

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

**FINDINGS OF FACT AND MERITS DETERMINATION**

<b>Complaint No.:</b>	02-0153
<b>Complainant:</b>	COMPLAINANT
<b>Subject Officer(s), Badge No., District:</b>	SUBJECT OFFICER, 6th District
<b>Allegation 1:</b>	Insulting, demeaning, or humiliating language or conduct
<b>Complaint Examiner:</b>	Katherine L. Garrett
<b>Merits Determination Date:</b>	May 16, 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**

COMPLAINANT alleged that MPD SUBJECT OFFICER subjected her to insulting, demeaning, or humiliating language or conduct when, during the course of a disagreement about whether his 6-year-old daughter should be allowed to enter a dance class late, he told COMPLAINANT he was a detective.

**II. EVIDENTIARY HEARING**

No evidentiary hearing was conducted regarding this complaint because, based on a review of OCCR's Report of Investigation, including objections filed by SUBJECT OFFICER, 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 objections submitted by SUBJECT OFFICER on April 28, 2003, the Complaint Examiner finds the material facts regarding this complaint to be:

1. On January 26, 2002, COMPLAINANT was at her desk in the lobby of LOCATION #1, Maryland.
2. SUBJECT OFFICER entered the LOCATION #1, Maryland with his 6-year-old daughter between 10:20 and 10:35 a.m., to bring her to a three-hour dance class that was scheduled to start at 10:00 a.m.
3. At all times relevant to this Complaint, SUBJECT OFFICER was off-duty, dressed in casual civilian clothes.
4. When SUBJECT OFFICER arrived, COMPLAINANT told him he could not take his daughter into the class because it had started.
5. The LOCATION #1, Maryland dance program has a written policy requiring children to be on time for all classes; children arriving later than 5 minutes after the start of class will be allowed to attend if the class instructor authorizes them to do so.
6. The late arrival policy was not enforced with consistency.
7. COMPLAINANT and SUBJECT OFFICER argued about whether SUBJECT OFFICER's daughter could be allowed into the class.
8. SUBJECT OFFICER's daughter entered the dance class at approximately 10:45 a.m., when the class took a break.
9. Subsequently, COMPLAINANT told SUBJECT OFFICER that he did not "understand procedure, responsibility, commitment or the importance of time," or words to that effect.
10. SUBJECT OFFICER told COMPLAINANT at least once that he was married and a responsible father, and worked as a detective.
11. SUBJECT OFFICER told COMPLAINANT that she was discriminating against his daughter and said at least once that COMPLAINANT must not ever have "had the experience of having papers served on her."
12. There is no evidence that SUBJECT OFFICER showed official MPD identification to COMPLAINANT, nor that he ever identified the jurisdiction in which he worked.
13. SUBJECT OFFICER spoke briefly with COMPLAINANT's supervisor, WITNESS #1, about the incident; he did not mention to her that he was a detective.

14. SUBJECT OFFICER left LOCATION #1, Maryland without further conversation with COMPLAINANT.
15. Subsequently, on February 2, 2002, SUBJECT OFFICER accompanied his daughter to dance class. COMPLAINANT alleged that SUBJECT OFFICER stared at her several times, but never spoke to her.
16. On February 2, 2002, COMPLAINANT faxed a formal complaint concerning the January 26 incident to OCCR.

#### IV. DISCUSSION

Pursuant to D.C. Official 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: (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].”<sup>1</sup>

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 complains that SUBJECT OFFICER’s conduct – angrily insisting his daughter be admitted to the dance class, his description of himself as a ‘detective,’ and his suggestion that he would serve unspecified “papers” on her – was threatening. This complaint

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<sup>1</sup> The Citizen Complaint Review Board, which is OCCR’s governing body, promulgated regulations regarding OCCR on August 30, 2002. *See* 49 D.C. Reg. 8347. The regulations, *inter alia*, define the complaints within OCCR’s jurisdiction to include “[a]n allegation of misconduct made by a person against a sworn officer . . . who, while off-duty, was acting under the ‘color of law’ during an incident occurring within the District of Columbia.” *See* D.C. Mun. Regs., title 6A, §2199.1. Because this incident occurred before the regulations took effect on August 30, 2002, and because the applicable statute and Departmental Orders are silent as to whether they reach off-duty conduct occurring outside of the District of Columbia, it will be assumed for purposes of this complaint that OCCR has jurisdiction over matters occurring outside of the District of Columbia.

was investigated by OCCR as a charge that SUBJECT OFFICER ‘insulted, demeaned, or humiliated’ COMPLAINANT.

SUBJECT OFFICER was not on duty during the incident, and he was not dealing with any member of the public in his capacity as a detective for the MPD. There was no attempt by SUBJECT OFFICER to use his police powers during his exchange with COMPLAINANT. Although SUBJECT OFFICER said he was a detective, he did not attempt to invoke his position to force COMPLAINANT to admit his daughter to the class. Indeed, SUBJECT OFFICER only mentioned his employment *after* his daughter had already entered the class. Whatever the merits of the dispute between COMPLAINANT and SUBJECT OFFICER, it was a private matter.

There is in any event nothing in the record to suggest that SUBJECT OFFICER used insulting, demeaning, or humiliating language with COMPLAINANT. SUBJECT OFFICER and COMPLAINANT disagreed about an admittedly ambiguous and inconsistently enforced late-arrival policy. COMPLAINANT asserts that SUBJECT OFFICER was confrontational; SUBJECT OFFICER asserts COMPLAINANT was condescending. Independent witnesses state both COMPLAINANT and SUBJECT OFFICER were “ticked off” and “pacing” back and forth, and one witness confirmed SUBJECT OFFICER’s assessment that COMPLAINANT was “scolding” SUBJECT OFFICER. SUBJECT OFFICER’s conversation was appropriate under the circumstances. Accordingly, to the extent SUBJECT OFFICER’s conduct was covered by applicable regulation and Orders, it did not rise to the level of being insulting, demeaning, or humiliating in violation of MPD General Order 201.26.

**V. SUMMARY OF MERITS DETERMINATION**

SUBJECT OFFICER

<b>Allegation 1:</b>	Exonerated
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Submitted on May 16, 2003.

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Katherine L. Garrett  
Complaint Examiner