

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

**SUPPLEMENTAL
FINDINGS OF FACT AND MERITS DETERMINATION**

Complaint No.:	05-0274
Complainant:	COMPLAINANT
Officer (s), Badge No., District:	SUBJECT OFFICER, Financial Crimes Branch
Allegation 2:	Insulting, Demeaning, or Humiliating Language or Conduct
Allegation 3:	Unnecessary/Excessive Force
Complaint Examiner:	Paula Xinis
Merits Determination Date:	July 3, 2007

The following addendum supplements the Findings of Fact and Merits Determination issued in Case No. 05-0274 by the Complaint Examiner on June 17, 2007 in which two allegations – Harassment and Insulting, Demeaning or Humiliating Language or Conduct – were sustained.

This addendum addresses a third, separate allegation of Unnecessary or Excessive Force that was inadvertently omitted from the original Merits Determination. Specifically, in addition to the allegations addressed in the June 17 opinion, COMPLAINANT alleges that SUBJECT OFFICER used unnecessary or excessive force when he pushed her son, WITNESS #1 into the same holding room in which his sister was previously placed. In its Report of Investigation, OPC concluded that no reasonable cause existed to support this allegation. The Complaint Examiner agrees. WITNESS #1 noted that SUBJECT OFFICER's actions "did not cause him to stumble or fall and did not cause him any pain." Thus, even if the Complaint Examiner fully credits WITNESS #1's account of being pushed, the force used was *de minimus* and thus not excessive.

This addendum additionally addresses an alternate basis for supporting the second allegation of Insulting or Demeaning Language or Conduct asserted by COMPLAINANT. COMPLAINANT alleges that SUBJECT OFFICER used insulting or demeaning language when he purportedly reacted to a smirk on WITNESS #1's face with, "You think this is funny?" While the allegation of Insulting or Demeaning Language or Conduct was sustained on other grounds in the June 17 opinion, this basis inadvertently went unaddressed. OPC's Report of Investigation notes that the only witness to this supposed remark is COMPLAINANT's daughter WITNESS #2, whose inconsistent statements to OPC undermine her credibility. Further, even assuming SUBJECT OFFICER made this statement, this Examiner fails to see how a single comment asking WITNESS #1 if he thinks the situation is funny could constitute insulting or demeaning

language or conduct. Accordingly, the Examiner agrees with OPC that this allegation is unfounded.

Allegation 2: Insulting, Demeaning, or Humiliating Language or Conduct	Unfounded (pertaining to WITNESS #1)
Allegation 3: Unnecessary/Excessive Force	Unfounded

Submitted on July 3, 2007.

Paula Xinis
Complaint Examiner