

Office of Professional Accountability (OPA) Commendations & Complaints Report September 2009

Commendations:

Commendations Received in September: 4

Commendations Received to Date: 78

Officer Travis Tersteman	Community member commends Officer Testerman for his excellent work addressing a neighborhood drug problem and especially for his exceptional effort in communicating with residents.
Officers Roger Whitlock, Aaron Dalan, and Brendon Kolding	Community member commends Officers Whitlock, Dalan, and Kolding for their "professionalism, determination, and communication" while making the arrest of a suspect in a serious criminal incident.
Communications Dispatcher Danielle Davis	Caller to 911, on two occasions, spoke with Dispatcher Davis to report criminal matters and commends Dispatcher Davis for being professional, cooperative, helpful, detail oriented in gathering information about the incidents, and courteous demeanor.
Officers David Terry and James Moran	The manager of the security office of a downtown hotel commends Officers Terry and Moran for the consistent, dedicated, friendly, and courteous service they have provided over the past year in responding to various incidents at the hotel involving hotel guests.

September 2009 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: PROFESSIONALISM

Synopsis	Action Taken
Complainant alleged named officer, while working secondary employment directing traffic, was rude to pedestrians and motorists. It is also alleged that named employee did not have a current secondary work permit.	Professionalism/Courtesy – UNFOUNDED Secondary Employment Permit – SUPERVISORY INTERVENTION The evidence established named officer had not been rude to pedestrians. Named officer thought she possessed a permit for the job and immediately obtained one upon realizing there was an issue. Supervisor of named officer counseled her on the importance of complying with Department policy.

STANDARDS OF CONDUCT: PROFESSIONALISM

Synopsis	Action Taken
<p>Complainant makes allegations involving two incidents. First, complainant alleged one named officer called her a liar and yelled at her when she was attempting to report her son as a missing person. When complainant spoke to the officer's supervisor, he allegedly made a remark that had religious connotations. The second incident involved named officer stopping complainant for a traffic violation, which she alleged involved racial profiling.</p>	<p>Professionalism/Courtesy – NOT SUSTAINED Biased Policing – UNFOUNDED Named sergeant: Professionalism/Policy – UNFOUNDED The evidence established complainant was very upset when reporting her missing son. The named officer engaged in a conversation with complainant about how she was dealing with the situation and the complainant may have taken offense, though the evidence was inconclusive about whether the officer was rude or disrespectful. Regarding inappropriate religious connotations made by the named sergeant, the evidence established that the sergeant mentioned that maybe a pastor could be of assistance to complainant in her effort to dealing with her son, but that no inappropriate comments were made. Regarding the allegation that named officer, on a different occasion, based a traffic stop of her on racial profiling, the evidence, including in-car video, established it was a foggy night, occupants of the car could not be identified by race, and no enforcement action – other than admonishing complainant to wear her seatbelt was taken.</p>
<p>Complainant alleged named officers conspired to retaliate against him by issuing him a parking citation (issued by named officer #2) after he reported to SPD that he observed named officer #1 asleep in her idling patrol car which was parked near his residence. It is also alleged named officer #1 misused the ACCESS/WACIC computer system to obtain information on complainant.</p>	<p>Named officer #1: Professionalism (sleeping on duty) – SUPERVISORY INTERVENTION Retaliation/Misuse of Authority – SUSTAINED Misuse of ACCESS/WACIC – SUSTAINED Named officer #2: Retaliation/Misuse of Authority – SUSTAINED The evidence did not persuasively establish whether named officer #1 was actually sleeping or only appeared to be sleeping, but counseling about public perceptions is appropriate. The evidence did establish named officer #1 informed named officer #2 of complainant's allegation she was sleeping, and that named officers #1 and #2 retaliated against complainant by having named officer #2 issue a parking citation to complainant, and that officer #1 inappropriately accessed the ACCESS/WACIC computer system for this purpose. Each named officer received a 15-day suspension without pay. The officers have appealed.</p>

STANDARDS OF CONDUCT: POLICY/PROCEDURES

Synopsis	Action Taken
<p>Complainant alleged named officer failed to complete a Traffic Collision Report and take appropriate enforcement action when investigating a traffic collision.</p>	<p>Collision Investigation/Mandatory Report – NOT SUSTAINED Collision Investigation/Enforcement Action – EXONERATED The evidence established named officer likely completed the required report but that it was misplaced in the reporting system, and that named officer took appropriate enforcement action, based upon her evaluation of the facts available to her.</p>

STANDARDS OF CONDUCT: POLICY/PROCEDURES

Synopsis	Action Taken
<p>Complainant, whom named officers contacted in the parking lot of a gas station for suspicion of being involved in illegal drug activity, alleged named officers should not have temporarily detained him and should have spoken to him and a companion more politely. OPA, while investigating these allegations, discovered named officers appeared to have failed to use their in-car video system in violation of Departmental policy.</p>	<p>Both named officers: Temporary Detentions/Rules & Regulations: SUPERVISORY INTERVENTION Professionalism/Courtesy – SUPERVISORY INTERVENTION Failure to Use In-Car Video -- NOT SUSTAINED The evidence demonstrated named officers had information indicating complainant was on federal probation, a registered sex offender, likely affiliated with criminal gang activity in the area, and likely involved in illegal drug activity when they contacted him to ask about his apparent loitering in the parking lot of a gas station. The evidence also demonstrated named officers did not initially articulate the reasonable suspicion they had for contacting and temporarily detaining complainant as well as they should have. The evidence demonstrated named officers should have been more prudent in the language they used to explain to complainant their justification for detaining him. The available evidence could not prove or disprove whether named officers intentionally positioned their patrol car to prevent their contact from being captured by the in-car video system.</p>
<p>Complainant called 911 to report himself a victim in a domestic disturbance between himself and a female companion. He alleges 4 named officers and 1 sergeant who responded failed to make a required arrest of his female companion based upon a No Contact Order complainant had against the woman.</p>	<p>Four named officers - Failure to Take Appropriate Action – EXONERATED Sergeant - Failure to Meet the Responsibility of a Supervisor – SUPERVISORY INTERVENTION All named officers and the sergeant had responded to previous incidents involving complainant and women whom he would invite to his apartment, ply with alcohol, engage in sexual activity, then call 911 to have them removed. While named officers recognized complainant had a No Contact Order against the woman, they also had evidence that she was in the apartment with apparent consent of complainant, and both displayed evidence of having been drinking. Named officers believed complainant was violating the spirit of the No Contact Order, discussed the situation with their sergeant, and were directed not to arrest the woman for violation of the No Contact Order. While the evidence established named officers and the sergeant acted reasonably and in good faith, a literal application of the applicable law regarding violation of a No Contact Order mandates arrest of the violator. Therefore, the named officers reasonably relied upon the direction of their sergeant and the sergeant's supervisor counseled him regarding the strict restrictions in the domestic violence laws.</p>

STANDARDS OF CONDUCT: POLICY/PROCEDURES

Synopsis	Action Taken
<p>Complainant alleged named officer, without legal authority, looked in the trunk of complainant's car in the course of investigating an on-going domestic violence situation involving complainant and an adult female.</p>	<p>Domestic Violence/Patrol Officer Responsibility Regarding Firearms – ADMINISTRATIVELY EXONERATED</p> <p>The evidence established named officer was responding to at least his third domestic violence incident between complainant and the female, all three incidents involving the use or threatened use of a firearm. The common threads among these incidents led named officer to conclude it was necessary to ensure the safety of the domestic violence victim by checking for the presence of firearms in the trunk of complainant's car.</p>
<p>Complainant alleged named officers failed to complete a domestic violence assault report in which she should have been identified as the victim. OPA raised a second allegation against the primary named officer alleging he failed to comply with the Department's policy on operation of the in-car video system.</p>	<p>Named officer #1: Failure to Take Appropriate Action (report) – SUPERVISORY INTERVENTION Failure to Use In-Car Video System – SUPERVISORY INTERVENTION</p> <p>Named officer #2: Failure to Take Appropriate Action (report) – SUPERVISORY INTERVENTION</p> <p>The evidence demonstrated named officers were dispatched to a disturbance call with a very confusing factual situation, where both parties to the disturbance gave and retracted varying accounts of what had occurred, including complainant changing her accounts of whether either party was injured. Injury was not apparent to named officers. Based upon their evaluation of the situation, the named officers concluded a General Offense Report of the incident was not required and did not complete one. Fifteen hours later, complainant went to a hospital with a visible injury she attributed to this alleged assault. The evidence does not persuasively establish that the complainant's condition 15 hours after the incident accurately represented her condition at that time. Officers were counseled to be especially observant when addressing potential domestic violence situations. The evidence established the primary named officer did not comply with Departmental policy regarding operation of the in-car video system and he was counseled by a supervisor.</p>

STANDARDS OF CONDUCT: VIOLATION OF LAW

Synopsis	Action Taken
Named officer, while off-duty and driving his personal vehicle, was arrested and found guilty of DUI.	Violation of Law (DUI) – SUSTAINED The evidence established named officer, while off-duty and driving a private vehicle, committed the crime of DUI. Such conduct also constitutes a violation of Departmental policy, resulting in an administrative finding of sustained misconduct. Named officer received a 3-day suspension without pay for the administrative violation.
Complainant, a Department supervisor, complained that named employee, a former sworn member of the Department now working as a civilian for the Department, traveled while armed on a commercial flight and obtained Department approval to do so after misinterpreting his employment status to obtain the approval.	Violation of Law (flying while armed) – Administrative SUSTAINED The evidence established named employee, given his seniority, managerial responsibility, and expectations that he be familiar with applicable federal law and Departmental policy and procedure regarding the carrying of firearms on plane flights, failed to diligently remain up to date on how changes in law and policy, and his changed employment status, affected his ability to fly commercially while armed. Named employee received a verbal reprimand.
Named employee, a probationary officer at the time of the alleged misconduct, was arrested for investigation of assault for an incident in which she was involved while off-duty and out of state.	Violation of Law (Assault)/Administrative – SUSTAINED The evidence established named officer, while off-duty and out of state, became involved in a taxi fare dispute, in which named officer assaulted the cab driver, using her Department badge as a cutting instrument, and identifying herself as a Seattle Police Officer. She also was uncooperative with the local police agency that responded. The equivalent conduct in Washington State would constitute the crime of aggravated assault. The named officer was terminated from employment.

STANDARDS OF CONDUCT: MISHANDLING PROPERTY/EVIDENCE

Synopsis	Action Taken
Complainant, who had been arrested for DUI by named officer, alleged named officer failed to safeguard her purse and jewelry she was wearing at the time of her arrest.	Mishandling Evidence/Property – UNFOUNDED The evidence, including in-car and holding cell video, established that named officer complied with Department policy regarding processing personal property of arrestees and that complainant did not lose any property while in the custody of the Seattle Police Department.
Complainant, whom named officer had arrested for a domestic violence disturbance, alleged named officer failed to take custody of her purse, which she alleged resulted in it being lost.	Mishandling Property/Evidence – UNFOUNDED The evidence established named officer legally arrested complainant for felony domestic violence harassment and, at the time, she possessed several large plastic bags of property that she turned over to her husband for safekeeping. The named officer did not examine the bags, The only evidence that the allegedly missing purse existed was complainant's assertion and there was no evidence named officer engaged in any misconduct.

UNNECESSARY FORCE

Synopsis	Action Taken
<p>Complainant, who was a party in a disturbance with another person, reportedly involving a handgun, that was reported to 911, alleged named officers used unnecessary force on him and failed to allow him an opportunity to explain his perspective of the disturbance before arresting him.</p>	<p>Two named officers alleged to have used unnecessary force – both EXONERATED One of the named officers alleged not to have allowed complainant to explain his version of the disturbance before being arrested – ADMINISTRATIVELY UNFOUNDED The evidence established named officers used reasonable and necessary force after complainant walked away toward his vehicle (where the handgun reportedly involved may have been located), repeatedly disregarded commands from named officers to show his hands, and then quickly turned as if to strike a named officer. After being taken to the ground, complainant continued to hide his hands under his body and suffered a loose front tooth from being pressed to the ground while resisting. Named officers promptly called for SFD Medics to check complainant's tooth and thoroughly documented the incident. The evidence, including in-car video, established complainant had ample opportunity to express his perspective and that neither named officer prevented complainant from so doing.</p>
<p>Complainant alleged the three named officers used unnecessary force, including a single Taser application, against him when responding to a domestic disturbance at a tavern. Complainant, it was later determined, was not involved in the disturbance but was, nevertheless, uncooperative and combative with officers who were investigating the incident and initially unsure of his possible involvement.</p>	<p>Three named officers alleged to have used unnecessary force against complainant – all EXONERATED The evidence established that while named officers were investigating a 911 call of a disturbance at a tavern between a man and a woman, they encountered the complainant who was standing near the female victim. When named officers attempted to talk with complainant about his possible involvement, complainant became uncooperative and took a fighting stance toward officers. Named officers responded by taking hold of complainant's arms, and complainant began to forcefully shake off the officers. Fearing an escalating fight, named officers requested assistance from the third named officer, who responded and, given the degree of force being used by complainant against named officers, applied a single use of his Taser. Complainant cooperated with officers after the Taser deployment. The evidence established named officers used reasonable and necessary force on complainant.</p>

Mediation Program:

3 cases were selected by the Director for resolution through mediation in September.

1 case, officer declined to mediate.

2 cases, complainant declined to mediate.

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.

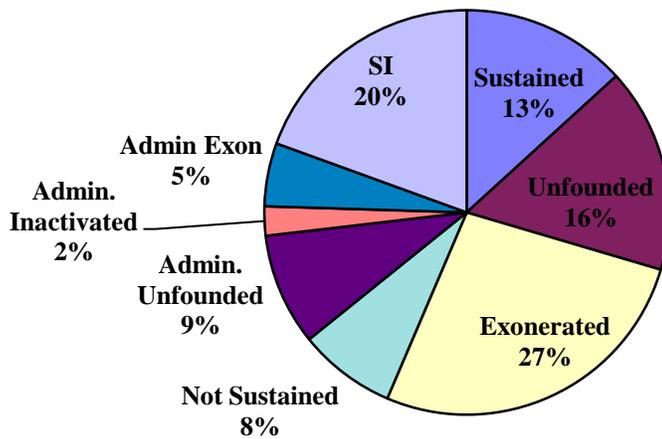
“Administratively Unfounded/Exonerated” is a discretionary finding which may be made prior to the completion that the complaint was determined to be significantly flawed procedurally or legally; or without merit, i.e., complaint is false or subject recants allegations, preliminary investigation reveals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

Cases Opened (2008/2009 by Month Comparison)

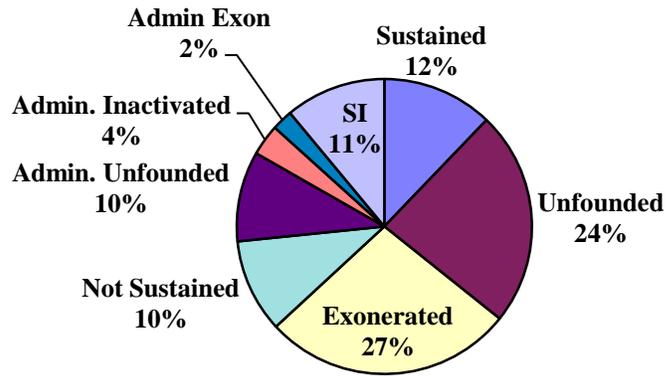
Date	PIR		SR		LI		IS		TOTAL	
	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009
1/1-2/15	38	18	9	3	1	1	16	15	64	37
2/16-3/15	24	14	8	6	2	2	12	8	46	30
3/16-4/15	30	16	4	3	0	6	9	15	43	40
4/16-5/15	26	15	4	6	2	5	15	12	47	38
5/16-6/15	23	20	2	10	1	3	12	9	38	42
6/16-7/15	17	14	2	9	3	3	14	8	36	34
7/16-8/15	27	16	9	11	3	0	25	17	64	44
8/16-9/15	19	16	7	9	2	1	16	14	44	40
9/16-10/15	23		11		2		14		50	
10/16-11/15	20		6		1		11		38	
11/16-12/15	23		6		2		9		40	
12/16-12/31	8		3		0		5		16	
Totals	278	129	71	57	20	21	158	98	527	305

Disposition of Completed Investigations
 Open as of 1 Jan, 2008 or after and Closed as of December 31, 2008
 N=144 Closed Cases/257 Allegations



One case may comprise more than one allegation of misconduct.

Disposition of Completed Investigations
Open as of 1 Jan 2009 and closed as of 15 September 2009
N=139 Closed Cases/263 Allegations



One case may comprise more than one allegation of misconduct.