

## OFFICE OF PROFESSIONAL ACCOUNTABILITY COMMENDATIONS & COMPLAINTS REPORT

February 2011

### OPA Director's Monthly Message

The Office of Professional Accountability's monthly report provides information about police misconduct complaints and describes incidents where officers were commended for their work. The report presents data on the number and classification of OPA complains filed each month, with a comparison to the previous year. There are charts showing the percentage of cases closed with different type of findings and information about mediation and policy recommendations.

#### **February 2011 highlights:**

- 17 commendations covering over 40 employees were received.
- 7% of closed cases were Sustained, resulting in some level of discipline.
- 32% of closed cases ended in a Supervisory Intervention finding, with a referral for training or counseling. OPA's use of the Supervisory Intervention finding is consistent with the Department's enhanced focus on first line supervisory responsibilities for guiding and mentoring officers.

**Justice Based Policing:** Several of the cases included in this report involve allegations that officers used derogatory language, were discourteous or otherwise acted unprofessionally in their interactions with citizens. This sort of unprofessional conduct, even though it is not typical of the Department as a whole, cuts against the public trust necessary for effective policing. SPD is partnering with several other law enforcement agencies to develop training for officers focused on promoting dignified and respectful treatment of citizens.

In February, the OPA Director spent two days with representatives from SPD, the Criminal Justice Training Commission, the King County Sheriff's Office, the DOJ's Community Oriented Policing Services (COPS) and National Institute of Justice, and professors from several colleges. We discussed the Justice Based Policing curriculum, which will stress four basic principles: **Listen and Explain with Equity and Dignity (L.E.E.D.)**. In addition to encouraging professional interactions in general, the L.E.E.D. training model emphasizes use of verbal tactics as an alternative to use of force, where practical and without compromising officer or public safety. Some of the complaints received by OPA provide examples where officers can benefit from training on this front, while commendations illustrate the appreciation the community has for the police when treated fairly and objectively.

## Office of Professional Accountability (OPA) Commendations & Complaints Report February 2011

### Commendations:

Commendations Received in February: 17

Commendations Received to Date: 35

Officers Clayton Agate, Marshall Coolidge, John Marion, Camilo Depina, Chriseley Lang, Maurice Washington, Lindsay Brown, Clark Dickinson, Christopher Hall, and Stephen Smith	Patrol sergeant commends several officers for their quick response to a shooting incident and the arrest of four suspects.
Officer Kerry Zieger	Community member thanks Officer Zieger and "all the downtown bike patrol" officers for their effort in making downtown parking garages safer.
A/Communications Supervisor Brian Oesterreicher, Chief Dispatcher Sandra Moss, A/Chief Dispatcher Cassandra Wilton, Dispatcher Steven Zielke, Dispatcher Heidi Deese, Dispatcher Leialoha Aana, and Lt. Keith Swank	Communications Section employee commends several Department employees for their outstanding effort in addressing and successfully resolving a situation involving a suicidal person.
Officers Allen Sheheen, Adam Elias, Steven Stone, Jason Dewey, and Liliya Nesteruk	Patrol sergeant commends several officers for their outstanding effort in addressing and successfully resolving a situation involving a suicidal person.
Officer Eugene Schubeck	A Crises Intervention Team (CIT) sergeant commends Officer Schubeck for his competence, discretion, and problem-solving ability when dealing with a suicidal person.
Sergeant Rich O'Neil (as President of SPOG)	A community member commends Sergeant O'Neil for his comments in a local newspaper that demonstrate his strong leadership, ability to put things in perspective, and his being a voice of reason.
Detective Tye Holland	An Assistant Chief commends Detective Holland for his undercover investigation of a sexual predator searching on-line for child victims.
Officer Steven Bale	A Loss Prevention Supervisor from a local charitable organization commends Officer Bale for his "great service" in addressing calls for police service at the charity.
Officers Travis Hill and David Serpanos	The victim of a theft from his vehicle commends Officers Hill and Serpanos for their response to his victimization, commenting, "My interaction with your officers was an all around positive experience."
Sergeant Vincent Guballa and Officer Donald Bolton	A member of the community commends Sergeant Guballa and Officer Bolton for their excellent service to the community.
Officer Daniel Auderer	The parents of an adult daughter living in Seattle commend Officer Auderer for being "caring, compassionate, professional, and efficient" when assisting them in locating their daughter, whose house alarm in Seattle had notified them in New Jersey of a possible danger to their daughter. Note: the daughter was located and safe.

**Commendations:**

Radio Dispatchers Gary Raymond and Gary Anderson	Dispatchers Raymond and Anderson are commended for their excellent work in making a sign language training video to assist patrol officers in dealing with the hearing impaired.
Radio Dispatcher Karen Anderson	Dispatcher Anderson is commended for her exceptional effort ensuring that the Seattle Police Department is sensitive to the needs of the hearing disabled.
Radio Dispatcher Michael Cunningham	The mayor thanks Dispatcher Cunningham for explaining the operation of the police communications system during his ride along.
Radio Dispatcher Kristin Black	A Domestic Violence Unit detective commends Dispatcher Black for her excellent questioning of a domestic violence assault victim which contributed to a successful investigation of the incident.
Radio Dispatchers Anna Hanson and Carrie Ryan	The Chief Dispatcher commends Dispatchers Hanson and Ryan for their exceptional team work handling a strong arm robbery incident and contributing to a successful outcome.
North Precinct Patrol Officers	Councilmember Tim Burgess, on behalf of his colleagues on the city council, commends the many North Precinct patrol officers who handled a particularly difficult incident at 90 <sup>th</sup> & Aurora Avenue North.

**February 2011 Closed Cases:**

*Cases involving alleged misconduct of officers and employees in the course of their official public duties are summarized below. Identifying information has been removed.*

**STANDARDS OF CONDUCT: LAWS**

Synopsis	Action Taken
It was alleged that the named employee had three suspensions and reinstatements of her driver's license over the past three years and failed to notify the Department of these changes in her driving status.	<p>Allegation #1: Administrative Violation of Law (suspended driver's license) – SUPERVISORY INTERVENTION</p> <p>Allegation #2: Failure to Notify the Department of the Suspension of the Driver's License – SUPERVISORY INTERVENTION</p> <p>The evidence demonstrated that the named employee's driver's license had been suspended and reinstated three times over the past three years but also that the named employee may not have been aware of her obligation to notify the Department.</p> <p>Corrective action: The employee's supervisor reminded her of the departmental policy and the policy regarding an employee's obligation to report to the Department changes in driver's license status was re-issued Department-wide.</p>
It was alleged that the named officer possessed an invalid driver's license.	<p>Allegation: Administrative Violation of Law (invalid driver's license) – EXONERATED</p> <p>The evidence demonstrated that the named officer's driver's license was invalid due to a clerical error that was no fault of the named officer.</p>

**STANDARDS OF CONDUCT: INTEGRITY**

Synopsis	Action Taken
The complainant alleged that the named officer parked illegally on a city street and sought special favor by placing a Department business card on the dashboard of his car.	<p>Allegation: Integrity/Misuse of Authority – EXONERATED</p> <p>The evidence demonstrated that the named officer had parked legally and that the business card on the dashboard of his car had been placed there previously and the named officer had inadvertently forgotten to remove it.</p>

**STANDARDS OF CONDUCT: PROFESSIONALISM**

Synopsis	Action Taken
The complainant, whom the named officer had stopped for a traffic infraction, alleged the named officer stopped him because of his race and was rude to him. The OPA alleged that the named officer was not using the audio capability of her in-car video system, as required by Department policy.	<p>Allegation #1: Professionalism/Discourtesy – UNFOUNDED  Allegation #2: Failure to Use In-Car Video System – EXONERATED  Allegation #3: Biased Policing – UNFOUNDED</p> <p>The evidence demonstrated that the named officer behaved courteously and that it was more likely than not that the complainant asked and answered his own question of, "Would you have stopped me if I wasn't Black? Probably not." The evidence also demonstrated that confusion in the Department's policy language on the use of the audio capability of the in-car video system led to the named officer thinking she was in compliance with the policy. The Department's Audit, Accreditation &amp; Policy Section is reviewing this policy.</p>
The complainant, who was involved in a traffic collision to which the named officer was dispatched, alleged that the named officer told the complainant that he, not the named officer, was racist because of the comments being made by the complainant. The complainant alleged that the named officer used a racially insensitive word and that it was inappropriate for the named officer to suggest that the complainant was racist.	<p>Allegation: Use of Derogatory Language – SUPERVISORY INTERVENTION</p> <p>The evidence demonstrated that though the language used by the complainant and the complainant's behavior was offensive, the named officer would have been better off not to have responded to the complainant's taunting and baiting by suggesting that the complainant might be racist.</p> <p>Corrective action: The supervisor of the named officer discussed with the named officer the importance of demonstrating restraint and prudence in the face of baiting and taunting from anyone.</p>

**STANDARDS OF CONDUCT: PROFESSIONALISM**

Synopsis	Action Taken
<p>The complainant, whom the named officer had stopped for a traffic violation, alleged that the named officer failed to identify himself to her when requested and was rude to her.</p>	<p>Allegation #1: Professionalism/Failure to Identify – UNFOUNDED Allegation #2: Professionalism/Courtesy – SUPERVISORY INTERVENTION</p> <p>The evidence demonstrated that the named officer adequately identified himself by having clearly affixed his name and serial number to the infraction notice that he issued to the complainant. The evidence demonstrated that, while the complainant and passengers inside the complainant's car were baiting the named officer, the named officer could have been more restrained and dispassionate while interacting with the complainant. Corrective action: The supervisor of the named officer discussed with the named officer the importance of remaining courteous and calm, especially when dealing with someone who is taunting and baiting the officer.</p>
<p>The complainant, whom the named officers had stopped for a pedestrian violation, alleged that the named officers yelled, screamed, intimidated, and sexually harassed him because he was transgendered and because one of the named officers was attracted to him and the complainant was not returning his interest.</p>	<p>Named officer #1 Allegation #1: Professionalism/Traffic Stops – UNFOUNDED Allegation #2: Professionalism/Courtesy – UNFOUNDED Allegation #3: Failure to Use In-Car Video System – EXONERATED Named officer #2: Allegation #1: Professionalism/Traffic Stops – UNFOUNDED Allegation #2: Professionalism/Courtesy – UNFOUNDED</p> <p>The evidence demonstrated that the named officers had a lawful basis to detain and cite the complainant for a pedestrian violation and that this interaction was not motivated by one of the named officer's having had a personal interest in the complainant and having been rejected by the complainant. The evidence also demonstrated that named officer #1 had a legitimate exigency excusing him from using the in-car video system.</p>

**STANDARDS OF CONDUCT: RULES/REGULATIONS**

Synopsis	Action Taken
<p>The complainant alleged that the named officer was rude and lacked authority to enter his residence while accompanying another person who had requested a police escort to accompany him to the complainant's residence to view a music speaker that the person had seen for sale on the Craig's List website and which the person thought had been stolen from him.</p>	<p>Allegation #1: Unjustified Search – SUSTAINED Allegation #2: Professionalism/Courtesy – SUPERVISORY INTERVENTION</p> <p>The evidence demonstrated that the named officer, though thinking that he had authority to enter the complainant's residence and acting in good faith, in fact lacked such authority. The evidence further demonstrated that the named officer spoke to the complainant in a manner unjustified by the circumstances and that the named officer was discourteous to the complainant.</p> <p>Corrective action: A written reprimand for the inappropriate search and a discussion between the named officer and the named officer's supervisor regarding the importance of prudent and restrained language when addressing people in emotional situations.</p>

**STANDARDS OF CONDUCT: RULES/REGULATIONS**

Synopsis	Action Taken
The complainant alleged that the named officer was rude and insensitive to her disability and failed to adequately investigate and complete a police report regarding an ex-boy friend of the complainant whom the complainant alleged had been banging on her apartment window and against whom she had a domestic violence protection order.	<p>Allegation #1: Failure to Take Appropriate Action (report) – NOT SUSTAINED</p> <p>Allegation #2: Professionalism/Courtesy – EXONERATED</p> <p>The evidence, due to irresolvable discrepancies, did not support a finding one way or the other regarding whether the named officer should have completed a police report. The evidence further demonstrated that the named officer did not use rude language and that the language used was appropriate for the circumstances and the officer's effort to resolve apparent inconsistencies in the information being provided to him by the complainant.</p>
It is alleged that the named officer, while responding to a call of a possible jumper off a freeway overpass, switched off her in-car video system in violation of Department policy.	<p>Allegation: Failure to Use In-Car Video System – SUPERVISORY INTERVENTION</p> <p>The evidence demonstrated that the named officer inadvertently deactivated her in-car video system.</p> <p>Corrective action: Named officer received further training from her supervisor on the use of the in-car video system.</p>
The complainant alleged that the named officer left abandoned in a home she had vacated about 200 of the law enforcement officer's copy of criminal citations issued by the named officer.	<p>Allegation: Failure to Secure/Dispose of the Law Enforcement Officer's Copy of Issued Citations – SUPERVISORY INTERVENTION</p> <p>The evidence demonstrated that the named officer did leave behind in a residence she had vacated numerous copies of the law enforcement officer's copy of issued citations, thereby failing to properly secure or dispose of them.</p> <p>Corrective action: Named officer's supervisor discussed with her the importance of properly securing or disposing of paperwork entrusted to her custody.</p>

**UNNECESSARY FORCE**

Synopsis	Action Taken
The complainant, the manager of an apartment complex to which the named officer had come to serve a domestic violence misdemeanor arrest warrant at the request of the Department's Domestic Violence Section, alleged that the named officer forcibly entered his apartment building without authority.	<p>Allegation #1: Unnecessary Use of Force – SUPERVISORY INTERVENTION</p> <p>Allegation #2: Improper Search – SUPERVISORY INTERVENTION</p> <p>The evidence demonstrated that the named officer, though acting in good faith, misunderstood his authority to enter the complainant's apartment building under the circumstances. The evidence further demonstrated that the named officer should not have pushed the complainant out of his way in order to enter the apartment building.</p> <p>Corrective action: The supervisor of the named officer discussed with him the importance of ensuring that there is a legitimate basis for entering a person's property and alternatives to using even minor, non-reportable force.</p>

**UNNECESSARY FORCE**

Synopsis	Action Taken
<p>Complainant and subject allege that off-duty named employees used unnecessary force when escorting subject from theater at the request of theater employees. OPA added additional allegations of failure to possess a secondary employment permit against both named officers.</p>	<p>Named officer #1:            Allegation #1: Unnecessary Use of Force – UNFOUNDED            Allegation #2: Failure to Possess a Secondary Employment Permit – SUPERVISORY INTERVENTION</p> <p>Named officer #2:            Allegation #1: Unnecessary Use of Force – UNFOUNDED            Allegation #2: Failure to Possess a Secondary Employment Permit – UNFOUNDED</p> <p>The evidence demonstrated that the named officers used minimal, reasonable, and necessary force on the complainant’s husband as they firmly held his arm/wrist/hand to guide him out of the venue. The evidence further demonstrated that named officer #1 did not possess a secondary employment permit for this job and that named officer #2 did possess a secondary employment permit for this job.</p> <p>Corrective action: The supervisor of named officer #1 discussed with him the requirement to ensure that he possesses a secondary employment permit for the jobs that he works.</p>
<p>The complainant, who is a minor and who was with a group of minors huddled around a can of beer in public, alleged that the named officers who stopped to contact the group to determine what was occurring, used unnecessary force on him, used profanity toward him, and lacked justification to frisk (search) him and his companions. OPA added the allegation of failure to use the in-car video system against named officers #1 and #2.</p>	<p>Named officer #1:            Allegation #1: Unnecessary Use of Force – EXONERATED            Allegation #2: Professionalism/Profanity – NOT SUSTAINED            Allegation #3: Improper Search (Frisk) – EXONERATED            Allegation #4: Failure to Use In-Car Video System – SUPERVISORY INTERVENTION</p> <p>Named officer #2:            Allegation #1: Unnecessary Use of Force – EXONERATED            Allegation #2: Professionalism/Profanity – NOT SUSTAINED            Allegation #3: Improper Search (Frisk) – EXONERATED            Allegation #4: Failure to Use In-Car Video System – SUPERVISORY INTERVENTION</p> <p>Named officer #3:            Allegation: Biased Policing – UNFOUNDED</p> <p>Named officer #4:            Allegation #1: Unnecessary Use of Force – UNFOUNDED            Allegation #2: Professionalism/Profanity – NOT SUSTAINED</p> <p>The evidence demonstrated that the named officers had a legitimate purpose to temporarily detain the complainant and his companions to determine whether they were drinking alcoholic beverages in public while under age. The evidence demonstrated that the named officers used minimal, reasonable, and necessary force to overcome active resistance from the complainant to their effort to pat him down (frisk) him for weapons. The evidence, while establishing justification for the frisking of the complainant, also raises a concern that the officers applying the force might have relied too much on an overly general basis of “office safety” without articulating the details of such basis. The evidence was insufficient to permit a finding one way or the other whether the named officers used inappropriate language. The evidence demonstrated that named officer #3 did not engage in biased policing and had a legitimate justification for contacting the complainant and temporarily detaining him. The evidence further demonstrated that named officers #1 and #2 were</p>

	<p>not using their in-car video systems, as required by Department policy.</p> <p>Corrective action: The supervisor of the named officers receiving a finding of supervisory intervention for searches discussed with the named officers the importance of being able to specifically articulate the reasonable suspicion required to frisk a person and the importance of not merely relying on a general assertion of “officer safety” to justify it. The supervisor of the named officers receiving a finding of supervisory intervention for use of the in-car video system discussed with the named officers the importance of following the Department’s policy on the use of it.</p>
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### Definitions of Findings:

“**Sustained**” means the allegation of misconduct is supported by a preponderance of the evidence.

“**Not Sustained**” means the allegation of misconduct was neither proved nor disproved by a preponderance of the evidence.

“**Unfounded**” means a preponderance of evidence indicates the alleged act did not occur as reported or classified, or is false.

“**Exonerated**” means a preponderance of evidence indicates the conduct alleged did occur, but that the conduct was justified, lawful and proper.

“**Supervisory Intervention**” means while there may have been a violation of policy, it was not a willful violation, and/or the violation did not amount to misconduct. The employee’s chain of command is to provide appropriate training, counseling and/or to review for deficient policies or inadequate training.

“**Administratively Unfounded/Exonerated**” is a discretionary finding which may be made prior to the completion that the complaint was determined to be significantly flawed procedurally or legally; or without merit, i.e., complaint is false or subject recants allegations, preliminary investigation reveals mistaken/wrongful employee identification, etc, or the employee’s actions were found to be justified, lawful and proper and according to training.

“**Administratively Inactivated**” means that the investigation cannot proceed forward, usually due to insufficient information or the pendency of other investigations. The investigation may be reactivated upon the discovery of new, substantive information or evidence. Inactivated cases will be included in statistics but may not be summarized in this report if publication may jeopardize a subsequent investigation.

## Mediation Program:

The OPA Director selected 6 cases to be resolved through the Mediation Program during February 2011.

Of the 6 cases selected for the Mediation Program, 4 complainants declined to participate and 1 case is scheduled for mediation. In 1 case, the complaint has not responded to OPA correspondence.

## Cases Opened (2010/2011 by Month Comparison)

Date	PIR		SR		LI		IS		TOTAL	
	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011
1/1-1/31	8	9	8	8	1	1	12	19	29	37
2/1-2/28	18	19	9	5	1	1	16	17	44	42
3/1-3/31	30		6		1		16		53	0
4/1-4/30	31		9		3		13		56	0
5/1-5/31	15		10		3		23		51	0
6/1-6/30	25		14		1		13		53	0
7/1-7/31	23		10		1		18		52	0
8/1-8/31	20		6		3		12		41	0
9/1-9/30	16		9		4		17		46	0
10/1-10/31	13		9		5		17		44	0
11/1-11/30	12		16		8		19		55	0
12/1-12/31	18		13		2		13		46	0
<b>Totals</b>	<b>229</b>	<b>28</b>	<b>119</b>	<b>13</b>	<b>33</b>	<b>2</b>	<b>189</b>	<b>36</b>	<b>570</b>	<b>79</b>

## Complaint Classification

**Preliminary Investigation Report (PIR)** complaints involve conduct that would not constitute misconduct and are referred to the employee's supervisor for follow up.

**Supervisory Referral (SR)** complains are those that, even if events occurred as described, signify minor misconduct and/or a training gap. The complaint is referred to the employee's supervisor for review, counseling, and training as necessary.

**Line Investigations (LI)** complaints involving minor misconduct are investigated by the officer's chain of command.

**Investigation Section (IS)** complaints are more complex and involve more serious allegations and are investigated by OPA-IS.

