

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

**FINDINGS OF FACT AND MERITS DETERMINATION**

<b>Complaint No.:</b>	03-0380
<b>Complainant:</b>	COMPLAINANT
<b>Subject Officer, Badge No., District:</b>	SUBJECT OFFICER, Fifth District
<b>Allegation 1:</b>	Insulting, Demeaning, or Humiliating Language or Conduct
<b>Complaint Examiner:</b>	Michael K. Lewis
<b>Merits Determination Date:</b>	October 13, 2004

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 SUBJECT OFFICER engaged in conduct that was insulting, demeaning or humiliating to her. COMPLAINANT's complaint alleged that on May 11, 2003, Metropolitan Police Department (MPD) SUBJECT OFFICER, used language, or engaged in conduct, toward her daughter and grandson that was insulting, demeaning, or humiliating when the officer confronted the family in their neighborhood. Specifically, COMPLAINANT asserted that SUBJECT OFFICER stood face-to-face with the complainant's grandson, threatened to fight him, and called him a "little punk." In addition, SUBJECT OFFICER allegedly said, "I don't give a fuck about these kids. Every time I come around here I'm going to fuck with these kids." The comment was allegedly made in front of the complainant and a group of children who happened to be outside.

**II. EVIDENTIARY HEARING**

No evidentiary hearing was conducted regarding this complaint because, based on a review of OCCR's Report of Investigation, to which SUBJECT OFFICER offered no objections or rebuttal, 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, the Complaint Examiner finds the material facts regarding this complaint to be:

1. At approximately 9:00 p.m. on May 11, 2003, SUBJECT OFFICER and his partner, WITNESS OFFICER #1, responded to a call in the 100 Block of Franklin St., NE.
2. At that location, he encountered a number of teenagers and children, some of whom were sitting on a parked car.
3. He ordered the children off of the car, and all complied except for WITNESS #1.
4. SUBJECT OFFICER and WITNESS #1 engaged in a verbal battle, which was observed by WITNESS #1's aunt, WITNESS #2.
5. WITNESS #2 approached SUBJECT OFFICER and exchanged words with him, during which encounter he said, "Every time I come around here, I'll jack his ass up." SUBJECT OFFICER then left Franklin Street.
6. WITNESS #2 called her sister, WITNESS #3, WITNESS #1's mother, to alert her to the trouble. Shortly thereafter, WITNESS #3 arrived home with her mother, COMPLAINANT.
7. After arriving home and talking with her sister, WITNESS #3 called either 911 or the Fifth District to ask to speak with the officer involved in the altercation and a supervisor.
8. WITNESS OFFICER #2, a supervisor in the Fifth District, arrived on Franklin Street shortly before the return of SUBJECT OFFICER and his partner.
9. Almost instantly upon his return to Franklin Street, SUBJECT OFFICER was accosted by WITNESS #3, WITNESS #1's mother.
10. WITNESS #3 and SUBJECT OFFICER faced off in an angry exchange of words, including multiple profanities, until SUBJECT OFFICER was ordered from the scene by WITNESS OFFICER #2.
11. In response to questions from COMPLAINANT and COMPLAINANT'S DAUGHTERS, WITNESS OFFICER #2 told the family members how to file a complaint with the Citizen Complaint Review Board. The instant complaint followed.

#### **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].”

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.”

There is no question that SUBJECT OFFICER employed language in dealing with the situation he found on Franklin Street on May 11, 2003 that would tend to “create disrespect for law enforcement....” In his initial dealings with WITNESS #1, and then later with WITNESS #1’s mother, WITNESS #3, SUBJECT OFFICER used language that can only be described as “demeaning.” Thus, the Complaint Examiner concludes that SUBJECT OFFICER violated MPD Special Order 01-01 in his dealings with COMPLAINANT’S FAMILY on May 11, 2003.

In this instance, the only person who believes that SUBJECT OFFICER was “courteous and orderly” in his dealings with the public is SUBJECT OFFICER. WITNESS #3 admits to using profanity in her argument with SUBJECT OFFICER. She maintains that he responded in kind. At the very least, SUBJECT OFFICER was unprofessional in his dealings with WITNESS #3. He stood chest-to-chest with WITNESS #2, and was, as WITNESS OFFICER #2 remembers, being “very loud.” His conduct was such that WITNESS OFFICER #2, although he professes not to have heard SUBJECT OFFICER use any profanity, discussed SUBJECT OFFICER’s unprofessional conduct with him the following day. SUBJECT OFFICER maintains that he simply smiled at WITNESS #3 as she attacked him verbally. His version of the events of May 11, 2003 are so contradicted by all of the other accounts (including WITNESS OFFICER #2’s), that the Complaint Examiner finds SUBJECT OFFICER’s testimony to lack credibility.

**V. SUMMARY OF MERITS DETERMINATION**

SUBJECT OFFICER

<b>Allegation 1:</b>	Sustained
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Submitted on October 13, 2004

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Michael K. Lewis  
Complaint Examiner