

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

FINDINGS OF FACT AND MERITS DETERMINATION

Complaint No.:	17-0079
Complainant:	COMPLAINANT
Subject Officer(s), Badge No., District:	SUBJECT OFFICER
Allegation 1:	Insulting, Demeaning, or Humiliating Language or Conduct
Complaint Examiner:	Danielle Davis
Merits Determination Date:	June 30, 2017

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 filed a complaint with the Office of Police Complaints (“OPC”) on November 30, 2016. COMPLAINANT alleges that on November 26, 2016, the subject officer, Metropolitan Police Department (“MPD”) used language or engaged in conduct that was insulting, demeaning or humiliating toward her when he called her a “control freak,” repeatedly refused her and her mother’s requests to file a police report against her granddaughter’s father, made comments about God, talked to her in a rude, aggressive, and unprofessional tone, and accused her of being “mad” because she did not get what she wanted.

Specifically, COMPLAINANT alleges that on November 26, 2016 she went to A DISTRICT POLICE STATION IN WASHINGTON DC with WITNESS to file a police report against SUSPECT for violation of a court-issued child custody/visitation order and trespassing, after a child custody/visitation dispute at WITNESS’s home. According to COMPLAINANT, earlier that day, SUSPECT came to WITNESS’s home uninvited and demanded visitation with his daughter, of whom WITNESS has full custody. While discussing the incident with SUBJECT OFFICER, COMPLAINANT presented a court order and asserted that, according to the order, all visitations were to be supervised and only WITNESS had the power to determine the visitation schedule. Thus, SUSPECT should not have come to WITNESS house uninvited and demanded visitation. According to COMPLAINANT, SUSPSECT’s actions violated the court order and amounted to trespass on WITNESS’s property.

COMPLAINANT alleges that in response to her assertions and request to file a police report against SUSPECT, SUBJECT OFFICER: (1) was rude, unprofessional, and discourteous; (2) spoke to her in an aggressive tone; (3) repeatedly interrupted her, preventing her from fully describing the incident at WITNESS's home or explaining the court order; (4) was overly sympathetic to SUSPECT and mischaracterized the facts surrounding the child custody/visitation dispute in SUSPECT's favor; (5) repeatedly asserted that her interpretation of the court-issued child custody/visitation order was incorrect, and that his interpretation of the order was the only interpretation; (6) refused to provide her with the names and badge numbers of the MPD officers who responded to the child custody/visitation dispute between SUSPECT at WITNESS's; (7) repeatedly refused to allow her and WITNESS to file a police complaint against SUSPECT; (8) called her a "control freak;" and (9) refused to allow her to borrow his ink pen to write down his name and badge number, stating that he was merely required to tell her his name and badge number. COMPLAINANT also alleges that when she asked SUBJECT OFFICER if he is related to SUSPECT, SUBJECT OFFICER responded that he is only related to God. According to COMPLAINANT, SUBJECT OFFICER abruptly ended the conversation between them, and then attempted to antagonize her as she walked out of the police station by accusing her of being "mad" because she did not get what wanted.

II. EVIDENTIARY HEARING

No evidentiary hearing was conducted regarding this complaint because, based on a review of OPC's Report of Investigation, the objections submitted by SUBJECT OFFICER on May 11, 2017, OPC's response to the objections, and the Complaint Examiner's review of SUBJECT OFFICER's body-worn camera footage, the Complaint Examiner determined that this matter 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 objections submitted by SUBJECT OFFICER on May 11, 2017, OPC's response to the objections, and the Complaint Examiner's review of SUBJECT OFFICER's body-worn camera footage, the Complaint Examiner finds the material facts regarding this complaint to be:

1. On November 26, 2016, the Complainant went to the A DISTRICT POLICE STATION IN WASHINGTON DC with WITNESS, to file a police report against SUSPECT following a child custody/visitation dispute at SUSPECT's home.
2. SUBJECT OFFICER's body-worn camera footage establishes that he interacted with COMPLAINANT and WITNESS inside A DISTRICT POLICE STATION IN WASHINGTON DC for no less than thirty-minutes.

3. SUBJECT OFFICER's body-worn camera footage establishes that he interrupted COMPLAINANT and WITNESS no less than twenty times.
4. SUBJECT OFFICER's body-worn camera footage establishes that he failed to remain quiet and calm during the interaction with COMPLAINANT and WITNESS.
5. In his May 11, 2017 objections, SUBJECT OFFICER admits that his "tone changed" from quiet and calm over the course of his interaction with COMPLAINANT and WITNESS.
6. SUBJECT OFFICER's body-worn camera footage establishes that he denied COMPLAINANT's request for the names and badge numbers of the MPD officers who responded to the child custody/visitation dispute at WITNESS's home earlier that day.
7. SUBJECT OFFICER's body-worn camera footage establishes that the MPD officers' names and badge numbers were subsequently provided to COMPLAINANT by a different MPD staff member, prior to COMPLAINANT's departure from A DISTRICT POLICE STATION IN WASHINGTON DC.
8. SUBJECT OFFICER's body-worn camera footage establishes that he repeatedly denied COMPLAINANT's and WITNESS's requests to file a police report against SUSPECT.
9. SUBJECT OFFICER's body-worn camera footage establishes that he repeatedly voiced his disagreement with COMPLAINANT and WITNESS regarding the legality of SUSPECT's actions, the requirements of the court-issued child custody/visitation order, and whether or not COMPLAINANT and WITNESS were justified in filing a police report against SUSPECT.
10. SUBJECT OFFICER's body-worn camera footage establishes that he repeatedly demanded that COMPLAINANT and WITNESS "show [him] in the order" and provide him "proof" that the court order prohibited SUSPECT's actions.
11. SUBJECT OFFICER's body-worn camera footage establishes that he repeatedly extended his arm in between COMPLAINANT and WITNESS, and physically slammed his hand and/or fingers on the court order that was produced by COMPLAINANT.
12. During his February 23, 2017 interview with the OPC Investigator, SUBJECT OFFICER admitted that he questioned COMPLAINANT and WITNESS regarding their adherence to the court order, and suggested that he could have written a police report and "gotten [WITNESS]" for what he interpreted to be a violation of the court order.
13. SUBJECT OFFICER's body-worn camera footage establishes that he called COMPLAINANT a "control freak."

14. In his May 11, 2017 objections, and during his February 23, 2017 interview with the OPC Investigator, SUBJECT OFFICER admits that he called COMPLAINANT a “control freak.”
15. SUBJECT OFFICER’s body-worn camera footage establishes that during the interaction with COMPLAINANT and WITNESS, SUBJECT OFFICER asserted that he is “related to God” and that police officers are “angels of God.”
16. During his February 23, 2017 interview with the OPC Investigator, SUBJECT OFFICER admitted to telling COMPLAINANT and WITNESS that he was “related to God” and that police officers are “angels of God.” SUBJECT OFFICER further acknowledged that he did not know why he made this statement.
17. SUBJECT OFFICER’s body-worn camera footage establishes that he repeatedly told COMPLAINANT that she was not going to “get[] what [she] want[ed],” and attributed her displeasure with the conduct of MPD officers to her “not get[ting] what [she] wanted.”
18. During his February 23, 2017 interview with the OPC Investigator, SUBJECT OFFICER admitted to accusing COMPLAINANT of being “real upset” because she could not “get what [she] want[ed].”
19. SUSPECT OFFICER’s body-worn camera footage establishes that he commented on WITNESS’s age and appearance no less than three times.
20. During his February 23, 2017 interview with the OPC Investigator, SUBJECT OFFICER admitted that he made comments about WITNESS’s age and appearance “once or twice.” SUBJECT OFFICER further admitted that WITNESS did not like his repeated comments about her age and appearance.

IV. DISCUSSION

Pursuant to D.C. Code § 5-1107(a), (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; (4) discriminatory treatment based upon a person’s race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, physical handicap, matriculation, political affiliation, source of income, or place of residence or business; (5) retaliation against a person for filing a complaint pursuant to [the Act]; or (6) failure to wear or display required identification or to identify oneself by name and badge number when requested to do so by a member of the public.”

According to MPD General Order 201.26, Part V, Section C, “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. . . . Members shall 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.”

Here, it is undisputed that SUBJECT OFFICER called COMPLAINANT a “control freak.” In his body-worn camera footage, SUBJECT OFFICER can be heard calling COMPLAINANT a “control freak.” Moreover, in his May 11, 2017 objections, and during his February 23, 2017 interview with the OPC Investigator, SUBJECT OFFICER admitted that he called COMPLAINANT a “control freak.” SUBJECT OFFICERS contends that such words do not amount to name calling, but rather, were merely an observation that he made in a “split second.” However, a reasonable person would characterize “control freak” as a term or name calling that is derogatory, disrespectful, and offensive. Indeed, in her December 7, 2016 interview with the OPC Investigator, COMPLAINANT characterized SUBJECT OFFICER’s words as “rude” and “unprofessional.” As such, the Complaint Examiner concludes that SUBJECT OFFICER violated MPD General Order 201.26 when he called COMPLAINANT a “control freak.”

It is also undisputed that SUBJECT OFFICER told COMPLAINANT and WITNESS that he is “related to God” and that police officers are “angels of God.” In his body-worn camera footage, SUBJECT OFFICER can be heard telling COMPLAINANT and WITNESS that he is “related to God” and that, according to the “Bible,” police officers are “angels of God.” Moreover, during his February 23, 2017 interview with the OPC Investigator, SUBJECT OFFICER admitted to telling COMPLAINANT and WITNESS that he was “related to God” and that, according to the “Bible,” police officers are “angels of God.” During his interview with the OPC Investigator, SUBJECT OFFICER contended that COMPLAINANT and WITNESS initially raised the subject of religion, and that his comments were merely in response to their statements. However, a review of SUBJECT OFFICER’s body-worn camera footage clearly establishes that – contrary to his assertions – SUBJECT OFFICER is the only party who raised the subjects of God, the Bible, and angels.

MPD General Order 201.26 requires officers to “refrain from political or religious discussions while on duty or in uniform unless they are directly related to police business” and “avoid engaging in idle conversations on racial, religious, political or other controversial subjects.” Nothing in the record supports the conclusion that SUBJECT OFFICER’s comments were directly related to police business, or in response to COMPLAINANT or WITNESS. SUBJECT OFFICER’s statements are exactly the kind of religious, political, and controversial statements that are prohibited by MPD General Order 201.26. As such, the Complaint Examiner concludes that SUBJECT OFFICER violated MPD General Order 201.26 when he told

COMPLAINANT and WITNESS that he is “related to God” and that, according to the “Bible,” police officers are “angels of God.”

It is also undisputed that SUBJECT OFFICER made repeated comments about WITNESS’s age and appearance. A review of SUBJECT OFFICER’s body-worn camera footage establishes that he repeatedly commented on WITNESS age and repeatedly interrupted WITNESS by saying, “and you look good” and “and you look good for your age” until she acknowledged his comments and said, “thank you.” In response, he condescendingly said, “Thank you. Now we’re good.”

During his February 23, 2017 interview with the OPC Investigator, SUBJECT OFFICER admitted that he made comments about WITNESS’ age and appearance “once or twice.” SUBJECT OFFICER further admitted that WITNESS did not like his repeated comments about her age and appearance, but contended that he meant them as a compliment. Based on the Complaint Examiner’s review of SUBJECT OFFICER’s body-worn camera footage, it is clear WITNESS did not take SUBJECT OFFICER’s repeated comments about her age and appearance as compliment. Rather, the weight of the evidence supports the conclusion that SUBJECT OFFICER’s frequent interruptions of WITNESS and apparent insistence that she acknowledge and thank him for such unsolicited comments were part of a pattern of discourteous and unprofessional behavior by SUBJECT OFFICER. As such, the Complaint Examiner concludes that SUBJECT OFFICER violated MPD General Order 201.26 when he made repeated comments about WITNESS’s age and appearance.

It is also undisputed that SUBJECT OFFICER failed to remain quiet and calm during the interaction with COMPLAINANT and WITNESS, as required by MPD General Order 201.26. In his May 11, 2017 objections, SUBJECT OFFICER admits that his “tone changed” from quiet and calm over the course of his interaction with COMPLAINANT and WITNESS. MPD General Order 201.26 requires all members of the department to “perform their duties quietly, remaining calm regardless of provocation.” However, a careful review of SUBJECT OFFICER’s body-worn camera footage clearly demonstrates his failure to maintain a quiet and calm demeanor. Instead, SUBJECT OFFICER can be heard using language and conducting himself in a manner that can only be described as harsh, sarcastic, and insolent. As such, the Complaint Examiner concludes that SUBJECT OFFICER violated MPD General Order 201.26 when he failed to perform his duties in a quiet and calm manner.

The weight of the evidence also supports COMPLAINANT’s allegations that SUBJECT OFFICER was rude, unprofessional, and discourteous – and spoke to her in a harsh, aggressive, and sarcastic tone. Indeed, in his body-worn camera footage, SUBJECT OFFICER can be heard: (1) interrupting COMPLAINANT and WITNESS no less than twenty times; (2) repeatedly voicing his disagreement with COMPLAINANT and WITNESS regarding the legality of SUSPECT’s actions, the requirements of the court order, and whether or not COMPLAINANT and WITNESS were justified in filing a police report against SUSPECT; (3) repeatedly demanding COMPLAINANT and WITNESS “show [him] in the order” and provide him “proof”

that the court order prohibited SUSPECT's actions; (4) repeatedly extending his arm in between COMPLAINANT and WITNESS, and physically slamming his hand and/or fingers on the court order while COMPLAINANT held the document in her hand; and (5) questioning COMPLAINANT and WITNESS regarding their adherence to the court order, and suggesting that he could have written a police report and "gotten [WITNESS]" for what he interpreted to be a violation of the court order. A reasonable person would find SUBJECT OFFICER's inappropriate language, sarcastic tone, and unnecessarily aggressive conduct to be disrespectful, unprofessional, and offensive. Indeed, during her interview with the OPC Investigator, COMPLAINANT stated that was "shocked" by SUBJECT OFFICER's rude and aggressive conduct. After watching the more than thirty-minutes of footage from SUBJECT OFFICER's body-worn camera, the Complaint Examiner was also shocked, and further, unable to think of any situation in which SUBJECT OFFICER's language, tone, and conduct towards COMPLAINANT and WITNESS would be deemed acceptable under the MPD General Orders.

Also concerning are: (1) SUBJECT OFFICER's refusal to provide COMPLAINANT with the names and badge numbers of the MPD officers who responded to the child custody/visitation dispute at WITNESS's home; (2) SUBJECT OFFICER's repeated refusal to allow COMPLAINANT and WITNESS to file a police report against SUSPECT; and (3) the disrespectful and impolite manner in which SUBJECT OFFICER refused to provide COMPLAINANT with a pen so she could write down his name and badge number. A review of SUBJECT OFFICER's body-worn camera footage establishes that, over the course of the parties' more than thirty-minute interaction, COMPLAINANT repeatedly attempted to explain the child custody/visitation dispute between WITNESS and SUSPECT, attempted to describe the child custody/visitation incident that occurred at WITNESS's house earlier that day, presented SUBJECT OFFICER with a court-issued child custody/visitation order, and requested to file a police complaint against SUSPECT. In contravention of MPD General Order 201.26, SUBJECT OFFICER became increasingly more aggressive, rude, and sarcastic. A reasonable person might also interpret SUBJECT OFFICER's suggestion that he could "get" WITNESS for purportedly violating the court-issued child custody/visitation order as a threat to take action against them.

Regardless of whether COMPLAINANT's recollection of the custody/visitation incident was accurate, or her interpretation of the court order was correct, SUBJECT OFFICER's language, tone, and conduct towards her and WITNESS was wholly inappropriate, and in clear violation of MPD General Orders. Moreover, the Complaint Examiner remains extremely concerned about any situation in which a member of the MPD refuses to "give their first and last name and badge numbers in a respectful and polite manner," as required by MPD General Order 201.26.

During his February 23, 2017 interview with the OPC Investigator, SUBJECT OFFICER admitted to accusing COMPLAINANT of being "real upset" because she could not "get what [she] want[ed]." In his body-worn camera footage, SUBJECT OFFICER can be heard repeatedly telling COMPLAINANT that she was not going to "get[] what [she] want[ed]," and attributing her displeasure with the conduct of MPD officers to her "not get[ting] what [she] wanted."

SUBJECT OFFICER's conduct was not only discourteous, but seemed to be an attempt to goad and antagonize COMPLAINANT. Such language and conduct is also inappropriate, and in clear violation of MPD General Orders.

In sum, the weight of the evidence supports the conclusion that SUBJECT OFFICER violated MPD General Order 201.26. After a careful review of the record evidence, including SUBJECT OFFICER's body-worn camera footage, the Complaint Examiner has identified several instances in which SUBJECT OFFICER used disrespectful language and engaged in unprofessional conduct, in contravention of MPD General Order 201.26. A reasonable person would find SUBJECT OFFICER's language, tone, and conduct to be unnecessarily aggressive, harsh, sarcastic, disrespectful, and unprofessional.

SUBJECT OFFICER's language and conduct was not only a violation of MPD General Orders, but wholly unbecoming of a public servant in the District of Columbia. As such, the allegation of Insulting, Demeaning, or Humiliating Language or Conduct is **SUSTAINED**.

V. SUMMARY OF MERITS DETERMINATION

SUBJECT OFFICER

Allegation 1: Insulting, Demeaning, or Humiliating Language or Conduct	Sustained
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Submitted on June 30, 2017.



Danielle Davis
Complaint Examiner