

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

**FINDINGS OF FACT AND MERITS DETERMINATION**

<b>Complaint No.:</b>	05-0375
<b>Complainant:</b>	COMPLAINANT
<b>Subject Officer(s), Badge No., District:</b>	SUBJECT OFFICER, Seventh District
<b>Allegation 1:</b>	Insulting, Demeaning, or Humiliating Language or Conduct
<b>Complaint Examiner:</b>	Eleanor Nace
<b>Merits Determination Date:</b>	September 10, 2006

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**

The complainant filed a complaint with the Office of Police Complaints (OPC) on July 8, 2005. COMPLAINANT alleged that on June 22, 2005, the subject officer, Metropolitan Police Department (MPD) SUBJECT OFFICER, Seventh District, used language or engaged in conduct toward him that was insulting, demeaning, or humiliating.<sup>1</sup>

Specifically, COMPLAINANT alleged that on the afternoon of June 22, 2005, while in front of LOCATION, talking with his cousin, WITNESS #1, and friends, WITNESS #2 and WITNESS #3, several MPD officers arrived and subjected him, his cousin, and friends to an ID check. The complainant alleged that while the officer to whom he had surrendered his ID was conducting a criminal records check, SUBJECT OFFICER came up to him and began cursing at

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<sup>1</sup> Although the complaint form contains a reference to racial slurs, OPC determined that none of the complainant's substantive allegations give rise to a claim of unlawful discrimination. Accordingly, the complaint was not construed as alleging discrimination. The complainant also alleged that subject officer used unnecessary or excessive force against him and subjected him to harassment. On June 8, 2006, a member of the Police Complaints Board (PCB) dismissed COMPLAINANT'S allegations regarding use of unnecessary or excessive force and harassment, concurring with the determination made by the executive director. See **Exhibit 1, Report of Investigation.**

him. SUBJECT OFFICER allegedly asked the complainant, "Who the fuck are you? Where do you live?" The complainant stated that he told SUBJECT OFFICER his name but responded to the question regarding where he lived by stating that he lived in Southeast Washington, D.C. SUBJECT OFFICER allegedly responded, "Do you think I'm a fucking joke?" SUBJECT OFFICER then allegedly pulled the complainant down the front steps of the building where he had been standing and continued using profanity toward the complainant, specifically referring to him repeatedly as a "mother fucker." The complainant alleged that he verbally objected to the subject officer's treatment, stating, "Look officer, if you are going to talk to me, please talk to me with some respect because I'm not a child, and I didn't ... disrespect you, and the only difference between you and [me] is that you're a police officer with a badge and a gun." SUBJECT OFFICER allegedly responded by striking the complainant and pushing him into a wall. Thereafter, the subject officer allegedly stated, "I got you now, mother fucker," and placed the complainant under arrest.

The complainant was arrested for threats to do bodily harm for allegedly having told SUBJECT OFFICER, "Take off that gun and badge and I will fuck you up." However, the complainant denies having made this remark. A copy of the complaint, which was submitted timely and in the proper form, is attached to the Report of Investigation as **Exhibit 2**.

## **II. EVIDENTIARY HEARING**

No evidentiary hearing was conducted regarding this complaint because, based on a review of OPC's Report of Investigation, 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. Although the subject officer's written statement and interview contradicted the complainant's version of events, the credibility of WITNESS OFFICER #1 was sufficient to resolve the conflicts in genuine issues of material fact in complainant's favor.

## **III. FINDINGS OF FACT**

Based on a review of OPC's Report of Investigation, the Complaint Examiner finds the material facts regarding this complaint to be:

1. On June 22, 2005, COMPLAINANT was in front of LOCATION, with his cousin, WITNESS #1, and friends WITNESS #2 and WITNESS #3.
2. At approximately 1:40 pm on that date, WITNESS OFFICER #1 heard a request via police radio for officers to go to the 2400 block of Elvans Road, S.E., to provide backup assistance to SUBJECT OFFICER. WITNESS OFFICER #1 and his partner, WITNESS OFFICER #2, responded.

3. Upon arriving on the scene, WITNESS OFFICER #1 and WITNESS OFFICER #2 intercepted two young men who were attempting to leave the area. Thereafter, they retrieved identification from each of the young men, and WITNESS OFFICER #2 checked the information through a police radio communications dispatcher. As each young man was cleared, he was permitted to leave.
4. At some point all of the young men had been cleared and released except the complainant, whose clearance had not yet been received.
5. The complainant became belligerent with SUBJECT OFFICER because his criminal records check was taking too long and he felt he was being singled out by the subject officer.
6. COMPLAINANT and some of the bystanders who had gathered accused SUBJECT OFFICER of not doing his job properly.
7. The situation escalated from relative calm to anger, and SUBJECT OFFICER responded to COMPLAINANT with profanity, including the term "mother fucker" which he directed at COMPLAINANT more than once.
8. SUBJECT OFFICER'S response to the complainant's provocation was profanity and a loss of his temper.

#### **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; (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; or (5) retaliation against a person for filing a complaint pursuant to [the Act]."

The only allegation at issue here is whether SUBJECT OFFICER used language or engaged in conduct that is insulting, humiliating, or demeaning, which, 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."

Here, it has been found that SUBJECT OFFICER lost his temper, used profanity, and called the complainant, “mother fucker,” more than once. This finding is based not solely on the complaint, but on the account provided by WITNESS OFFICER #1, an unbiased fellow officer who corroborated the key elements of the offense. Such language is demeaning to the person at which it is directed, and its use by an officer certainly would tend to create disrespect for law enforcement in COMPLAINANT and the substantial number of bystanders who had gathered.

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.”

Based on the factual findings, it is clear that SUBJECT OFFICER failed to comply with MPD General Order 201.26, Part I, Section C. He was not courteous to COMPLAINANT; he was not quiet or calm; and his response to COMPLAINANT was not consistent with his professional training or obligations.

**V. SUMMARY OF MERITS DETERMINATION**

SUBJECT OFFICER

<b>Allegation 1:</b>	Sustained

Submitted on September 10, 2006.

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Eleanor Nace  
Complaint Examiner