

Office of Professional Accountability (OPA) Commendations & Complaints Report May 2007

Commendations:

Commendations Received in May: 4

Commendations Received to Date: 72

Bright, Bryan Schubeck, Eugene	Officers Shubeck and Bright received a letter of commendation for maintaining a high level of service. They were able to alert two victims that their car had been prowled, placed the suspect into custody, and recovered the stolen property from the car prowl.
Seibert, Robin Witmer, Donald	Two officers were commended for their professionalism and sensitivity in handling a very stressful family event. The officers understood the special needs of the subject and were extremely gentle and soft spoken in handling the situation in a way that did not alarm him. They were able to deescalate the situation.

*This report includes commendations received from citizens or community members. Numerous commendations generated within the department are not included.

May 2007 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.

SAFEGUARDING/MISHANDLING EVIDENCE/PROPERTY

Synopsis	Action Taken
The complainant alleged that the named employee mistakenly told him that the stun gun he possessed was illegal and it was improperly seized.	The evidence supported the allegation and it was determined that the named employee had inappropriately seized the citizen's stun gun and then had not booked it into evidence, leaving it in the trunk of the patrol vehicle. While this action is a violation of policy, it was not a willful act of misconduct, but a training issue. Employee received additional training on property and evidence handling. Finding—SUPERVISORY INTERVENTION.

STANDARDS OF CONDUCT: INTEGRITY

Synopsis	Action Taken
The complainant alleged that the named employee utilized student employees to assist him in moving into his private residence. This caused the students to miss a portion of their training at the police academy.	Evidence supported the allegations. Finding—SUSTAINED.
The complainant alleged that the named employee stepped behind the counter of a fast food restaurant and helped himself to food, and then failed to pay for food when requested.	While the preponderance of the evidence revealed that no misconduct had occurred, there was the “appearance” of impropriety that was determined to best be resolved through additional training and discussion between the employee and his chain of command. Finding—SUPERVISORY INTERVENTION.

STANDARDS OF CONDUCT: LAWS/POLICY/PROCEDURES

Synopsis	Action Taken
It is alleged that the named employee accessed an inappropriate website through the Department’s network.	The evidence supported the allegation. Finding—SUSTAINED.
It is alleged that the named employee committed a violation of law by driving under the influence of intoxicating liquor in another jurisdiction.	The investigation determined that the employee was in violation of the law and was driving under the influence of alcohol. Finding—SUSTAINED.
The complainant alleged that the named employee approached him on the street and accused of him of dealing drugs and admonished him to leave the area or face arrest. The complainant further alleged that he was then hit in the head, kicked in the back of his legs, which caused him to trip and fall to	There was no evidence (physical or testimonial) to support that any offense occurred as described by the complainant. Finding—ADMINISTRATIVELY UNFOUNDED.

<p>the pavement.</p> <p>It is alleged that the named employee unlawfully entered the subject's home to search for his suicidal brother. (Employee A)</p> <p>It is further alleged that the employee unlawfully arrested him when he did not provide the employee with information he sought. (Employee B)</p> <p>After reviewing the file, it was noted that the named employee failed to recall important details of this incident as required by her assigned position.</p>	<p>The investigation determined that employee "A" clearly misunderstood the limitations of his duty to assist the suicidal brother. This, and the actual action taken, was determined to be training issues, not intentional misconduct. Finding Violation of Law—SUPERVISORY INTERVENTION</p> <p>The investigation further determined that a secondary officer, employee "B", did not have all the information the primary responder had and his actions met the lower standard expected of his role. Finding Violation of Law—EXONERATED.</p> <p>Further, the issue of the third employee's inability to recollect the incident was considered to be disingenuous, if not untruthful. While this could not be proved or disproved, it was considered to be an issue requiring additional training/discussion with the employee. Finding Honesty—SUPERVISORY INTERVENTION</p>
<p>It is alleged that the named employee violated SPD policy when he allegedly accessed sites containing inappropriate material from a department computer and sent an inappropriate e-mail from his workstation.</p>	<p>The evidence supported the allegation. Finding—SUSTAINED.</p>

STANDARDS OF CONDUCT: PROFESSIONALISM

Synopsis	Action Taken
<p>The complainant alleged she heard that the named employee and an unknown employee(s) cut up the ID cards and EBT (Public Assistance) cards of four individuals.</p>	<p>The allegations of misconduct were neither proved nor disproved by a preponderance of the evidence. Finding—NOT SUSTAINED.</p>
<p>It is alleged that the named employee failed to investigate a car accident and cite the at fault driver. It is also alleged that the named employee made an inappropriate comment to the complainant, interceded on behalf of the at fault driver with the repair shop and appeared as a defense witness without proper notification to the Department or City Attorney.</p>	<p>The investigation determined that the named employee failed to execute her duties, but it was not a willful violation and did not amount to misconduct. The employee's chain of command will provide appropriate training, counseling, and reviewing of policies and best practices with this employee.</p> <p>Finding Duty to Investigate; Courtesy; Discretion; Appearing as Defense Witness; and Conflict of Interest--SUPERVISORY INTERVENTION.</p>

<p>The complainant believes the named employee engaged in biased policing against her because she is disabled. Further, the complainant alleged the named employee refused to identify herself when the complainant requested her name.</p>	<p>This allegation of misconduct was neither proved nor disproved by a preponderance of the evidence. Finding Duty to Identify—NOT SUSTAINED.</p> <p>The investigation determined that complainant's report of the employee's action being biased were, in fact, not the basis for her actions. However, the named employee did fall short of department's expectations in her responsibility to be professional and courteous. Finding Courtesy—SUSTAINED.</p>
<p>It is alleged that during a patrol shift that the named employee acted unprofessionally during two separate incidents. In the first incident, she screamed at civilians while directing traffic at an accident scene.</p> <p>During the second incident, she allegedly treated detectives from another jurisdiction rudely when they were seeking the assistance of the Seattle Police Department.</p>	<p>The allegations of misconduct were neither proved nor disproved by a preponderance of the evidence. Finding Courtesy—NOT SUSTAINED.</p>
<p>The complainant alleged that the named employee, while investigating a domestic violence incident involving a relative, failed to recuse himself from the investigation, resulting in a conflict of interest and failed to document the incident properly in his report.</p>	<p>The employee was deficient in determining and reporting the extent of damage to the complainant's property. It was determined that the best resolution of this incident was through additional training and supervision. Finding Completion of Reports—SUPERVISORY INTERVENTION.</p> <p>The evidence did not support a clear issue of conflict of interest. The allegation of misconduct was neither proved nor disproved by a preponderance of the evidence. Finding Integrity—NOT SUSTAINED.</p>

<p>The complainant alleged that the named employee refused to take appropriate action by not properly collecting evidence; he also alleged that the employee behaved in an unprofessional manner when he suggested the victim was not telling the truth about being kidnapped and robbed.</p>	<p>The investigation determined that the employee should have been more thorough in processing the alleged crime scene and collecting evidence. It was determined that the best remedy to address the complainant's concerns was additional training for the employee. Finding Completion of Reports, Evidence & Actions—SUPERVISORY INTERVENTION.</p> <p>It was further determined that the employee had not "belittled" the complainant. The employee conducted a standard investigation that sometimes involves asking tough questions to solicit details and to assess an investigative strategy for reporting the crime. Finding Courtesy—UNFOUNDED.</p>
<p>The complainant alleged that the named employee issued him a parking citation and then prevented the complainant from moving his vehicle by blocking it with his PEO scooter and telling him he was calling for an impound.</p> <p>The complainant further alleged that the named employee made offensive and inappropriate comments.</p>	<p>Evidence supported that following the issuance of a parking citation, the named employee failed to disengage from a verbal encounter with the vehicle owner. During that exchange, the employee made offensive and inappropriate remarks to the vehicle owner.</p> <p>Finding Language—SUSTAINED, Courtesy—SUSTAINED.</p>
<p>Complainant alleged that the named employees failed to take appropriate action during the course of a domestic violence incident by not thoroughly investigating the situation, making an arrest, or completing an incident report.</p> <p>Additionally, it is alleged that the employees failed to follow SPD policy when they</p>	<p>The complainant offered multiple versions of testimony of both the incident and the level of service provided by employees. No evidence was developed that would support that the named employees violated department policy. Finding Completion of Reports—ADMINISTRATIVELY UNFOUNDED, Rules & Regulations—ADMINISTRATIVELY UNFOUNDED.</p>

<p>did not summon a supervisor to the scene of what was determined to be a malicious harassment situation.</p>	
<p>The named employee is alleged to have been involved in a road rage incident off duty, where he pulled over the complainant and put a gun to his head after his personal vehicle was struck by objects (coins) thrown from the complainant's vehicle on the freeway.</p>	<p>The investigation determined that the employee's judgment and discretion in this incident were questionable. Finding Discretion—SUSTAINED.</p> <p>The issue of conflict of interest was less clear. The allegation of misconduct was neither proved nor disproved by a preponderance of the evidence. Finding Integrity—NOT SUSTAINED.</p> <p>Given the risks associated with the pursuit in this incident, the investigation determined that the employee should have discontinued the pursuit. Finding Pursuit—SUSTAINED.</p>
<p>The complainant alleged that the named employees were unprofessional when they used profanity during a brief detention.</p>	<p>There were significant discrepancies between witnesses and involved parties as to what was actually said during the incident. The investigation determined the alleged comments by the named employees did not occur as reported. Finding—UNFOUNDED.</p>

UNNECESSARY FORCE

Synopsis	Action Taken
<p>The complainant alleged that the named employee used excessive force when he arrested and tased the subject (her daughter) during the arrest.</p>	<p>The investigation determined that the force used was appropriate and necessary to stop the subject from assaulting another officer. Finding—EXONERATED.</p>

<p>The complainant alleged that the named employees used excessive force while arresting him for a burglary incident.</p> <p>It is further alleged that an unidentified female employee used profanity.</p>	<p>The investigation determined that the force used to arrest the combative and resisting complainant was reasonable and appropriate. Finding Force—EXONERATED.</p> <p>The investigation further determined the alleged profanity from an unidentified employee did not occur as reported. Finding Profanity—UNFOUNDED.</p>
<p>The complainant alleged that the named employees stopped and detained her husband without cause; the employees claim he committed a pedestrian violation and was cited.</p>	<p>The investigation determined that the employees were acting on lawful authority while taking enforcement action. Further, minimal and reasonable force was used to gain compliance with the employee's instructions. Finding—EXONERATED.</p>
<p>Complainant alleged that the named employees, who arrested him, "smashed" his face into the ground several times and that the named employees placed his handcuffs on too tight, causing injuries to his wrist and hands.</p>	<p>The investigation determined that the arrest was documented and screened by a supervisor. The complainant did not have any injuries consistent with his allegation of having his face pushed into the pavement. Finding—UNFOUNDED.</p>

May 2007 Cases Mediated:

Complainant advised that the named employee failed to take appropriate action on a trespasser and threatened instead to arrest the complainant for assault.

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.

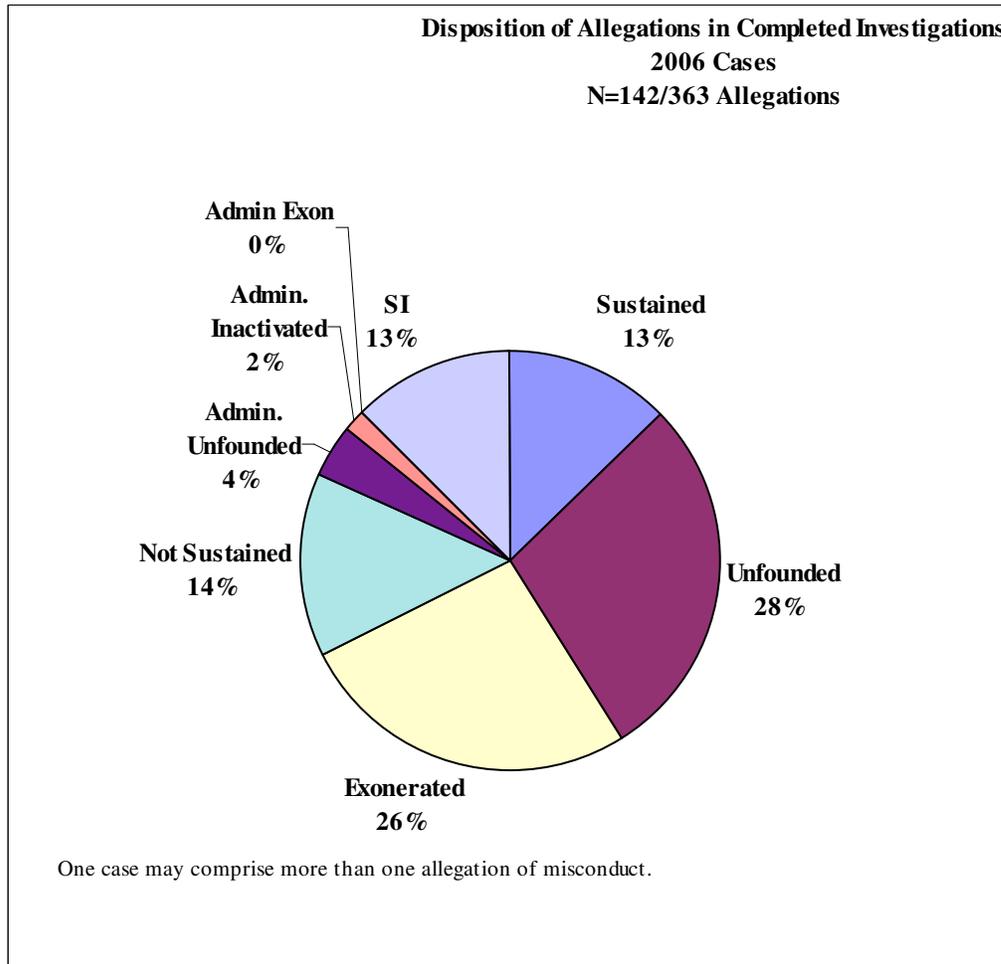
“Administratively Unfounded/Exonerated” is a discretionary finding which may be made prior to the completion that the complaint was determined to be significantly flawed procedurally or legally; or without merit, i.e., complaint is false or subject recants allegations, preliminary investigation reveals 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.

Status of OPA Contacts to Date:

2006 Contacts	Dec 2006	Jan-Dec 2006
Preliminary Investigation Reports	14	284
Cases Assigned for Supervisory Review	5	83
Cases Assigned for Investigation (IS;LI)	10	142*
Commendations	21	397

*includes 2006 cases closed in 2007



2007 Contacts	May 2007	Jan-May 2007
Preliminary Investigation Reports	40	141
Cases Assigned for Supervisory Review	8	42
Cases Assigned for Investigation (IS;LI)	10	68
Commendations	4	72