITNESS and SUBJECT OFFICER pushed the complainant’s arm and used both hands to push on his chest moving his body back toward the car. Other officers stepped in to separate WITNESS and COMPLAINANT from SUBJECT OFFICER. SUBJECT OFFICER continued to engage in discussion with WITNESS and COMPLAINANT until WITNESS OFFICER #1 relieved her indicating that he had the situation under control.

Under the circumstances, SUBJECT OFFICER’s conduct and use of force in the first instance were not objectively reasonable. Her first physical contact with COMPLAINANT came approximately twenty seconds after arriving on the scene where other officers were already engaged with him, WITNESS, and the second friend. This physical contact was not necessary or proportional under the circumstances and served no specific law enforcement objective. The physical contact followed by her immediate use of profanity telling COMPLAINANT to “back the hell up” escalated the conflict.

SUBJECT OFFICER’s second physical contact came after she followed the parties to the street and pointed her finger in WITNESS’s face. In an effort to hold WITNESS back, COMPLAINANT stepped in between him and SUBJECT OFFICER, and she pushed COMPLAINANT’s arm and chest although he did not appear to approach her with purpose. While SUBJECT OFFICER’s response in this instant may not have been unreasonable, SUBJECT OFFICER appears to have initiated this immediate conflict directly undermining the principles of the Use of Force General Order. She had followed COMPLAINANT and WITNESS to where they stood after they had walked away from her. She then put her finger in WITNESS’s face while scolding him that she wasn’t talking to him and telling him to be quiet. In sum, SUBJECT OFFICER’s conduct heightened the conflict and commotion and instigated the physical contact.

Nor did SUBJECT OFFICER “articulate the facts and circumstances surrounding [her] tactics, decision making, and the extent of force used” consistent with the Use of Force General

Order 901.07, Section II, Procedures, Use of Force Principles Part 3.c. during her May 7, 2024 interview with the Office of Police Complaints investigator. She blanketly explained that she would push someone back if they approached her person. Shortly after the incident she shared the following with fellow officers, “The boy in the white shirt needs to watch his fucking hands, because the thing is, if you get your hands near my face, yes absolutely, you’re gonna get shoved right back into that car.” However, SUBJECT OFFICER’s explanations fail to address the first instance when she touched COMPLAINANT’s arm on the sidewalk and fail to make clear any specific facts or decision-making utilized during the second interaction but rather they articulate a general, combative response. SUBJECT OFFICER did not adapt her approach to the situation consistent with WITNESS being under the influence and behaving unreasonably. Nor did SUBJECT OFFICER complete a Force Incident Report.

It is incumbent on officers to be mindful of their surroundings at all times, to exercise restraint and professionalism, and to secure and maintain public respect. SUBJECT OFFICER’s disregard for the principles and mandates of the General Order violated the standards of conduct of the MPD. In conclusion, SUBJECT OFFICER used unnecessary, excessive, and unreasonable force against COMPLAINANT.

## **B. LANGUAGE OR CONDUCT**

MPD “members shall: [b]e courteous and orderly in their dealings with the public.” Specifically, “[m]embers shall perform their duties quietly, remaining calm regardless of provocation to do otherwise.” MPD General Order 201.26 (effective April 5, 2011) Duties, Responsibilities and Conduct of Members of the Department, Part V, Section C Conduct Toward the Public, No. 1. Further, “all members shall [r]efrain 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.” *Id.* at Part V, Section C, 3. “In the performance of their duty, members should develop a disposition that is pleasant and personable in nonrestrictive situations, and firm and impartial in situations calling for regulation and control.” *Id.* At Part V, Section E.

SUBJECT OFFICER engaged with WITNESS and COMPLAINANT in a manner inconsistent with the expected conduct of an MPD officer. Despite the challenging circumstances, officers’ conduct should rise above the conduct of the public.<sup>2</sup> In this instance, SUBJECT OFFICER’s approach, from the outset of her interaction with the parties when she stated, “it’s time to go home. Now!” was elevated and exclamatory rather than a calm directive. Within twenty seconds of her interaction with the parties, SUBJECT OFFICER stated to COMPLAINANT as he stood still watching his friend, “back up.” Shortly thereafter, she physically engaged with COMPLAINANT and when he objected to her touching him, she used profanity and said, “Then you back the hell up.” Less than a minute later, SUBJECT OFFICER pointed her finger in WITNESS’s face directing him to be quiet and said, “I’m

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<sup>2</sup> SUBJECT OFFICER indicated that she knew the expectations of MPD members in such situations. The offered defenses and objections fall flat. If an officer is unable to carry out their responsibilities with professionalism and respect under stress or fatigue, alternatives such as relying on fellow officers and excusing themselves from the situation, counseling, de-escalation training or seeking mental health leave or other time off may be appropriate.

not talking to you.” This conduct and language heightened WITNESS’s already agitated state, and, as COMPLAINANT attempted to hold WITNESS back, while also moving toward SUBJECT OFFICER, she pushed COMPLAINANT’s arm and chest and stated in an antagonizing manner, “Be quiet, you got the wrong one.” When just a few seconds later they asked for her business card and said they would file a report against her, SUBJECT OFFICER’s response included the word “freaking” and was discourteous and sarcastic. (“Okay. You’re absolutely gonna get it [referring to the business card]. You’re absolutely gonna get it. Have a good freaking day, that’s fine.”). MPD expectations demand that despite disrespectful and challenging language and conduct, SUBJECT OFFICER should have remained professional and regulated her own conduct and expression toward WITNESS and COMPLAINANT.<sup>3</sup>

SUBJECT OFFICER failed to remain professional or exercise patience and discretion as she performed her duties during this incident and as she debriefed it with her fellow officers shortly thereafter in a public setting.<sup>4</sup> This failure is highlighted when, after WITNESS OFFICER #1 told SUBJECT OFFICER that he had the situation under control, SUBJECT OFFICER walked off and stated to her colleagues, “The boy in the white shirt needs to watch his fucking hands, because the thing is, if you get your hands near my face, yes absolutely, you’re gonna get shoved right back into that car.” SUBJECT OFFICER further demonstrated frustration, fatigue, and lack of professionalism when, as she walked away from the complainant and WITNESS toward the MARKET, she told WITNESS in Spanish “Ya ve te a la casa. Dios mio.” (“Go home already. My God.”). Echoing WITNESS’s use of the word “shit,” SUBJECT OFFICER said, “Yeah, we’re shit, who cares.” SUBJECT OFFICER subsequently used further derogatory (“boy”) and profane (“ass”) language referring to the complainant.

As the General Order on the Duties and Responsibilities of members of the MPD states, “the personal conduct and attitude of the police officer is of paramount importance” to strengthen the relationship between police and the community. Here, SUBJECT OFFICER abused her position of authority and demonstrated a lack of professionalism expected of the MPD. In conclusion, SUBJECT OFFICER engaged in conduct and used language toward COMPLAINANT and WITNESS that was coarse, profane, insulting, demeaning and humiliating in violation of D.C. Code § 5-1107 and MPD General Order 201.26.

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<sup>3</sup> Notably multiple officers engaged with WITNESS and COMPLAINANT that evening while WITNESS refused to comply with their requests. These officers’ and SUBJECT OFFICER’s body-worn camera recordings (and the summaries of those recordings) demonstrate their professionalism in the face of WITNESS’s refusal to get in the car and persistence in a course of action that he had been instructed against. WITNESS OFFICER #1 demonstrated professionalism throughout the interaction and in fact told SUBJECT OFFICER to step away and that he had the situation under control when her presence and conduct appeared to escalate the conflict.

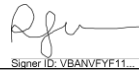
<sup>4</sup> That some of SUBJECT OFFICER’s statements may not have been directed at the complainant or WITNESS, does not mitigate the unambiguous violations of the MPD General Order 201.26. SUBJECT OFFICER’s unprofessional statements that were made away from the complainant or WITNESS were made around other members of the public such as individuals in or around the MARKET and her fellow officers. These statements were profane, harsh, and coarse and included derogatory and disrespectful references to COMPLAINANT.

**V. SUMMARY OF THE MERITS DETERMINATION**

Allegations that SUBJECT OFFICER used unnecessary or excessive use of force and language and conduct that is insulting, demeaning or humiliating are sustained.

<b>Allegation 1: Unnecessary/Excessive Force</b>	Sustained
<b>Allegation 2: Language or Conduct (Insulting, Demeaning, or Humiliating Language or Conduct)</b>	Sustained
<b>Allegation 3: Language or Conduct (Profanity)</b>	Sustained

Submitted on October 30, 2024



Signer ID: VBANVFYF11...

Rebecca Goldfrank  
Complaint Examiner