

**Office of Professional Accountability (OPA)  
Commendations & Complaints  
2010 Monthly December Closures**

**Commendations:**

Commendations Received in December: 5

Commendations Received to Date: 68

Officer Kip Strong	A neighbor near a restaurant thanks Officer Strong for his competent, thorough, and pleasant manner in addressing a neighborhood parking problem involving the restaurant.
Unknown Patrol Officer	A community member thanks the unknown officer, who responded to an incident involving a fight next door to this community member's home, for "his professional and kind interaction with us," noting the officer was "very respectful."
Officer Bret Milstead	A daughter thanks Officer Milstead for assisting her when her 96-year old mother died. The daughter notes that Officer Milstead was "careful but respectful while clarifying" the facts of the death, efficiently briefed the sergeant responding to the scene, and demonstrated "gentleness and compassion" throughout this event, making sure that the daughter was adequately cared for before he left the scene.
Seattle Police Department in general	A community member thanks the Seattle Police Department, in general, for "doing an excellent job of protecting the good citizens of the City of Seattle."
Unknown Patrol Officers	An observer of an incident, involving a suicidal woman at the King County Courthouse, who witnessed nearly the entire event, commends the officers handling the incident for their teamwork, noting they kept an appropriate distance from the distraught woman, kept everyone safe, and "cared for a 2-year old child (involved in the event) and snuggled with him." She notes, "what a positive ending that no one was injured."

## December 2010 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.*

*Cases are reported by allegation type. One case may be reported under more than one category.*

### STANDARDS OF CONDUCT: VIOLATION OF LAW

Synopsis	Action Taken
It is alleged that the named officer operated a Department patrol car after his driver's license had been suspended for a criminal traffic offense and before he had obtained from the Department an Employer Declaration for Ignition Interlock Waiver, which would allow him to operate a Department vehicle while his driver's license was suspended.	<p>Allegation: Administrative Violation of Law (traffic) – SUPERVISORY INTERVENTION</p> <p>The evidence demonstrated that the State Department of Licensing had suspended the named officer's driver's license and that on at least one occasion the named officer operated a Department patrol car while his license was suspended and the car was not equipped with an ignition interlock device. The matter was reviewed by the City Law Department and a criminal prosecution was not brought due, according to the City Law Department, to possible "confusion between suspect (named officer), DOL (Department of Licensing), &amp; suspect's employer." The evidence established that the Department granted the named officer an Ignition Interlock Waiver.</p>
It is alleged that the named employee was cited by a neighboring police jurisdiction for a criminal traffic offense and failed to report this matter to the Department, as required by Department policy.	<p>Allegation #1: Violation of Law Administrative (traffic) – SUSTAINED Allegation #2: Failure to Report Involvement in Criminal Matter to the Department – SUSTAINED</p> <p>The evidence established that the named employee received a criminal traffic citation for driving a car with license plates that had been canceled due to a dishonored check, then failed to report to the Department that she had been involved in a criminal matter.</p> <p>Corrective action: Verbal Reprimand and counseling by the named employee's immediate supervisor.</p>
It is alleged that the named officer, a supervisor, was arrested and processed for DUI, then pleaded guilty to an amended charge of Reckless Driving	<p>Allegation: Violation of Law Administrative (traffic) – SUSTAINED</p> <p>The evidence established that the named officer was arrested and processed for Driving Under the Influence (DUI) by a state law enforcement agency, then pleaded guilty to an amended charge of Reckless Driving.</p> <p>Corrective action: Suspension of 7-days without pay and notice that any additional alcohol-related driving incidents where it is established the named officer violated Department policy will result in discipline up to and including termination from employment.</p>

**STANDARDS OF CONDUCT: VIOLATION OF LAW**

Synopsis	Action Taken
<p>Complainant, whom the named officers had contacted (cited and released him for the violations) regarding an alcohol violation and trespassing in a city park, alleged the named officers took \$300 from his backpack after he had given them consent to search it.</p>	<p>Three named officers Same allegation and finding for each named officer Allegation: Violation of Law Administrative (Theft) – UNFOUNDED</p> <p>Initially, OPA submitted the case for a criminal investigation conducted by one of the Department's Burglary/Theft Units. There was no evidence to support a criminal charge. Subsequently, the OPA conducted the administrative investigation of the allegation. The evidence demonstrated that the complainant provided inconsistent statements regarding the money but did state that he had recently spent \$200 - \$250 and time with a prostitute and had been involved in several bouts of excessive drinking of alcohol between the time that he had cashed a check and the time that he had encountered the named officers. The evidence demonstrated that the alleged misconduct did not occur.</p>
<p>This case was closed in August of this year and inadvertently left off of the September Report. Named officer self reported that he was served with a restraining order alleging he committed DV physical abuse against his former paramour.</p>	<p>Allegation: Violation of Law Administrative (DV Assault) - NOT SUSTAINED</p> <p>Named employee attended a party with former paramour in a neighboring jurisdiction, at some point during the evening both parties began to argue. It is alleged that named employee grabbed paramour by the ponytail and yanked her backward causing her to fall. Named employee admits he and complainant did engage in an argument but there was no physical contact. The incident was investigated by the neighboring law enforcement agency and the city attorney's office declined to file charges. None of the potential witnesses observed any physical contact between named employee and complainant. There is no preponderance of evidence in this case.</p>

**STANDARDS OF CONDUCT: PROFESSIONALISM**

Synopsis	Action Taken
<p>The complainant, an employee in the Department's Human Resources Section, alleged the named employee, a supervisor in another Department unit, was rude to her when conducting business in the Human Resources Section.</p>	<p>Allegation: Professionalism/Lack of Courtesy – SUPERVISORY INTERVENTION</p> <p>The evidence demonstrated that some of the language used by the named employee was discourteous in violation of Department policy. Notably, the named employee forthrightly apologized if his language offended anyone.</p> <p>Corrective action: The supervisor of the named employee discussed with him the importance of civility and courtesy in the workplace.</p>

**STANDARDS OF CONDUCT: PROFESSIONALISM**

Synopsis	Action Taken
<p>The complainant, whom the instructor of a women’s exercise class being conducted in a city park complained to police had been taking photographs from a short distance away of the women doing their exercises, alleged the named officers exercised poor discretion and acted without cause when they completed a General Offense Report recommending the complainant be charged criminally</p>	<p>Two named officers                      Same allegation and finding for each named officer                      Allegation: Professionalism/Discretion –                      SUPERVISORY INTERVENTION</p> <p>The evidence demonstrated that the instructor of the women’s exercise class in the park had observed the complainant, on two sequential days, taking photographs from a short distance away of the women prompting her to call 911. The named officers were dispatched to investigate the matter. The complainant states that he was only taking photographs of a nearby sculpture and that any photographs containing the women exercising were collateral. The named officers explained the situation and their actions to the complainant, completed a General Offense Report (suggesting a criminal charge of Harassment), and issued the complainant a Park Exclusion Notice. The evidence demonstrated that the named officers, while acting in good faith to address the concerns of the women, nevertheless, failed to adequately articulate on the Park Exclusion Notice the basis for issuing the exclusion and failed to provide sufficient information supporting the proposed criminal charge of Harassment.</p> <p>Corrective action: The supervisor of the named officers reviewed with them the requirements of the Park Exclusion Ordinance and the importance of articulating the probable cause necessary to support a criminal charge.</p>
<p>It is alleged that the named supervisor engaged in a voluntary sexual relationship with the wife of a co-worker and that in the course of this relationship the named supervisor violated Department policies covering exercise of discretion, misuse of authority, use of intoxicants, and use of Department vehicles.</p>	<p>Allegation #1: Poor Exercise of Discretion –                      SUPERVISORY INTERVENTION                      Allegation #2: Integrity/Misuse of Authority –                      NOT SUSTAINED                      Allegation #3: Misuse of Intoxicants –                      NOT SUSTAINED                      Allegation #4: Misuse of Department Vehicle –                      SUPERVISORY INTERVENTION</p> <p>The evidence demonstrated that the named supervisor did engage in a voluntary sexual relationship with the wife of a co-worker and that the named supervisor on at least one occasion used a Department car to visit his co-worker’s wife at her home outside the city limits for purposes unrelated to city business. The evidence did not establish whether the named supervisor misused his police authority to contribute to the eviction of the co-worker and the co-worker’s wife from a recreational vehicle park where both couples had lots. The evidence did not establish whether the named supervisor consumed intoxicating beverages while on duty or while on or in a city facility.</p> <p>Corrective action: The named supervisor voluntarily agreed to be reassigned to a different position.</p>

**STANDARDS OF CONDUCT: INTEGRITY**

Synopsis	Action Taken
<p>Complainant alleged that the named officer failed to maintain a professional distance from a woman with whom the named officer became acquainted when responding to a domestic violence incident in 2007 and expressed concern that the named officer's personal interaction with the woman may have improperly influenced the named officer's response to the 2007 incident.</p>	<p>Allegation: Lack of Integrity/Conflict of Interest – SUPERVISORY INTERVENTION</p> <p>The evidence demonstrated that after handling a domestic violence incident in 2007 involving the complainant and her companion, the named officer gave the complainant's companion his personal telephone number, exchanged several text messages with the companion, and provided the companion with a picture of himself. In 2010, the named officer was dispatched to a burglary call at the complainant's residence and the complainant recognized the named officer as the same officer who had responded in 2007 for the domestic violence incident involving the complainant and her companion. The nature of the relationship between the named officer and the complainant's companion was ambiguous but the evidence demonstrated that the named officer's actions created at least the appearance of a conflict of interest.</p> <p>Corrective action: The supervisor of the named officer met with the named officer to discuss the importance of maintaining a professional distance with the victims of crime and the need to avoid even the appearance of a conflict of interest.</p>

**STANDARDS OF CONDUCT: RULES/REGULATIONS**

Synopsis	Action Taken
<p>The Department's Human Resources Section, while conducting one of its periodic "due diligence" checks of Department employees, discovered the named employee had a suspended driver's license due to an unpaid traffic citation and apparently had failed to notify the Department of this status.</p>	<p>Allegation: Failure to Report to the Department Involvement in Criminal Conduct – UNFOUNDED</p> <p>The evidence demonstrated that the named employee had properly reported her driver's license status to her supervisor in accordance with Department policy.</p>
<p>It was alleged that the named officer worked off-duty without possessing a Secondary Employment Permit.</p>	<p>Allegation: Failure to Comply with Secondary Employment Policy –SUSTAINED</p> <p>The evidence established the named officer worked an off-duty job without having a Secondary Employment Permit.</p> <p>Corrective action: Written Reprimand and revocation of secondary employment privilege for 12 months.</p>

**STANDARDS OF CONDUCT: RULES/REGULATIONS**

Synopsis	Action Taken
<p>Complainant, whose car was impounded by the named officer for a parking violation, alleged that the named officer lacked justification to impound the car. The OPA amended the original complaint against the named officer to include an allegation of dishonesty arising from the named officer's backdating of the 72-hour Notice of Vehicle Impound form placed on the complainant's car.</p>	<p>Allegation #1: Improper Impounding of a Vehicle – NOT SUSTAINED</p> <p>Allegation #2: Poor Exercise of Discretion – SUPERVISORY INTERVENTION</p> <p>Allegation #3: Dishonesty – SUPERVISORY INTERVENTION</p> <p>Regarding allegation #1, the evidence did not establish one way or the other whether the named officer had justification to impound the complainant's car. The evidence demonstrated that there may have been confusion regarding whether the vehicle had been moved during the 72-hour period prior to the impound.</p> <p>Regarding allegation #2, the evidence demonstrated that the named officer exercised poor discretion when he backdated a 72-hour parking violation notice that he had attached to the complainant's car.</p> <p>Regarding allegation #3, the evidence demonstrated that the named officer backdated the 72-hour parking violation notice attached to the complainant's car, which OPA determined was improper, but which, after a <i>Loudermill</i> meeting, the Chief of Police found was less clear due to apparent confusion in the Seattle Police Officer's Guild labor agreement regarding the issue of amending complainants after the initial 30-day notice of complaint period.</p> <p>Corrective action: The named officer was directed to work with the captain of his precinct to develop a training directive on the issuance of 72-hour vehicle impound notices.</p>

**STANDARDS OF CONDUCT: MISHANDLING PROPERTY/EVIDENCE**

Synopsis	Action Taken
<p>Complainant, whom the named officer had arrested for a domestic violence assault, four months after the arrest alleged the named officer was responsible for a missing note that he stated he possessed at the time of his arrest that was pertinent to his domestic violence situation.</p>	<p>Allegation: Mishandling Evidence/Property – ADMINISTRATIVELY UNFOUNDED</p> <p>The evidence overwhelmingly established that the alleged misconduct simply did not occur.</p>

**STANDARDS OF CONDUCT: MISHANDLING PROPERTY/EVIDENCE**

Synopsis	Action Taken
<p>Complainant alleged named officer #1 took his license during a traffic stop and left the area without returning it to him or issuing him a citation. Complainant alleged named officer #1, a supervisor, was rude and did nothing to resolve the situation after telling complainant that he would mail his license and a citation to him.</p>	<p>Named officer #1:            Allegation #1: Mishandling Evidence/Property – SUSTAINED            Allegation #2: Lack of Professionalism – SUSTAINED</p> <p>Named officer #2: Failure to Meet Responsibility as a Supervisor – SUSTAINED</p> <p>The evidence established that named officer #1 mishandled the complainant's property (driver's license) and was unprofessional regarding the traffic stop. The evidence also established that named officer #2, a supervisor, failed to act appropriately as a supervisor should have who was responsible for the matter.</p> <p>Corrective action:            Named officer #1 – Verbal Reprimand and a 1-day suspension without pay            Named officer #2 – Written Reprimand</p>

**UNNECESSARY FORCE**

Synopsis	Action Taken
<p>The mother of an adult child, whom officers arrested for being a felon in possession of a handgun and threatening to kill the officers, complained that the officers lacked authority to enter her house and unnecessarily twisted her son's leg when arresting him.</p>	<p>Unknown officer</p> <p>Allegation #1: Unnecessary Use of Force – UNFOUNDED            Allegation #2: Improper Entry/Search – EXONERATED</p> <p>The evidence demonstrated that the adult child's father phoned 911 to report a domestic violence incident involving the adult son, whom the father described as "bi-polar," off his medications, and refusing to leave the residence. The evidence demonstrates that the responding patrol officers were justified in entering the resident and justified in arresting the adult son for being a felon in possession of a handgun and for threatening to kill the officers.</p>
<p>The complainant, who was in a fight in a city park with another person which was on-viewed by the named officer, alleged the named officer used unnecessary force on her when she attempted to stand up from the ground after being directed by the named officer to sit there as he was investigating the circumstances of the fight between the complainant and the other person.</p>	<p>Allegation: Unnecessary Use of Force – EXONERATED</p> <p>The evidence demonstrated that the named officer used reasonable and necessary force to prevent the complainant from getting up off the ground and walking away after being told to remain seated as the named officer was attempting to investigate the fight he had on-viewed.</p>

**UNNECESSARY FORCE**

Synopsis	Action Taken
<p>Complainant alleged that the named officer, who had observed the complainant breaking into a US Postal Service mailbox, used unnecessary force on him when the named officer deployed a Taser on the complainant to subdue the complainant after he had run from the officer in an attempt to escape. It was also alleged that the named officer failed to use his in-car video system in violation of Department policy.</p>	<p>Allegation #1: Unnecessary Use of Force – EXONERATED            Allegation #2: Failure to Use In-Car Video – EXONERATED</p> <p>The evidence demonstrated that the officer was justified in deploying a Taser to subdue the complainant and that the immediacy and circumstances of the event prevented the named officer from activating the in-car video system.</p>
<p>Complainant alleged that the named officers used unnecessary force on her brother-in-law as they were attempting to control him as a suspect in a stabbing assault during a large gathering at the complainant's residence.</p>	<p>Four named officers            Same allegation of misconduct and finding for each named officer            Allegation: Unnecessary Use of Force – EXONERATED</p> <p>The evidence demonstrated that the named officers responded to a reported stabbing at the complainant's residence, where a large number of people were gathered, and located the complainant's brother-in-law in a bed in the basement of the residence. The named officers, in full police uniform, were immediately met with a combative brother-in-law who refused to comply with verbal directions from the named officers and continued to be physically aggressive toward the named officers. The evidence demonstrated that the named officers used only reasonable and necessary force to defend themselves and subdue the aggressive and assaultive brother-in-law.</p>
<p>Complainant, age 40, height 5'10," weight 190 lbs., muscular build, alleged the named officer unnecessarily kicked his already injured leg while arresting him for assaulting the 15-year old daughter of the complainant's girlfriend.</p>	<p>Allegation: Unnecessary Use of Force – UNFOUNDED</p> <p>The evidence demonstrated that the misconduct alleged more than likely did not occur. The evidence demonstrated that the arrest was peaceful and uneventful other than the complainant making general threats to the named officer. Note: the complainant is flagged in police department and Department of Corrections data bases as an officer safety hazard due to behavior toward officers on other occasions.</p>
<p>Complainant, whom the named officer had arrested for punching him in the face with a fist, alleged the named officer used unnecessary force when he immediately reacted to being punched in the face by reactively punching back at the person who had punched him in the face, i.e., the complainant.</p>	<p>Allegation: Unnecessary Use of Force – EXONERATED</p> <p>The evidence demonstrated that at 2:00 AM pedestrians flagged down the named officer alerting him to a fight disturbance involving about 10 people. While the named officer was investigating this fight, the complainant ran up behind him and punched him in the face. The evidence demonstrated that the named officer instinctively reacted in self defense by immediately punching back at the complainant. The evidence demonstrated that the named officer acted with reasonable and necessary force to defend himself.</p>

**UNNECESSARY FORCE**

Synopsis	Action Taken
<p>Complainant, who punched the named officer in the face in an attempt to free her cousin, whom the named officer was attempting to detain for a pedestrian violation, alleged the named officer used unnecessary force when he punched her back once in the face.</p>	<p>Allegation: Unnecessary Use of Force – EXONERATED</p> <p>The evidence demonstrated that the named officer was attempting to enforce the city's jaywalking ordinance, being violated by a group of 4 or 5 people, when one of the group became hostile and attempted to walk away from the scene. The complainant, whose cousin was walking away, attempted to aid her by pushing the officer and punching him once in the face. The evidence demonstrated that the named officer, believing the assault by the complainant would continue, punched the complainant once in the face in an apparent attempt to stop her and take her into custody for assault. The evidence demonstrated that the named officer's use of force was reasonable and necessary.</p> <p>SPD also has taken a number of steps to assess and enhance its use of force policy and training department-wide. A top to bottom review is underway, covering use of force training received at the state academy and instruction when initially hired by the Department and through the annual Street Skills training and otherwise. In conjunction with this assessment, SPD is exploring training options, including various approaches to emphasizing the use of de-escalation techniques, while also ensuring officer safety.</p>
<p>Complainant, whose boyfriend had been arrested by the named officer for involvement in several street robberies to which officers had responded, alleged the named officer used unnecessary force on her boyfriend when arresting him.</p>	<p>Allegation: Unnecessary Use of Force – ADMINISTRATIVELY UNFOUNDED</p> <p>The evidence, including in-car video that captured the entire arrest of the complainant, established that the alleged misconduct simply did not occur. Additionally, an attorney for the complainant, after reviewing the in-car video, stated her client's arrest looked benign and declined to have her client, the complainant, interviewed by OPA. Notably, the named officer speaks fluent Spanish and spoke with the suspect throughout the event in his primary language, noting that he "didn't have to use any force with him (the suspect) at all."</p>
<p>This case was closed in August of this year and inadvertently left off of the September Report. Complainant alleged named officers used excessive force while making an arrest.</p>	<p>Two named officers Same allegation for both officers: Unnecessary Use of Force Officer #1 – EXONERATED Officer #2 – UNFOUNDED</p> <p>The preponderance of evidence indicated that the complainant attempted to walk/pull away from named officer #1 when being lawfully detained. It was necessary for the officer to maintain control of the complainant to prevent him from leaving the scene. Taking a physically, non-compliant individual to the ground is an accepted control tactic. The amount of forced used by officer #1 to place the complainant on the ground and handcuff him was reasonable.</p> <p>The preponderance of evidence indicated that named officer #2 did not apply any force to the complainant.</p>

## 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 10 cases to be resolved through the Mediation Program during the month of December 2010.

Of the 10 cases selected for the Mediation Program, 4 complainants declined to participate and 3 named employees declined to participate in the mediation process. In 1 case, OPA is waiting for complainant's decision to participate and 1 case complainant has not responded to telephone messages or correspondence. In 1 case the OPA lieutenant removed the mediation hold due to complainant wanting to add allegations and named employees to the original complaint.

## Cases Opened (2009/2010 by Month Comparison)

Date	PIR		SR		LI		IS		TOTAL	
	2009	2010	2009	2010	2009	2010	2009	2010	2009	2010
1/1-1/31	18	8	3	8	1	1	15	12	37	29
2/1-2/28	14	18	6	9	2	1	8	16	30	44
3/1-3/31	16	30	3	6	6	1	15	16	40	53
4/1-4/30	15	31	6	9	5	3	12	13	38	56
5/1-5/31	20	15	10	10	3	3	9	23	42	51
6/1-6/30	14	25	9	14	3	1	8	13	34	53
7/1-7/31	16	23	11	10	0	1	17	18	44	52
8/1-8/31	16	20	9	6	1	3	14	12	40	41
9/1-9/30	21	16	9	9	1	4	16	17	47	46
10/1-10/31	21	13	8	9	1	5	13	17	43	44
11/1-11/30	23	12	10	16	3	8	14	19	50	55
12/1-12/31	19	18	4	13	0	2	7	13	30	46
<b>Totals</b>	213	229	88	119	26	33	148	189	475	570

### 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)** complaints 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.

