

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

FINDINGS OF FACT AND MERITS DETERMINATION

Complaint No.:	19-0477
Complainant:	COMPLAINANT
Subject Officer(s), Badge No., District:	SUBJECT OFFICER
Allegation 1:	Language or Conduct
Allegation 2:	Harassment
Allegation 3:	Failure to Identify
Complaint Examiner:	Jennifer A. Fischer, Esq.
Merits Determination Date:	April 20, 2020

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 (Complainant), filed a complaint with the Office of Police Complaints (OPC) on May 20, 2019. Complainant alleged that on May 8, 2019, the subject officer, Metropolitan Police Department (MPD) SUBJECT OFFICER (Subject Officer), used language or engaged in conduct toward him that was insulting, demeaning, or humiliating when he used profanity and behaved unprofessionally. Complainant also alleged that Subject Officer harassed him when he unlawfully searched his pants pocket for identification. Lastly, Complainant alleged that Subject Officer failed to provide his name and badge number when requested to do so.¹

¹ COMPLAINANT also alleged that SUBJECT OFFICER and WITNESS OFFICER harassed him when they unlawfully stopped him, intimidated him, and threatened him. COMPLAINANT also alleged that WITNESS OFFICER used language or engaged in conduct toward him that was insulting, demeaning, or humiliating when he used profanity during the interaction. Lastly, Complainant alleged that WITNESS OFFICER did not provide his name and badge number when requested to do so. Pursuant to D.C. Code § 5-1108(1) on February 16, 2020, a member of the Police Complaints Board dismissed these allegations, concurring with the determination made by OPC's executive director.

Specifically, Complainant stated that on May 8, 2019, he observed Subject Officer driving an MPD cruiser as he walked down the street. Subject Officer told Complainant, "Don't run in them tight pants." When Complainant asked Subject Officer for his name, he told him that his name was "what's up." The Complainant also stated that during the ensuing pedestrian stop, Subject Officer reached into Complainant's pocket to retrieve his identification without consent. Complainant also alleged that Subject Officer used profanity and was rude toward Complainant.

II. EVIDENTIARY HEARING

No evidentiary hearing was conducted regarding this Complaint because, based on a review of OPC's Report of Investigation (ROI), the Body Worn Camera (BWC) footage recorded by Subject Officer and WITNESS OFFICER on May 8, 2019, Cell phone video footage recorded by Complainant on May 8, 2019, the objections submitted by Subject Officer on March 13, 2020, and OPC's response to the objections dated April 1, 2020, the Complaint Examiner determined that the ROI 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 (BWC) footage recorded by Subject Officer and WITNESS OFFICER on May 8, 2019, Cell phone video footage recorded by Complainant on May 8, 2019, the objections submitted by Subject Officer on March 13, 2020, and OPC's response to the objections dated April 1, 2020, the Complaint Examiner finds the material facts regarding this complaint to be:

1. Complainant filed a complaint with OPC on May 20, 2019 (it was actually sent via e-mail on May 18, 2019, which was a Saturday and thus received on the next business day of May 20, 2019).
2. On May 8, 2019, at approximately 11 p.m., Subject Officer and WITNESS OFFICER followed Complainant after they believed they had just seen Complainant with known members of the MS-13 gang in an alley. After they dispersed the group in the alley, Complainant raised their attention because of the way in which he rapidly separated and distanced himself from the group and held his waistband. After canvassing the neighborhood, they spotted Complainant. WITNESS OFFICER exited the police car and followed Complainant on foot, while Subject Officer drove next to Complainant.
3. Complainant began videotaping the officers while walking. SUBJECT OFFICER stated to Complainant, "What's up buddy. Don't try to run in those tight ass pants," and Complainant responded with a forced laugh, saying "You're so funny man."
4. Complainant asked the officers if they were following him, which Subject Officer confirmed and then asked Complainant twice, "what's up?" Complainant asked Subject

- Officer, "what's your name?" SUBJECT OFFICER responded with "My name's what's up."
5. Subject Officer pulled over just as Complainant, still walking, entered a dark part of the sidewalk. Subject Officer exited his vehicle, and approached Complainant. As he did so, he asked Complainant, "were you in an alley with your boyfriend?"
 6. Complainant began to yell for help and Subject Officer grabbed him and handcuffed him.
 7. Subject Officer frisked Complainant for weapons. He then asked Complainant, "Do you have i.d. on you?"
Complainant responded, "I do."
Subject Officer followed with, "Where is it?"
Complainant answered, "In my pocket."
Subject Officer asked, "Which pocket, left or right?"
Complainant responded, "I don't know I don't have my hands free."
Subject Officer said, "You put it in there didn't you?" followed soon after by, "There we go."
 8. While Subject Officer was asking Complainant these questions, he was putting his hands in Complainant's pockets. Subject Officer found Complainant's identification and pulled it out.
 9. WITNESS OFFICER took Complainant's identification over to the squad car and ran the information in WALES to check for outstanding warrants. At the same time, Subject Officer walked Complainant, still handcuffed, over to the squad car and began asking him questions about the people in the alley. When Complainant didn't answer, Subject Officer told him that he wasn't under arrest and was just being detained.
 10. After determining there were no warrants for Complainant, WITNESS OFFICER said to Subject Officer, "We could get one set up with the probation officer. Depends on how this goes you know. He wants to take down names and badge numbers and stuff." Subject Officer responded, "We could definitely do that too."
 11. Shortly thereafter, an unidentified officer arrived and Subject Officer greeted him, "What's up bro. This is my new friend."
 12. After some additional dialogue between Subject Officer and the unidentified officer, Complainant stated, "SUBJECT OFFICER NAME AND BADGE NUMBER."
 13. Subject Officer then said "Yeah buddy."
 14. Subject Officer's badge number was actually A DIFFERENT NUMBER.
 15. Subject Officer released Complainant shortly thereafter.

IV. DISCUSSION

Complainant raises three allegations against Subject Officer in his Complaint: 1) Subject Officer used language or engaged in conduct toward him that was insulting, demeaning, or humiliating when he used profanity and behaved unprofessionally; 2) he harassed Complainant when he unlawfully searched his pants pockets for identification; and 3) he failed to provide his name and badge number when requested to do so.

Pursuant to D.C. Official Code § 5-1107(a), and (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;”

As discussed below, all three allegations raised by Complainant against Subject Officer are sustained.

A. Subject Officer used language or engaged in conduct that was insulting, demeaning, or humiliating to Complainant

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

The General Order goes on to state, “(E)(1) It is expected that every member of this Department is keenly aware of the fact that public support and cooperation is essential if members are to effectively fulfill their police responsibilities. The extent to which the public will cooperate with the MPD is dependent upon its respect for and confidence in, the MPD and its members. (2) In an effort to strengthen the citizen-police officer relationship, the personal conduct and attitude of the police officer is of paramount importance. Members must understand that the basis of a professional attitude is a desire and a willingness to serve the public.”

Complainant claimed during his interview with OPC, that he was walking down a sidewalk when two police officers began following him. Exh. 3 at 45. One was on foot, while the other was in a cruiser next to him. *Id.* at 1:15. He claimed that the officer in the cruiser, Subject Officer, asked him if he was “running to his boyfriend’s house.” *Id.* at 1:25, 12:08. He also

alleged that Subject Officer said to him, “don’t run in them tight pants.” *Id.* at 0:57, 8:15, 12:00. Complainant understood these comments as suggesting that he was a member of the LGBT community and, while he harbored no bias against that community, he was insulted by Subject Officer’s suggestion. *Id.* at 12:08, 12:28. He believed that Subject Officer’s statements were intended to intimidate him and he felt Subject Officer was being rude to him. *Id.* at 1:04, 1:30, 4:50, 11:53, 12:00. During his interview he asked, “Were they trying to get me to run? Were they trying to scare me?” *Id.* at 8:25.

Complainant’s allegations are corroborated by a video he took of Subject Officer driving next to him in his squad car and by Subject Officer’s BWC footage. In the video captured by Complainant’s phone camera, Subject Officer is heard to shout to him from the police car, “What’s up buddy? Don’t run in them tight ass pants.” Exh. 11 at 0:04. Subject Officer’s BWC footage captures Subject Officer saying “were you in an alley with your boyfriend?” after leaving his car and approaching Complainant. Officer SUBJECT OFFICER BWC footage captured May 8, 2019 (SUBJECT OFFICER BWC) at 2:06.

Subject Officer didn’t recall making the statement, “don’t run in them tight ass jeans,” Exh. 5 at 6:34, and he was not asked about the “boyfriend” statement. In his objections, however, he explained that he was afraid Complainant had a gun so he “was trying to be nonchalant so [Complainant] wouldn’t get spooked and either become violent or run away.” SUBJECT OFFICER objections, 8. Subject Officer explained that his statement about the tight pants was just a “joke,” which he claims Complainant knew because he laughed. *Id.*

Subject Officer’s explanation in his objections has a ‘boy in a schoolyard’ quality, as if defending himself by saying ‘he started it’ or ‘everybody’s doing it.’ He claimed, “[the crowd Complainant was associating with] makes racist, homophobic, sexist, sexually harassing comments to us whenever they see us. They are always recruiting younger kids, who think this is cool. In fact, since we’ve gone to the new uniforms, they make fun of our ‘tight-ass pants’ all the time, so that’s one of the things we will joke back and forth about. That’s probably why I made that comment.” *Id.* Later Subject Officer states “he said I made homophobic comments to him, but he’s the one who made the homophobic comment to me after we released him and he said I liked putting my hands on men and that’s the PG-13 version of what they normally say.” *Id.*

Subject Officer contends that his comments should be judged based on the “norm” of communication between officers and MS-13 not based on how he might be expected to communicate with non-gang members. General Order 201.26 does not provide such an exception to its language and conduct standard, however. Rather, it requires refraining from using profane and insolent language, and terms or name-calling that might be interpreted as derogatory, disrespectful, or offensive to the dignity of any person.

As a trained professional, Subject Officer is expected and required to behave like one and not to talk like an MS-13 gang member. Not interacting at a childish, name-calling and taunting level is the price of being the authority figure, all the more so when he is an authority figure with

a gun. Even WITNESS OFFICER paused when asked whether in his opinion Subject Officer was “rude” to Complainant and said “I’m not even sure how to answer that, that’s SUBJECT OFFICER’s personality, you would have to ask him.” Exh. 7 at 7:38. While he then said that in his opinion Subject Officer had not been rude, his pause and disclaimer about Subject Officer’s personality suggest that Subject Officer’s manner of relating to Complainant may have been something different than the “norm” of professional police language and conduct, even with suspected MS-13 gang members.

Watching and listening to the videos of the interaction, Complainant does not insult the officer or do anything to elicit or counter Subject Officer’s “jokes” until the end of the encounter after he is free from the handcuffs and at some distance from the officers. Exh. 11 and SUBJECT OFFICER BWC. Complainant’s laugh in response to the “tight ass jeans” comment was forced, not a laugh of joviality and a shared joke, but of the, ‘I’m not going to let you know that you’re bothering me’ variety. Exh. 11 at 0:04. That Complainant experienced Subject Officer’s comments as rude and as an attempt to intimidate him is reasonable considering that whether Complainant had reason to fear he was in trouble or not, he should be able to expect Subject Officer to behave as a professional and not as one of the boys or, worse, a schoolyard bully.

Subject Officer’s representative contends in the objections that Subject Officer did not cause Complainant distress, anxiety, or apprehension because any anxiety began before the encounter. The standard for a violation of language and conduct, however, is not whether Complainant’s anxiety and apprehension were solely caused by Subject Officer’s statements, but whether the statements were “intended to or ha[d] the effect of causing a reasonable person to experience distress, anxiety, or apprehension” (emphasis added). Here, Subject Officer’s statements and conduct caused Complainant distress as a reasonable person might experience when subject to such taunting. In fact, one can imagine that if one were already anxious about an officer following him, a reasonable person would have increased apprehension about the behavior of an officer who thinks it is acceptable to use taunts rather than speak to him as a trained officer subject to a professional standard of conduct.

Subject Officer’s language violated MPD General order 201.26 to be courteous and orderly in his dealings with the public, to refrain from profane and insolent language, and from resorting to terms or name-calling, which might be interpreted as derogatory, disrespectful, or offensive to the dignity of any person. His words and conduct were insulting, demeaning, and humiliating in violation of DC Code § 5-1107. Thus, Complainant’s language or conduct claim is sustained.

B. Subject Officer harassed Complainant when he unlawfully searched his pants pocket for identification.

Harassment is defined in MPD General Order 120.25, Part III, Section B, No. 2 and in the regulations governing OPC 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 arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien, 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.”

Subject Officer searched Complainant’s pockets for his identification

“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.

Here, Complainant alleged that Subject Officer put his hands into Complainant’s pockets to retrieve his identification after he had been put in handcuffs. Exh. 3 at 9:05, 9:40. He claims that he did not provide consent for him to do so. *Id.* at 9:46. The BWC footage does not explicitly show Subject Officer reaching into Complainant’s pockets for the identification. SUBJECT OFFICER BWC. Subject Officer is seen in the footage with Complainant’s identification, however, following a conversation between them regarding the location of the identification in Complainant’s pockets. SUBJECT OFFICER BWC at 4:10. Given that Complainant was handcuffed at the time, it is reasonable to believe that Subject Officer went into Complainant’s pockets to search for and retrieve the identification. Subject Officer also admits during his interview with OPC to reaching into Complainant’s pockets to retrieve his identification. Exh 5 at 5:25.

Subject Officer had no search warrant, probable cause, or valid consent to search Complainant’s pockets

The search of Complainant’s pockets here was in violation of the law and internal guidelines of the MPD. The act of reaching into a suspect’s pockets constitutes a search under the Fourth Amendment. *Sibron v. New York*, 392 U.S. 40, 65 (1968). Such a search requires a warrant or an exception to the warrant requirement. *See Katz v. United States*, 389 U.S. 347 (1967); *U.S. v. Scott*, 987 A.2d 1180 (D.C. 2010). Such exceptions include probable cause to believe that contraband or evidence of a crime will be found, consent, and search incident to arrest. *Katz*, 389 U.S. 347.

MPD General Order 304.10 also prohibits an officer during a “frisk” from reaching “inside the person’s clothing or pockets unless the officer feels something that may reasonably

constitute a weapon or dangerous instrument.” Part III.C.4.(c)(3). A frisk is limited to a “protective search for concealed weapons or dangerous instruments. Usually it occurs during a ‘stop’ and consists of a pat down of the individual’s clothing to determine the presence of weapons and other dangerous objects.” MPD General Order 304.10 specifies that “[t]he authority to frisk shall not be used to conduct full searches designed to produce evidence or other incriminating material. Full searches of persons conducted without adequate probable cause to arrest are illegal and are specifically prohibited by this order.” *Id.* at III.C.4.b.

Probable cause to conduct a search requires “facts and circumstances within the officers’ knowledge, and of which they have reasonably trustworthy information, [that] are sufficient in themselves to warrant a belief by a man of reasonable caution that a crime is being committed.” *Brinegar v. United States*, 338 U.S. 160 (1949). Here, Subject Officer provided reasonable suspicion for his decision to stop and frisk Complainant for weapons. *See* Exh. 2. He has not provided an explanation of probable cause to justify escalating the frisk into a search of Complainant’s pockets, however. Moreover, he did not suggest that he felt anything during the frisk that suggested he felt something that could have reasonably constituted a weapon or dangerous instrument that would have complied with the “plain-feel” exception as elucidated in MPD General Order. 304.10.

Search incident to arrest would not apply here because Subject Officer did not arrest Complainant and told him explicitly that he was not under arrest, but was merely being detained. *See* SUBJECT OFFICER BWC at 6:35.

Rather, Subject Officer contends during his interview with OPC that Complainant gave him consent “based on his response to me.” Exh. 5 at 5:31. Complainant claimed in his interview, however, that he had not provided consent to Subject Officer to retrieve his identification from his pockets. Exh. 3 at 9:46.

For consent to be valid, it must be given unequivocally, specifically, freely, and intelligently. *Judd v. United States*, 190 F.2d 649, 651 (D.C. Cir. 1951). The BWC footage of the conversation leading up to the search, does not provide evidence of such consent. The discussion only involves Complainant answering Subject Officer’s direct questions regarding his identification:

Subject Officer: “Do you have id on you?”

Complainant: “I do.”

Subject Officer: “Where is it?”

Complainant: “In my pocket.”

Subject Officer: “Which pocket, left or right?”

Complainant: “I don’t know. I don’t have my hands free.”

Subject Officer: “You put it in there didn’t you?”

Subject Officer: “There we go.”

SUBJECT OFFICER BWC at 4:10. Subject Officer is then seen holding Complainant's identification in his hand. SUBJECT OFFICER BWC at 4:30.

Not only did Complainant not provide specific and unequivocal consent to search his pockets, he was under no compulsion to provide his identification or even answer Subject Officer's questions. MPD General Order 304.10 states, "The stopped individual shall not be compelled to answer questions or produce identification for examination by the officer." Furthermore, according to MPD Circular 4-10, pedestrians are not required to produce or display documentary evidence of their identity unless an officer reasonably believes the pedestrian has provided a fictitious name or address and the officer plans to issue the pedestrian a Notice of Infraction. Thus, Subject Officer had no grounds to compel Complainant to produce identification and no lawful grounds to search his pockets for it absent one of the above discussed exceptions.

Subject Officer's search of Complainant's pockets was done at a minimum recklessly in violation of the law and MPD policy

Here, Subject Officer searched Complainant's pockets in violation of the law and MPD policy. An officer's investigative function is integral to his activities and it is incomprehensible that Subject Officer did not know on what basis he could conduct a search of Complainant's pockets. Both MPD General Order 304.10 and MDP Circular 4-10 state precisely when officers may demand identification and when they are permitted to reach into a person's pockets to retrieve objects. Neither of these allow for "implied" consent as Subject Officer seems to be suggesting he had.

If Subject Officer's representative is contending in his objections that Subject Officer is not familiar with the law and policy in this matter, it is of particular concern. An unlawful search could result in the suppression of discovered evidence and hurt or destroy an otherwise valid case as he acknowledges in his objections. Thus, it seems likely that Subject Officer knowingly violated the law and MPD policy when he searched Complainant's pockets without consent. Even if Subject Officer is not familiar with the law, however, MPD General Order 201.26 requires that sworn members "familiarize themselves with the laws and regulations they are required to enforce." Part V. B. 1. Subject Officer was on clear notice of the requirements relating to the production of identification in this instance and the need for unequivocal, specific, freely given, and intelligent consent before searching Complainant's pockets for it. Thus, Subject Officer's unlawful search was at a minimum reckless.

Because Subject Officer searched Complainant's pockets for his identification knowingly or recklessly in violation of the law and MPD policy the allegation of harassment is sustained.

C. Subject Officer failed to provide his name and badge number when requested

MPD General Order 201.26 (effective April 5, 2011), Part V, Section C, No. 1(e) states, “When requested to do so, members shall give their first and last name and badge numbers in a respectful and polite manner.”

Complainant told OPC that when he asked Subject Officer for his name, he responded with “what’s up.” Exh. 3 at 1:45. Subject Officer couldn’t recall that interaction or Complainant asking for his name at any time during the interaction. Exh. 5 at 5:57, 6:03. The video footage taken by Complainant on his phone corroborates Complainant’s claim, however. In the video, Subject Officer is driving alongside Complainant when Complainant asks his name. Exh. 11 at 0:18. Subject Officer responds, “My name is what’s up.” *Id.*

The BWC footage also provides evidence of Complainant again asking for Subject Officer’s identification. After Subject Officer obtained Complainant’s identification from his pocket, Subject Officer walked Complainant over to the squad car while WITNESS OFFICER ran Complainant’s identification and checked for warrants. SUBJECT OFFICER BWC at 5:13. Complainant and Subject Officer engaged in a conversation that can only be partly heard. *Id.* at 6:28. WITNESS OFFICER then said to Subject Officer, “We could get one set up with the probation officer. Depends on how this goes you know. He wants to take down names and badge numbers and stuff.” WITNESS OFFICER BWC footage dated May 8, 2019. WITNESS OFFICER BWC at 7:47. Complainant reported in his interview with OPC that he heard these statements as a threat. Exh. 3 at 14:43, 14:55.

Subject Officer responded, “We could definitely do that too.” SUBJECT OFFICER BWC at 6:47.

WITNESS OFFICER’s suggestion of retaliation – calling Complainant’s probation officer in response to Complainant wanting the officer to identify himself –is both disturbing and suggestive that Complainant had just tried to obtain that information.

Shortly thereafter, an unidentified officer arrives and Subject Officer greets him, “What’s up bro. This is my new friend.” SUBJECT OFFICER BWC at 6:51. “New friend” seemingly referring to Complainant who was standing next to Subject Officer. Additional dialogue that is often inaudible ensues.

Complainant then states, “SUBJECT OFFICER BADGE NUMBER.” SUBJECT OFFICER BWC at 6:57. Complainant claimed during his interview with OPC that Subject Officer never provided his name, but, rather, that he obtained the information in his statement from Subject Officer’s name tag and badge when Subject Officer held him by the police car. Exh. 3 at 2:40. Given that Complainant’s other claims of statements by Subject Officer have been corroborated, that WITNESS OFFICER and Subject Officer seem to be threatening

Complainant in response to a request for such information, and Subject Officer cannot ever be heard giving this information to Complainant, Complainant's claim is credible.

In response, Subject Officer then says, "Yeah buddy." SUBJECT OFFICER BWC at 7:00. It is unclear from Subject Officer's tone in this statement if he is confirming the information Complainant just stated or simply saying it to the unidentified officer.

Even assuming Subject Officer was confirming the information Complainant just stated, it was not Subject Officer's correct badge number. Subject Officer's badge number is REDACTED as demonstrated by the roster sent to OPC by MPD on October 21, 2019, and later confirmed by the MPD liaison to OPC in the attachment to OPC's response to Subject Officer's objections dated April 1, 2020. Although Subject Officer's representative contends that Subject Officer's badge number is REDACTED DIFFERENT BADGE NUMBER, he does not provide substantiating information.

The BWC footage does not give any indication of Subject Officer ever providing his name and badge number to Complainant. Even assuming he did so during the inaudible parts of the BWC footage, he then seems to later confirm Complainant's incorrect recollection of his badge number. Perhaps more importantly, his response to Complainant's initial request, "my name's what's up," then threatening to call Complainant's probation officer in retaliation for a seemingly second request for his name and badge number, and then possibly confirming the wrong badge number are hardly providing his name and badge number in a "respectful and polite manner." The allegation of Subject Officer failing to provide his identification in violation of D.C. Code § 5-1107 and MPD General Order 201.26 is, therefore, sustained.

V. SUMMARY OF MERITS DETERMINATION

SUBJECT OFFICER

Allegation 1: Language or Conduct	Sustained
Allegation 2: Harassment	Sustained
Allegation 3: Failure to Identify	Sustained

Submitted on April 20, 2020.

Jennifer A. Fischer, Esq.
Complaint Examiner