

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF CITIZEN COMPLAINT REVIEW**

FINDINGS OF FACT AND MERITS DETERMINATION

Complaint No.:	01-0431
Complainant:	COMPLAINANT
Subject Officer(s), Badge No., District:	SUBJECT OFFICER, 7th District
Allegation 1:	Insulting, Demeaning, or Humiliating Language or Conduct
Complaint Examiner:	Stacy L. Brustin
Merits Determination Date:	April 30, 2003

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

In a complaint filed on August 13, 2001, COMPLAINANT, an employee of the DISTRICT AGENCY, alleged that SUBJECT OFFICER used language or conduct that is insulting, demeaning, or humiliating towards her. COMPLAINANT alleges that on July 3, 2001, while COMPLAINANT was at work in LOCATION #1, S.E., SUBJECT OFFICER entered the office. According to COMPLAINANT, two AGENCY supervisors then came into the office and were about to ask COMPLAINANT a question when SUBJECT OFFICER told them not to ask COMPLAINANT the question but to speak with another employee who was in the office at the time. COMPLAINANT claims that when she asked SUBJECT OFFICER why he had made the comment he said to her, “fuck you” and “fuck who you tell.”

II. EVIDENTIARY HEARING

No evidentiary hearing was conducted regarding this complaint because, based on a review of OCCR’s Report of Investigation, including thirteen 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 OCCR's Report of Investigation and the thirteen exhibits attached to the report, the Complaint Examiner finds the material facts regarding this complaint to be:

1. At approximately 3:00 p.m. on July 3, 2001, SUBJECT OFFICER entered LOCATION #1, S.E..
2. SUBJECT OFFICER was assigned to LOCATION #1, S.E..
3. COMPLAINANT, an employee in AGENCY, was working in the AGENCY when SUBJECT OFFICER entered.
4. WITNESS #1, an area manager for AGENCY, WITNESS #2, the acting housing manager, and WITNESS #3, an AGENCY manager assistant, were also present in the office.
5. In the presence of WITNESS #1, WITNESS #2, and WITNESS #3, SUBJECT OFFICER made a negative comment regarding COMPLAINANT's work performance.
6. WITNESS #2 and WITNESS #1 left the building.
7. COMPLAINANT and SUBJECT OFFICER exchanged expletives. SUBJECT OFFICER uttered the words "fuck you" to COMPLAINANT. COMPLAINANT alleges that SUBJECT OFFICER initiated the use of profanity. She acknowledges that she responded "Fuck you" to SUBJECT OFFICER. SUBJECT OFFICER acknowledges that he said "fuck you" to COMPLAINANT but he alleges that COMPLAINANT used the expletive first and he then responded.
8. Following the exchange of words, COMPLAINANT began crying.

IV. DISCUSSION

Pursuant to D.C. Code § 5-1107(a), "The Office [of Citizen Complaint Review] 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: ... (3) use of language or conduct that is insulting, demeaning, or humiliating..."

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, No.1 provides that “[a]ll 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.” MPD General Order 201.26, Part I, Section C, No. 3 further requires that “[m]embers 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.”

SUBJECT OFFICER admitted, in an interview with an investigator from the Office of Citizen Complaint Review on October 23, 2001, that he uttered the words “Fuck you” to COMPLAINANT on July 3, 2001. He alleges that the complainant first used this expletive toward him and he then responded. COMPLAINANT alleges that it was SUBJECT OFFICER who initiated the use of profanity. WITNESS #3 was present in the AGENCY at the time of the incident and, in an interview with an OCCR investigator on October 4, 2001, WITNESS #3 corroborated COMPLAINANT’s version of events. The record supports the allegations of COMPLAINANT.

However, regardless of who initiated the verbal exchange, SUBJECT OFFICER violated MPD General Order 201.26, Part I, Section C. This General Order requires officers to perform their duties quietly, remaining calm regardless of provocation to do otherwise [emphasis added]. It also requires them to refrain from using harsh, coarse, and profane language. Even if the circumstances unfolded as SUBJECT OFFICER alleges, he should have remained calm and should not have responded to COMPLAINANT using the expletive he acknowledges using. SUBJECT OFFICER himself, in an interview with an OCCR investigator on October 23, 2001 (Exhibit 3) acknowledged that he violated MPD General Orders when he said “fuck you” to COMPLAINANT.

Such language is insulting, demeaning or humiliating as defined in MPD Special Order 01-01, Part III, Section H. When SUBJECT OFFICER uttered the expletive to COMPLAINANT, he used words which would be likely to demean the person to whom it is directed or to offend a citizen overhearing the language. Use of this type of language by a member of MPD toward a member of the public also has the potential to create disrespect for law enforcement. For all of these reasons, SUBJECT OFFICER’s language and conduct violated MPD Special Order 01-01, Part III, Section H and MPD General Order 201.26, Part I, Section C.

V. SUMMARY OF MERITS DETERMINATION

SUBJECT OFFICER

Allegation 1:	Sustained

Submitted on April 30, 2003.

Stacy L. Brustin
Complaint Examiner