

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

**FINDINGS OF FACT AND MERITS DETERMINATION**

<b>Complaint No.:</b>	06-0364
<b>Complainant:</b>	COMPLAINANT
<b>Subject Officer(s), Badge No., District:</b>	SUBJECT OFFICER
<b>Allegation 1:</b>	Harassment
<b>Allegation 2:</b>	Insulting, Demeaning, or Humiliating Language or Conduct
<b>Allegation 3:</b>	Use of Excessive or Unnecessary Force
<b>Complaint Examiner:</b>	Sundeep Hora
<b>Merits Determination Date:</b>	October 31, 2008

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**

COMPLAINANT (the “Complainant”) alleges that on August 29, 2006, Metropolitan Police Department (MPD) SUBJECT OFFICER, Third District (the “Subject Officer”) harassed her, used unnecessary or excessive force against her and used language or engaged in conduct toward her that was insulting, demeaning or humiliating.

Complainant alleges that on August 29, 2006, when she went to the Third District police station with her neighbor WITNESS #1 to request a visitor’s parking pass, SUBJECT OFFICER was very angry and rude towards her. SUBJECT OFFICER allegedly refused to issue COMPLAINANT the permit because he believed she was “gaming the system” – that she was trying to avoid paying the three hundred plus dollars for a reciprocity sticker. Both COMPLAINANT and WITNESS #1 left the police station. However, when COMPLAINANT went back into the station, she was arrested for disorderly conduct. During the course of her arrest, Complainant alleges that the Subject Officer used unnecessary and excessive force. After Complainant informed the Subject Officer that she needed to take her medication to treat her epilepsy, SUBJECT OFFICER remarked, “I knew you were on something” and denied her medical care.

## **II. EVIDENTIARY HEARING**

No evidentiary hearing was conducted regarding this complaint because, based on a review of OPC's Report of Investigation and the attached exhibits, 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., title 6A, § 2116.3.

## **III. FINDINGS OF FACT**

Based on a review of OPC's Report of Investigation and the attached exhibits,<sup>1</sup> the Complaint Examiner finds the material facts regarding this complaint to be:

1. At the time of the incident, Complainant was a law student at George Washington University. On Monday, August 28, 2006, Complainant attempted to renew her reciprocity permit, a permit that allows non-residents of the District to park their car in District residential areas while keeping their cars registered in their home state, at the Department of Motor Vehicles (DMV). Because the DMV was closed, Complainant went to the Third District Station to obtain a 15-day visitors' parking permit.
2. At the station, Complainant spoke to SUBJECT OFFICER who told her that she was ineligible for a visitors' parking permit due to her dual residency in D.C. and her home state. Complainant left the station and when she returned home, she called the number for her local police department. The unidentified officer told Complainant that she was eligible for a 15-day visitors' parking permit and that she was not "dually" registered. This officer suggested Complainant speak with the Sergeant at her local station. Complainant then called the Third District Station and spoke with WITNESS OFFICER #1. After Complainant explained her situation to him, unbeknownst to Complainant, WITNESS OFFICER #1 passed the phone to SUBJECT OFFICER. Complainant began recounting what an officer at the Third District had told her, when SUBJECT OFFICER stated, "That was me you talked to. I don't care who you talk to, you're not getting a parking permit."
3. Complainant went back to the Third District and spoke with WITNESS OFFICER #2, about how to obtain a visitor's parking permit. The sergeant informed Complainant that if she brought a District resident with her to the police station, she could receive a visitor's parking permit.
4. On August 29, 2006, Complainant and her neighbor, WITNESS #1, arrived at the Third District at approximately 6:20 p.m. SUBJECT OFFICER was at the front desk. WITNESS #1 presented his license to the Subject Officer and said that he was a resident

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<sup>1</sup> The Subject Officer was given the opportunity to submit written objections to the factual record, but declined to do so.

of the District. SUBJECT OFFICER became very angry and stated that he had spoken with the Complainant about the visitor's parking permit the day before and told her she was ineligible. SUBJECT OFFICER then presented Complainant with a document that explained how to get a parking permit for a contractor. Complainant explained that she was not a contractor. SUBJECT OFFICER stated again that the Complainant was not going to get a permit. He explained to WITNESS #1 that students were "gaming the system" by forging visitor's parking permits and that COMPLAINANT simply did not want to pay the fee for a reciprocity permit.

5. During this interaction, Complainant repeatedly asked the Subject Officer to speak to a supervisor or sergeant, however, the Subject Officer neither complied with this request nor let Complainant speak with someone else. SUBJECT OFFICER, in his signed statement, described Complainant as "disorderly, cursing, and stat[ed] that she was going to the station to cause a disturbance so she could get locked up." WITNESS #1 described SUBJECT OFFICER'S demeanor as "aggressive" and his tone of voice as "elevated and agitated" during the interaction. WITNESS #1 stated that Complainant was, while he was present, "calm and did not use profanity." Complainant described SUBJECT OFFICER'S demeanor to be "shocking."
6. At the end of the discussion, the Subject Officer got up from behind the desk and went to the front door of the station, held it open, and ordered Complainant to leave or she would be arrested for disorderly conduct. WITNESS #1 stated that "it was not worth it" and Complainant and WITNESS #1 then left the station.
7. Once outside the station, Complainant told WITNESS #1 to "go home." WITNESS OFFICER #3, Third District stated that on his way into the Third District Station, he overheard Complainant tell WITNESS #1, "Either I am going to get a parking permit or I'm gonna make him lock me up."
8. According to Complainant, she went back into the station to speak to a "rational officer." Upon entering the station, she sat down near the front desk. SUBJECT OFFICER was assisting another citizen. After he finished helping this person, he "came storming around the desk" and told the Complainant that she was under arrest for disorderly conduct. According to WITNESS OFFICER #3, upon re-entering the station, COMPLAINANT approached the desk. While he saw Complainant and SUBJECT OFFICER speak, he could not hear their conversation and did not recall the length of their conversation. SUBJECT OFFICER, in his interview with OPC investigator WITNESS #4<sup>2</sup> on July 18, 2007, stated that Complainant approached the counter,

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<sup>2</sup> On July 18, 2007, WITNESS #4, an OPC investigator, conducted an interview of Subject Officer. Subject Officer terminated the interview before a statement was prepared, stating that he had been harassed by WITNESS #4 during the interview. SUBJECT OFFICER requested, and OPC agreed, to have a union representative present. On July 20, 2007, the Subject Officer

wedged herself between the approximately six citizens that were in the area, talked over them, slammed her hand on the counter while saying, "I want a parking permit," and became increasingly louder in her demands for a parking permit.

9. Complainant stated that SUBJECT OFFICER ran around the station yelling for handcuffs to lock her up. An officer, who according to Complainant was not a member of the MPD, "reluctantly" provided SUBJECT OFFICER with handcuffs. Complainant stated that she was sitting when SUBJECT OFFICER "grabbed" her by her upper right arm and "yanked [her] around and pulled [her] arms behind her back." After forcing Complainant to her feet, SUBJECT OFFICER pushed her head down and "ripped" her purse off of her shoulders. The Subject Officer then "yanked [her] around and pulled [her] arms behind her back." Complainant stated that she did not resist SUBJECT OFFICER and that she was never given the chance to voluntarily stand up, turn around and place her arms behind her back. Complainant alleges that SUBJECT OFFICER then "pushed" her body into a door on the way to the cell block, roughly escorted her by the arm, and "threw" her into the cell block. COMPLAINANT stated that during the arrest, she received a cut to her right elbow and left middle finger but that she is unsure how she received these injuries.
10. During his initial interview with OPC investigator WITNESS #4 on July 18, 2007, SUBJECT OFFICER stated that he came around the counter and the Complainant, who had been standing, immediately sat down in a chair near the desk and clutched her purse to her chest. COMPLAINANT appeared "shocked" that the subject officer was locking her up and suddenly became quiet. Because he did not have handcuffs available to him at the moment, SUBJECT OFFICER recalled asking a United States Secret Service Uniformed Division (USSSUD) officer in the station for handcuffs. SUBJECT OFFICER stated that despite having seen the officer in the station before, he could not provide OPC with the officer's name, badge number, and any other information that would positively identify him. He then ordered COMPLAINANT to put her purse down. However, according to SUBJECT OFFICER, she refused and continued to clutch her purse to her chest. As a result, SUBJECT OFFICER began to pry the Complainant's fingers off the purse, one by one, to remove it from her grip. As he was prying her fingers off the bag, the Complainant stood up. He continued prying until he was able to get her fingers off the bag. He then removed the bag by lifting it over the Complainant's head. The subject officer then reached back, got handcuffs from the USSSUD officer, handcuffed COMPLAINANT and escorted her to the cell block. SUBJECT OFFICER inter-locked his right arm with the Complainant's left arm so that, everywhere he went,

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appeared at OPC with his union representative and provided a signed statement. Because the information provided by SUBJECT OFFICER orally to WITNESS #4 on July 18, appears to be markedly different from the information he provided in his signed statement on July 20, OPC has designated WITNESS #4 as a fact witness and has included in the ROI a signed declaration from him detailing his July 18, 2007, interview with the Subject Officer.

she went; if he moved, she moved. He denied having pushed the Complainant or having been rough with her because, he noted, other than refusing to let go of her purse, COMPLAINANT was cooperative and calm.

11. In his signed statement, SUBJECT OFFICER stated that COMPLAINANT returned to the station after being escorted out and “proceeded to disturb the normal proceedings of the station” by “interrupting, speaking, talking loud, cursing and demanding that she be issued a visitor’s parking permit.” SUBJECT OFFICER stated that the Complainant was “placed under arrest, read her rights via PD 47, and processed for disorderly conduct.” SUBJECT OFFICER claims that WITNESS OFFICER #2 was present at the desk when the Complainant was yelling and carrying on, however, WITNESS OFFICER #2 denies being present at the station at that time.
12. In the arrest report, the subject officer wrote that before leaving the station, COMPLAINANT called him a “fucking idiot,” to which he replied, “have a nice day.” He further reported that while outside, COMPLAINANT told WITNESS OFFICER #3 that she intended “to cause a disturbance so she could get locked up.” At that time, he asked COMPLAINANT three times to leave the station and “stop interrupting the daily business of the station.” It was then that “six more citizens entered the station area and all business came to a stop.” The subject officer then placed COMPLAINANT under arrest. He added that when the Complainant re-entered the station, she prevented him from providing other citizens with service by “interrupting, speaking, talking loud, cursing, and demanding that she be issued a visitor’s parking permit.”
13. None of the other witnesses interviewed by OPC who were present at the Third District Station during the incident that led to Complainant’s arrest could describe Complainant’s behavior.
14. WITNESS OFFICER #4, Third District, stated that at the approximate time of Complainant’s arrest, she was seated at a table to the right side of the main entrance opposite the main desk, taking a report from a citizen. She “remember[ed] hearing SUBJECT OFFICER giving a female citizen loud verbal commands to ‘stand-up’.” She added, “the citizen was hesitant.” However, because her “focus was on [her] citizen and taking the report at the time,” she could not “remember anything else about the interaction between SUBJECT OFFICER and the female citizen.”
15. At some point after being placed in the cell block, Complainant informed the Subject Officer that she needed to take medication for her epilepsy. SUBJECT OFFICER responded, “I knew you were on something.” Complainant found this to be insulting because SUBJECT OFFICER was inferring that she had a mental condition. Complainant replied, “I know what you are on. It’s a power trip.” WITNESS #2, a Civilian Technician for MPD, witnessed SUBJECT OFFICER escorting COMPLAINANT into the cell block for processing. She stated that the Subject Officer was yelling, “Open this door, open this door, right now! Where’s WITNESS #3? I’ve

got this female.” WITNESS #2 also remembered that when SUBJECT OFFICER learned that Complainant needed to take her medication, he remarked, “I knew you were on something.”

16. The Subject Officer explained during his initial interview with OPC investigator WITNESS #4 that he assumed the Complainant was suffering from a mental disorder based on her behavior. He noted that Civilian Technician WITNESS #2 told him at some point that the Complainant was taking anti-depressants or some sort of drugs for a mental disorder, he remarked that he knew there was a reason the Complainant had been acting crazy. He further acknowledged that he stated something to the effect of, “I knew she was on something.” The Subject Officer clarified that this conversation took place in the cell block within earshot of the Complainant, who, at this time, was in her cell. However, later in the OPC interview, he claimed he had not made the statement and could not remember who said it.
17. At approximately 10:00 p.m., SUBJECT OFFICER presented COMPLAINANT with the PD 67 Collateral/Bond Form<sup>3</sup> and told her to sign it. She stated that she would like to read the form. SUBJECT OFFICER replied, “I hope you would,” but then partially covered the form so that she could not read it in its entirety. COMPLAINANT said she could only read the top of the form, which explained that she was waiving her right to a hearing. Civilian Technicians WITNESS #2 and WITNESS #3 advised COMPLAINANT to sign the PD 67, pay the collateral and get home to take her medicine. COMPLAINANT explained that based on the Civilian Technician’s advice and her need to take her medication as soon as possible, she decided to forfeit her right to a hearing, pay the collateral bond, and be released as soon as possible.

#### **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: (1) harassment; (2) use of unnecessary or excessive force; (3) use of language or conduct that is insulting, demeaning, or humiliating...”

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<sup>3</sup> A form on which an arrestee can elect to “post and forfeit” collateral, meaning that a misdemeanor arrestee pays, or “posts,” a pre-determined amount (usually \$25 or \$50), and, in return for the collateral, the District agrees not to press charges against the arrestee. The arrestee then forfeits the collateral. The arrest remains on the arrestee’s record, but no conviction is entered in the record.

### Harassment

Harassment, as defined by MPD Special Order 01-01, Part III, Section G, includes “acts that are intended to bother, annoy, or otherwise interfere with a citizen’s ability to go about lawful business normally, in the absence of a specific law enforcement purpose.”

The regulations governing OPC define harassment as “[w]ords, 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 (1) subject the person to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien, or other infringement of personal or property rights; or (2) deny or impede the person in the exercise or enjoyment of any right, privilege, power or immunity. 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., title 6A, § 2199.1

COMPLAINANT alleged that SUBJECT OFFICER subjected her to harassment by arresting her for disorderly conduct. The District of Columbia’s disorderly conduct statute provides:

Whoever, with intent to provoke a breach of the peace, or under circumstances such that a breach of the peace may be occasioned thereby: (1) acts in such a manner as to annoy, disturb, interfere with, obstruct, or be offensive to others; (2) congregates with others on a public street and refuses to move on when ordered by the police; (3) shouts or makes a noise either outside or inside a building during the nighttime to the annoyance or disturbance of any considerable number of persons; (4) interferes with any person in any place by jostling against such a person or unnecessarily crowding such person or by placing a hand in the proximity of such person’s pocketbook, or handbag; or (5) causes a disturbance in any streetcar, railroad car, omnibus, or other public conveyance, by running through it, climbing through windows or upon the seats, or otherwise annoying passengers or employees, shall be fined not more than \$250 or imprisoned not more than 90 days, or both.

D.C. Official Code § 22-1321.

The facts do not support that Complainant’s conduct constituted disorderly conduct. In his signed statement, the Subject Officer stated that Complainant, along with WITNESS #1, had been escorted out of the police station because she was “disturbing the day to day operations” of the station. Upon her re-entry to the Third District Station, SUBJECT OFFICER claims Complaint proceeded to “disturb the normal proceedings of the station” by “interrupting, speaking, talking loud, cursing and demanding that she be issued a visitors’ parking permit.”

In the arrest report, SUBJECT OFFICER provided a very different account of the events leading up to Complainant's arrest. He claimed that before Complainant left the station with WITNESS #1, she called the Subject Officer a "fucking idiot." While she was outside conversing with WITNESS #1, SUBJECT OFFICER claims that COMPLAINANT told WITNESS OFFICER #3 that she intended to "cause a disturbance so she could get locked up." WITNESS OFFICER #3 stated that he overheard Complainant speaking with WITNESS #1, as opposed to her speaking with him directly and that she stated, "Either I am going to get a parking permit or I'm gonna make him lock me up." Complainant's statement appears to be more a product of her frustration at the situation as opposed to an intent to actually get locked up. More importantly, WITNESS OFFICER #3's statement is completely at odds with the Subject Officer's statements in the arrest report, which are significantly different than what the Officer told the OPC investigator and what is contained in his signed statement.

None of the witnesses who were present at the Third District could corroborate SUBJECT OFFICER'S account about the Complainant's behavior or conduct that led to her arrest. MPD Civilian Technician WITNESS #2 stated that she did not witness the arrest or the events leading up to the arrest. MPD Civilian Technician WITNESS #3 stated that he was taking a lunch break during the arrest. WITNESS OFFICER #4, WITNESS OFFICER #5, WITNESS OFFICER #6 and WITNESS OFFICER #2 all stated either that they had no specific recollection or did not witness the arrest.

Even if we credit SUBJECT OFFICER'S assertion that Complainant began "talking loud" and "cursing" when she re-entered the station, his depiction of her conduct does not rise to the level of disorderly conduct because there is no evidence that her words or actions would lead to a breach of the peace likely to produce violence by others. *Shepard v. District of Columbia*, 929 A.2d 417 (D.C. 2007). In *Shepherd*, the D.C. Court of Appeals found that defendant's actions in yelling and swearing at a Metro officer were insufficient to support a disorderly conduct conviction where there was no evidence that the defendant intended to incite the small crowd that gathered to violence and there was no evidence of a hostile reaction by the crowd. *See also, In re W.H.L.*, 743 A.2d 1226 (D.C. 2000) (overturning a conviction for disorderly conduct where there was no evidence that juvenile defendant's swearing at officers and crowd formed was likely to breach the peace by inciting violence on the part of the crowd." There is no evidence in the record that any words or conduct by Complainant led to a breach of the peace or that a crowd formed, or that the persons who were present were incited to commit violence. WITNESS OFFICER #4, who was seated at a table to the right side of the main entrance opposite the main desk when Complainant was arrested, only remembers SUBJECT OFFICER making "loud verbal commands" and makes no mention of Complainant's conduct. WITNESS OFFICER #3 entered the Third District Station with Complainant and witnessed her approach the desk. While he saw Complainant and SUBJECT OFFICER speak, he could not hear their conversation and did not recall the length of their conversation. WITNESS OFFICERS #4 and #3 were both in a position to view Complainant's demeanor immediately prior to her arrest, yet neither of them state that Complainant acted inappropriately, let alone disorderly.



The evidence reviewed in this matter supports the finding that SUBJECT OFFICER harassed Complainant by arresting her for disorderly conduct. There is no credible evidence in the record to substantiate that Complainant was acting disorderly prior to her arrest. It appears that Complainant was arrested because SUBJECT OFFICER was annoyed at Complainant's repeated attempts to obtain a parking permit even after his repeated refusals to issue her one.<sup>4</sup> Because the arrest interfered with Complainant's "ability to go about lawful business normally" and it was done "in the absence of a specific law enforcement purpose, this Complaint Examiner finds that SUBJECT OFFICER harassed Complainant in violation of MPD Special Order 01-01.

COMPLAINANT further alleges that the Subject Officer subjected her to harassment when he denied her request for medical attention, specifically, when she informed him of her need to take medication related to her epilepsy. MPD General Order 502.7, Medical Treatment and Hospitalization for Prisoners, Part I, Section A1, (effective Jan. 17, 1975) states: "Persons held in departmental confinement facilities who claim a need for medical treatment due to any injury or disease shall be immediately transported to [the hospital] for examination and treatment."

COMPLAINANT stated that she informed SUBJECT OFFICER that she needed to take her anti-seizure medication. The subject officer allegedly remarked, "I knew you were on something." COMPLAINANT replied, "I know what you are on. It's a power trip." According to COMPLAINANT, SUBJECT OFFICER then left the cell block without addressing her request.

SUBJECT OFFICER acknowledged to the OPC investigator that he stated something to the effect of, "I knew she was on something," and that this statement was made within earshot of COMPLAINANT. WITNESS #2 corroborates the fact that when the Subject Officer learned Complainant was taking medication, he remarked, "I knew you were on something." WITNESS #2 does not indicate in her statement, however, whether SUBJECT OFFICER made this remark to Complainant directly or within earshot of her cell. The Complaint Examiner credits the Complainant's version of events. Notwithstanding this finding, as soon as SUBJECT OFFICER learned that COMPLAINANT required medication, he was under an obligation, per MPD General Order 502.7 to make sure she received medical care. There is no evidence in the record that the denial of medical care was based on any law enforcement purpose. By preventing her from receiving medical care, SUBJECT OFFICER prevented COMPLAINANT from going about her lawful business normally. The Subject Officer's actions also purposefully, knowingly, or recklessly impeded the Complainant's exercise of her right to seek medical treatment. Accordingly, the Complaint Examiner finds that SUBJECT OFFICER harassed Complainant in violation of MPD Special Order 01-01.

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<sup>4</sup> The Complaint Examiner does not find to be credible SUBJECT OFFICER'S statement that he was willing to issue a parking permit to WITNESS #1 for Complainant, but that she found this to be unacceptable unless it was issued to her directly.

### Language or Conduct

Language or conduct that is insulting, humiliating, or demeaning, as defined by MPD Special Order 01-01, Part III, Section H “includes, but is not limited to acts, words, phrases, slang, slurs, epithets, ‘street’ talk or other language which would be likely to demean the person to whom it is directed or to offend a citizen overhearing the language; demeaning language includes language of such kind that its use by a member tends to create disrespect for law enforcement whether or not it is directed at a specific individual.”

MPD General Order 201.26, Part I, Section C provides that “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.”

Complainant alleges that SUBJECT OFFICER insulted, demeaned and humiliated her when she came into the Third District police station with her neighbor to obtain a visitor’s parking permit. According to Complainant, in denying her a visitors’ parking permit, SUBJECT OFFICER implied that she was trying to “game the system” by attempting to avoid paying the \$300 dollars for a reciprocity sticker. Complainant alleges that SUBJECT OFFICER became “very angry” with her when she came into the station to get the permit. WITNESS #1 described the Subject Officer’s demeanor as “aggressive” and his tone of voice as “elevated and agitated.” WITNESS #2 stated that while SUBJECT OFFICER was escorting Complainant to the holding cell, he was yelling, “Open this door, open this door right now! Where’s WITNESS #3? I’ve got this female.”

Complainant also alleges that the Subject Officer demeaned and insulted her when he remarked, “I knew you were on something,” in response to her request to take her anti-seizure medication. SUBJECT OFFICER acknowledged making the remark to the OPC Investigator and that he made the remark within earshot of the Complainant. Moreover, WITNESS #2 corroborates the fact that the Subject Officer made the remark.

The evidence reviewed in this matter supports the finding that SUBJECT OFFICER used language and conduct toward Complainant that was insulting, humiliating or demeaning and that he failed to “exercise patience and discretion in the performance of [his] duties.”

### Excessive Force

Use of unnecessary or excessive force, as defined by MPD Special Order 01-01, Part III, Section N includes “the use of force that is improper in the context of the incident giving rise to the use of force.”

The regulations governing OPC define excessive or unnecessary force as “[u]nreasonable use of power, violence, or pressure under the particular circumstances. Factors to be considered

when determining the ‘reasonableness’ of a use of force include the following: (1) the severity of the crime at issue; (2) whether the suspect posed an immediate threat to the safety of officer or others; (3) whether the subject was actively resisting arrest or attempting to evade arrest by flight; (4) the fact that officers are often required to make split second decisions regarding the use of force in a particular circumstance; (5) whether the officer adhered to the general orders, policies, procedures, practices and training of the MPD ... and (6) the extent to which the officer attempted to use only the minimum level of force necessary to accomplish the objective.” D.C. Mun. Regs., title 6A, § 2199.1

COMPLAINANT, who is approximately five feet five inches tall and weighs about 110 pounds, alleges that SUBJECT OFFICER, who is approximately five feet eleven inches tall and weighs about 200 pounds, came “storming” from behind the Third District police station’s front desk and told COMPLAINANT that she was under arrest for disorderly conduct. The subject officer then “ran around asking for handcuffs” to “lock [her] up.” After the USSSUD officer provided the subject officer with handcuffs, SUBJECT OFFICER immediately grabbed the Complainant by her upper right arm and pulled her up by her arm. According to the Complainant, SUBJECT OFFICER then allegedly pushed the Complainant’s head down and “ripped” her purse off her shoulders, “yanked [her] around and pulled [her arms] behind her back. COMPLAINANT further alleged that the subject officer then held onto her right arm and roughly escorted her to the Third District cell block, pushing her into a door along the way and finally throwing her through the open door leading to the cell block. COMPLAINANT stated that she did not resist the subject officer and that she repeatedly told him that she would get out of the chair. Although the Complainant alleged that she received cuts to her elbow and left middle finger, she was unsure how she received the injuries and could not positively attribute them to any specific action by the subject officer.

While Complainant’s description of the force used against her is credible, the fact that she is unsure as to how she specifically received her injuries, coupled with the lack of corroboration from any other witness regarding SUBJECT OFFICER’S alleged use of excessive force, leads the Complaint Examiner to find that this charge is unfounded.

**V. SUMMARY OF MERITS DETERMINATION**

**SUBJECT OFFICER**

<b>Allegation 1: Harrassment</b>	Sustained
<b>Allegation 2: Insulting, Demeaning, or Humiliating Language or Conduct</b>	Sustained
<b>Allegation 3: Use of Excessive or Unnecessary Force</b>	Unfounded

Submitted on October 31, 2008.

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Sundeep Hora  
Complaint Examiner