

Office of Professional Accountability (OPA) Commendations & Complaints Report February-March 2010

Commendations:

Commendations Received in January/February: 8

Commendations Received to Date: 8

Officer Jonathan Musseau Officer Shannon Burt	Driver of a car struck by a drunk driver commends Officers Musseau and Burt for their compassion and competence in investigating the traffic collision in which she was involved, especially noting their effort to ensure she was alright after the collision.
Officer James Parnell	Victim of a car prowling commends Officer Parnell for his promptness, courtesy, and professionalism in not only investigating the incident but also for providing the victim helpful suggestions to reduce the probability of future similar incidents.
Officer Brendan Kolding	Victim of an attempted break-in to her home commends Officer Kolding for thoroughly searching her home to ensure an intruder was not present, ensured the exterior of the home was secure, and for calling her later to explain the resolution of the incident.
Officer David Hockett	Apartment resident commends Officer Hockett for his assistance in responding to her 911 call that a naked man, high on drugs, was pounding on her apartment door trying to forcibly enter her apartment.
Unknown Patrol Officer	Driver whose car broke down in the middle of the road in an unfamiliar area commends an unknown patrol officer for stopping and helping to push the "very heavy car, in the rain to a safe place off the roadway."
Officer Christopher Leyba	Victim of a car theft commends Officer Leyba for his prompt, competent, and thorough response to the car theft and for follow-up two weeks later when the victim's car was located.
Officer Gerald House Officer Jonathan Chin Officer Ronald Campbell	Mother whose 14-year old daughter was the victim of a strong-armed robbery commends Officers House, Chin, and Campbell for their "friendly and reassuring" manner and their "responsiveness and professionalism" while investigating the matter.
Parking Enforcement Officer Minh Doan	A driver, realizing she had misplaced her primary car key and needing to look underneath her car for a "hide-a-key" box, commends PEO Doan for stopping on a "dark and rainy" evening to assist her by actually laying on the ground and reaching under the car to retrieve the key box himself. The driver notes, "I had put in a long day at a hospital (working) and he came along and took care of me when I needed it the most. Thank you!"

January-February 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 LAWS

Synopsis	Action Taken
Complainant, whom detectives had arrested for prostitution and who then agreed to assist detectives with a continuing investigation into a prostitution escort service, alleged another detective had destroyed a tape recording that would have been material evidence in the investigation of the escort service.	<p>Violation of Law – ADMINISTRATIVELY UNFOUNDED</p> <p>The evidence, including investigative effort by both the Seattle Police Department and a federal law enforcement agency, overwhelmingly established the alleged misconduct, i.e., destruction of the tape recording, did not occur.</p>

STANDARDS OF CONDUCT: HONESTY

Synopsis	Action Taken
Complainant, who had earlier filed an OPA complaint regarding poor service, complained that no one from the police department ever contacted him regarding the investigation.	<p>Honesty – UNFOUNDED</p> <p>Responsibility of Supervisor (to investigate a supervisory referral case from OPA) – SUPERVISORY INTERVENTION</p> <p>The evidence established that the named employee made several attempts to contact complainant by phone regarding the supervisory referral investigation he was conducting but, due to complainant's extensive business travel and named officer's inexperience in conducting such investigations, miscommunication between complainant and named officer occurred. The evidence did not establish that named acted evasively or dishonestly.</p> <p>The evidence established that it was the named officer's inexperience and unfamiliarity that caused named officer to fail in following the established OPA procedure for conducting supervisory referral investigations. The finding of Supervisory Intervention is intended to prompt review of the proper practice and procedure to promote better performance in the future.</p>

STANDARDS OF CONDUCT: INTEGRITY

Synopsis	Action Taken
Complainant, department Director for the City of Seattle, who was not a witness to the incident, questioned the appropriateness and involvement of the named officers when the officers were dispatched to address a matter involving a suspended employee of the complainant's.	Two named officers Integrity/Conflict of Interest – UNFOUNDED for both named officers The evidence clearly established named officers acted reasonably, appropriately, objectively, and professionally when addressing the incident.
Complainant, the driver of a commercial "party bus," while operating the party bus, alleged named officer inappropriately seized a concealed firearm the complainant had in his possession and for which complainant possessed a concealed weapons permit	Misuse of Authority – SUPERVISORY INTERVENTION The evidence established named officer observed the commercial party bus operated by complainant blocking traffic in a downtown street. Complainant refused directions from named officer to move the bus. Named officer smelled the odor of an alcoholic beverage upon complainant's breath and complainant confirmed that he had been drinking but passed a Field Sobriety Test. Named officer observed and seized for safekeeping a holstered semi-automatic pistol in the possession of complainant, for which complainant possessed a valid concealed weapons permit. The evidence demonstrated named officer seized the handgun for safekeeping based upon complainant's obvious poor decision-making; that named officer acted in a reasonable and responsible manner, in good faith, and with common sense; and, conversely, that the complainant acted in a manner less responsible than what should be expected from a commercial carrier ferrying passengers from business to business. The finding of Supervisory Intervention was made to promote further discussion of the matter between named officer and his supervisor.

STANDARDS OF CONDUCT: VIOLATION OF RULES/REGULATION

Synopsis	Action Taken
Complainant, whom named officer contacted as a suspicious person loitering in an area known for vice and narcotics activity, from which complainant had been formally trespassed, alleged named officer inappropriately touched him when arresting him for trespassing.	Body Cavity Searches/Policy – UNFOUNDED The evidence, including the audio portion of the in-car video system, statements from third-party witnesses, statements from supervisors at the time of the arrest, and a medical exam at a local hospital, established named officer simply did not engage in the misconduct alleged. The only evidence of misconduct was the uncorroborated assertion of the complainant unsupported by any other evidence and contradicted by the evidence available.

STANDARDS OF CONDUCT: VIOLATION OF RULES/REGULATION

Synopsis	Action Taken
Complainant, whom named officers arrested for Drug Traffic Loitering, alleged named officers stripped searched him without sufficient cause.	Two named officers Strip Search/Policy & Procedure – ADMINISTRATIVELY EXONERATED for both named officers The evidence overwhelmingly established named officers arrested, searched, and processed complainant based upon sufficient justification and that their actions were consistent with Department policy.
Complainant, an SPD supervisor, alleged named employee had misused sick leave to take time off from work.	Insubordination – SUSTAINED The evidence established named employee had inappropriately used sick leave to take time off from work. Corrective action: One (1) day suspension without pay

STANDARDS OF CONDUCT: PROFESSIONALISM

Synopsis	Action Taken
Complainant, a bus driver for a group of children leaving a Mariners baseball game at Safeco Field, asked named officer for permission to drive her bus in a direction inconsistent with the traffic flow pattern set up after the game to reduce traffic congestion. Complainant alleged named officer used profane language when refusing her request and that he exercised poor discretion in refusing to allow her to operate her bus as she requested.	Professionalism/Profanity – NOT SUSTAINED Professionalism/Exercise of Discretion – EXONERATED The evidence was insufficient to establish whether the alleged profanity occurred or not. The evidence consisted primarily of divergent recollections from the opposing perspectives of various witnesses. The evidence established named officer appropriately exercised his discretion when he refused to permit the complainant to operate her bus in a manner inconsistent with the established traffic flow plan to reduce traffic congestion at Safeco Field.
Complainant alleges that named employee, while off-duty, was summoned by an acquaintance to complainant's residence concerning a DV situation. Named employee called for an on-duty officer to handle the call. Complainant alleges named employee was verbally unprofessional to the officer who responded back to her residence the following day. Complainant further alleges that named employee shared sensitive information with his wife.	Professionalism-Profanity – NOT SUSTAINED Communication & Confidentiality-Confidentiality – SUPERVISORY INTERVENTION Evidence shows that following the incident, named employee discovered that the on-duty officer had written a report that did not reflect the information divulged to him, so he wrote another report. This created confusion and an exchange of words. However, by preponderance of evidence it was neither proved nor disproved that the named employee used profanity. The evidence supports that information was divulged to named employee's wife. The finding of supervisory intervention will allow the named employee to receive instruction from his supervisory on how he can better protect a victim's privacy by limiting the divulgence of confidential information.

STANDARDS OF CONDUCT: MISHANDLING PROPERTY/EVIDENCE

Synopsis	Action Taken
Complainant, whom named officers had arrested for an outstanding warrant, alleged named officers failed to return a credit card that he had in his possession at the time of his arrest.	<p>Named officer #1 Mishandling Property/Evidence – NOT SUSTAINED Named officer #2: Mishandling Property/Evidence – EXONERATED</p> <p>The evidence, including holding cell video system recording, established named officer #2 handled property in the possession of complainant reasonably and consistent with Department policy.</p> <p>The evidence could not confirm or dispel the allegation that the conduct of named officer #1 caused the loss of complainant's credit card, so a finding of not sustained was appropriate.</p>

UNNECESSARY FORCE

Synopsis	Action Taken
Complainant, who was the object of a 911 call involving concerns about an intoxicated/mentally unstable person who was threatening to shoot someone, alleged an unknown officer, for no reason, kicked him on the leg four times while officers were taking him into custody.	<p>Unnecessary Use of Force – UNFOUNDED</p> <p>The evidence did not permit a determination of which, if any, officer(s), used the force alleged. Complainant was unwilling to cooperate with the investigation. The evidence established that the officers who did interact with complainant acted reasonably and appropriately. The evidence also established complainant suffers from significant mental health issues and officers presented complainant to a local hospital for a mandatory mental health evaluation.</p>
Complainant, whom named officer stopped because the car he was driving resembled a car wanted in connection with an armed robbery, alleged named officer should not have used a Taser on him when he refused to comply with orders and that named officer stopped him only because named officer had dated a woman that complainant was now dating.	<p>Unnecessary Use of Force – EXONERATED Integrity – Conflict of Interest – UNFOUNDED</p> <p>The evidence established named officer had justification to stop the car complainant was driving because of its resemblance to a car wanted in connection with an armed robbery described in a wanted bulletin from a neighboring police jurisdiction and that complainant, the driver of the car, refused multiple commands from named officer, including commands to show his hands, that justified named officer deploying a Taser to control complainant.</p> <p>The evidence also established that while named officer had a personal relationship for several years with a woman that the complainant also knew, that situation had nothing to do with the current stop of complainant by named officer.</p>

UNNECESSARY FORCE

Synopsis	Action Taken
<p>Complainant, whom named officers #1 and #2 had arrested for DUI, Hit & Run Driving, and Resisting Arrest, alleged named officers #1 and #2, without justification, used force to control him and that an unknown officer #3 misplaced a knife complainant and his female companion had with them in their car at the time they were stopped. Complainant also alleged named officers #1 and #2 slammed the car door on his female companion's head as she was exiting the car.</p>	<p>Named officer #1: Unnecessary Use of Force – EXONERATED Named officer #2: Unnecessary Use of Force – EXONERATED Unknown Officer #3: Mishandling Evidence/Property – NOT SUSTAINED</p> <p>The evidence established complainant resisted both verbal and physical efforts by named officers to control him and take him into custody for several traffic crimes. The evidence established named officers used only reasonable and necessary force to control complainant. The evidence also established it was the action of complainant's female companion that caused the car door of complainant's car to accidentally close on the companion as she attempted to exit the car while named officers were occupied attempting to control complainant outside the car.</p> <p>The evidence is insufficient, too confusing and conflicting to permit a determination of whether an unknown Officer #3 somehow lost a knife purportedly belonging to complainant that was in the car.</p>
<p>Complainant alleged that during his interaction with named employee, unnecessary force was used against him and derogatory language was directed at him.</p>	<p>Unnecessary Use of Force – EXONERATED Professionalism-Derogatory Language – EXONERATED</p> <p>The evidence indicated that named officer used reasonable force to disengage contact with complainant after complainant repeatedly asked named employee questions and asked or implied that he wanted to be tased. Complainant's recollection of the derogatory language allegation differs from other involved parties, his companions and named employee's partner; therefore, the preponderance of evidence indicates that derogatory language was not used as described.</p>
<p>Complainant alleged that named employee used unnecessary force and damaged his phone during his arrest.</p>	<p>Unnecessary Use of Force – EXONERATED Evidence & Property Policy – UNFOUNDED</p> <p>The evidence showed that the complainant was under the influence of a substance and uncooperative. Named employee used very reasonable and minor force against the complainant after he refused to surrender his cell phone and then cocked his arm as if he might use it to strike the named employee. The evidence also showed the cell phone became disassembled during this incident but no evidence that the phone was damaged.</p>

Mediation Program:

The OPA Director selected 5 cases to be resolved through the Mediation Program during January and February of 2010.

Of the 5 cases that were selected, 2 officers declined to mediate, 1 complainant withdrew her complaint against the named officer, the complainant has not responded to correspondence from OPA in 1 case, and 1 case is currently being scheduled for mediation.

3 prior selected cases were successfully resolved through mediation sessions during this time period.

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 (2009/2010 by Month Comparison)

	PIR		SR		LI		IS		TOTAL	
Date	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		3		6		15		40	0
4/1-4/30	15		6		5		12		38	0
5/1-5/31	20		10		3		9		42	0
6/1-6/30	14		9		3		8		34	0
7/1-7/31	16		11		0		17		44	0
8/1-8/31	16		9		1		14		40	0
9/1-9/30	21		9		1		16		47	0
10/1-10/31	21		8		1		13		43	0
11/1-11/30	23		10		3		14		50	0
12/1-12/31	19		4		0		7		30	0
Totals	213	26	88	17	26	2	148	28	475	73



