

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

FINDINGS OF FACT AND MERITS DETERMINATION

Complaint No.:	03-0291
Complainant:	COMPLAINANT
Subject Officer(s), Badge No., District:	SUBJECT OFFICER, 3rd District
Allegation:	Insulting, Demeaning, or Humiliating Language or Conduct
Complaint Examiner:	Todd A. Cox
Merits Determination Date:	October 26, 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 with OCCR on April 3, 2003, COMPLAINANT alleged that on April 1, 2003, SUBJECT OFFICER, 3rd District, used insulting, demeaning or humiliating language while speaking to him. Specifically, on April 1, 2003, the subject officer responded to a 911 call reporting a theft from a car. The call was placed by the complainant's girlfriend, WITNESS #1. When he arrived at the scene, SUBJECT OFFICER spoke with the complainant. WITNESS #1 was upstairs in an apartment at the time. The complainant alleged that upon seeing WITNESS #1's car, the subject officer shook his head and said, "Oh, so stupid." COMPLAINANT said that during their conversation SUBJECT OFFICER also allegedly said, "Sir, if a girl walks down the street naked and she gets raped, whose fault is it?"

II. EVIDENTIARY HEARING

No evidentiary hearing was conducted regarding this complaint because, based on a review of OCCR'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.*

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. On March 31, 2003, the complainant, COMPLAINANT's girlfriend, WITNESS #1, packed her belongings into her car in preparation for a move back to Chicago.
2. By the time she finished placing the property in the car, it was late at night. She considered whether to leave the car on the street or in a garage and ultimately decided to leave it on the street. She covered her belongings with some sheets. Overnight, WITNESS #1's car was broken into and her possessions stolen.
3. On the morning of April 1, 2003, WITNESS #1 discovered that her property had been stolen from the car and called the police. COMPLAINANT waited at the location of the vehicle for the police to arrive. At approximately 9 a.m., SUBJECT OFFICER arrived at the scene and spoke with COMPLAINANT.
4. While SUBJECT OFFICER was looking at the car, he shook his head and said, "Oh, so stupid." SUBJECT OFFICER also stated, "You know, you're just practically asking people to steal your stuff."
5. COMPLAINANT acknowledged that the decision to leave the car fully packed on the street was not entirely wise but said, "Sir, WITNESS #1's going to be pretty upset when she gets downstairs, can you please not say that to her." COMPLAINANT further explained to the officer, "You know, when it comes down to it, it's not really her fault. It's really the criminal's fault."
6. SUBJECT OFFICER replied, "Sir, if a girl walks down the street naked and she gets raped, whose fault is it?"
7. During the interview with OCCR, SUBJECT OFFICER denied ever saying to the complainant that this incident was "stupid." He said that he thought that it was a "bad idea." SUBJECT OFFICER admitted that he used the example of a naked woman walking down the street to explain the sort of temptation created by expensive goods being left in the open as in this situation.
8. SUBJECT OFFICER did not submit any objections regarding this complaint.

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 ... 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 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 1, Section C, No. 3 provides: “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.”

SUBJECT OFFICER clearly used language that was very demeaning, offensive and insensitive. First, SUBJECT OFFICER blamed the victim of the theft he was investigating, referring to her leaving her property in her car overnight as “so stupid.” Second, when challenged by complainant, SUBJECT OFFICER went further, analogizing the incident to a woman walking down the street in the nude and suggesting that it would be that woman’s fault if she were raped.

SUBJECT OFFICER reported to OCCR that he found this complaint “trivial” and that “in the future he would not try to advise citizens as to how to conduct their affairs.” Of course, this is absolutely the wrong lesson for the subject officer to draw from this incident. Indeed, it would have been helpful for SUBJECT OFFICER to provide constructive advice to a citizen on how property should be safeguarded. However, he should not have resorted to offensive, derogatory language and examples to illustrate. SUBJECT OFFICER spoke in terms that were highly disrespectful of the victim and complainant. Such behavior risks undermining citizens’ confidence that their complaints will be taken seriously by police officers.

Therefore, I conclude that SUBJECT OFFICER used language that was insulting, demeaning or humiliating, in violation of MPD General Order 201.26.¹

¹ While this complaint was characterized as one raising issues regarding SUBJECT OFFICER’s language, the complainant could have filed a complaint alleging discrimination based on the sex of the victim, particularly given the overt sexual nature of the officer’s statements. Discrimination, as defined by MPD Special Order 01-01, Part III, Section D includes “failure to provide proper police service, either in the enforcement of the law or in the provision of police service, on the basis of . . . sex” MPD General Order 201.26, Part I, Section A provides that “[i]n accordance with the District of Columbia Human Rights Law, members shall not discriminate, either in the enforcement of the law, or in the provision of police service, on the

V. SUMMARY OF MERITS DETERMINATION

SUBJECT OFFICER

Allegation:	Sustained
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Submitted on October 26, 2003.

Todd A. Cox
Complaint Examiner

basis of . . . sex” Given this prohibition against sex discrimination, SUBJECT OFFICER’s belief that this complaint is trivial raises serious concerns about whether he understands the potential magnitude of his behavior.