

Office of Professional Accountability (OPA) Commendations & Complaints Report November 2010

Commendations:

Commendations Received in October: 6

Commendations Received to Date: 55

Officer Jeff Swenson	A motorist, new to the area and whom Officer Swenson had stopped for a traffic violation, compliments Officer Swenson for being "really nice" and for patiently explaining to her how to properly register her car in Washington State.
Officer Henry Feldman Officer Garth Haynes	Rental property owners, whom Officers Feldman and Haynes were assisting with a problem of "squatters" in one of their properties, compliments both officers in dealing with the squatters, commenting, "They were very professional, but firm. They were direct, but not insulting. They were true assets to the [Seattle Police Department] and many an officer could learn by their excellent example in handling this situation."
Parking Enforcement Officer Miriam Gauldin	A motorist, whom PEO Gauldin cited for a parking infraction, compliments PEO Gauldin for understanding her situation and making the experience as good as it could be under the circumstances.
Detective Pamela St. John	A friend of a 90- year old woman in difficult circumstances compliments Detective St. John for her competence and compassion while investigating an elder abuse situation, commenting, "thanks for training and employing a great officer. I am happy you employ an officer of her abilities, one that cares about our elderly as we should."
Officer Rebecca Miller	A Residential Counselor at a downtown Seattle supportive housing project for formerly homeless adults dealing with co-occurring substance dependence and medical conditions compliments Officer Miller for her "exceptional response" to a situation at the facility, commenting, "She was more knowledgeable about this population than I would have expected ... and was exceedingly comfortable addressing the needs of our residents. All of these qualities amount to a professionalism and respect" that is refreshing to observe.
Officer Matthew Didier	An employee of a downtown Seattle emergency services center for formerly homeless adults compliments Officer Didier for his handling of a situation involving one resident threatening to "get a gun and shoot" another resident, commenting, "Officer Didier treated both residents and our staff with respect and worked collaboratively with us to make sure the situation was handled as well as possible."

October 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: HONESTY

Synopsis	Action Taken
Complainant, whom the named officer had arrested for a criminal traffic offense, alleged the named officer included false facts in the General Offense Report he completed for the incident.	Allegation: Dishonesty -- UNFOUNDED The evidence, including review of data from the named officer's in-car video system and Automatic Vehicle Locator system, demonstrated that the named officer had reported his observations adequately and did not suggest the named officer fabricated facts, as alleged by the complainant.

STANDARDS OF CONDUCT: INTEGRITY

Synopsis	Action Taken
Complainant, a local media publication, alleged that another media organization (a television station) received preferential treatment from the Seattle Police Department because the editors of that television station would overlook stories that were unflattering to law enforcement.	Unknown employee Allegation: Conflict of interest – UNFOUNDED There was no evidence found to establish that a representative of the Seattle Police Department gave “preferential treatment” to the named media organization in return for that organization withholding stories unflattering to law enforcement.

STANDARDS OF CONDUCT: PROFESSIONALISM

Synopsis	Action Taken
Complainant, whom the named officer contacted at a bus stop for creating a disturbance, alleges the named officer used unnecessary force on him and directed profanity toward him.	Professionalism – Profanity: SUSTAINED Unnecessary Use of Force: SUPERVISORY INTERVENTION The evidence demonstrated that the named officer used inappropriate language for the circumstances when he was talking to the complainant and that the named officer lacked a legitimate purpose when he gave the complainant a slight push upon initially contacting him. CORRECTIVE ACTION: The named officer received a written reprimand for the use of inappropriate language and direction to meet with his supervisors to review and discuss the Department's policy on the use of force.

STANDARDS OF CONDUCT: PROFESSIONALISM

Synopsis	Action Taken
Complainant alleged the named officers caused a No Trespass Admonishment to be issued to him by the management of a business retroactively and without cause in order to justify his arrest for Criminal Trespass.	Two named officers Allegation: Poor Exercise of Discretion – UNFOUNDED for both named officers. The evidence established that the named officers did not issue a No Trespass Admonishment naming the complainant but that another officer, a month earlier, had properly issued such an admonishment under which the complainant was arrested.
Complainant alleged the named officer, while working a traffic control assignment at a sporting event, used parts of his body to hit the complainant's car as he passed by and then refused to identify himself when asked to do so by the complainant.	Allegation #1: Lack of Courtesy – NOT SUSTAINED Allegation #2: Failure to Identify -- NOT SUSTAINED The complainant was unable to provide sufficient information to permit a positive identification of the officer who may have hit his car and the complainant did not see any officer actually hit his car. Complainant only heard something hit his car and presumed it was a nearby officer using some part of his body to hit the car. OPA identified the named officer in this case primarily by the fact he was assigned to the location of the alleged incident at the time it occurred. The named officer denied any knowledge or involvement in the contact described by the complainant. The available evidence, for both allegations, was insufficient to prove or disprove the allegations.

STANDARDS OF CONDUCT: RULES/REGULATIONS

Synopsis	Action Taken
Complainant alleged the named detective entered her residence without proper justification when looking for the complainant's son, a robbery suspect, and that the named detective used inappropriate language and threatened to shoot the complainant's dog.	Allegation #1: Unjustified Search – NOT SUSTAINED Allegation #2: Use of Profanity – UNFOUNDED Regarding allegation #1, the evidence demonstrated the named detective was acting in good faith in attempting to contact a robbery suspect he believed to be in the complainant's residence. The evidence is contradictory regarding whether the complainant gave consent for the named detective to enter her residence and the allegation is neither proved nor disproved. Regarding allegation #2, the evidence demonstrates that under the circumstances it would have been reasonable for the named detective to explain the possible consequences of the complainant having an uncontrolled dog loose at the scene and possibly posing a risk to the named detective. The evidence did not demonstrate that the named detective used inappropriate language.

STANDARDS OF CONDUCT: RULES/REGULATIONS

Synopsis	Action Taken
Complainant alleged that the named officers unjustifiably entered his residence when they responded to a domestic disturbance 911 hang up call from the complainant's girlfriend that the enhanced 911 phone system identified as having been made from the complainant's residence even though the caller who had hung up identified she was calling from a different address.	<p>Six named officers Allegation: Unjustified Search of Residence – EXONERATED</p> <p>Two named dispatchers Allegation: Use of Discretion/Rules for Dispatching -- UNFOUNDED</p> <p>The evidence demonstrated that the named dispatchers exercised appropriate discretion when making the decision to dispatch officers to the address identified by the enhanced 911 system rather than the address identified by the caller who had hung up while talking to the dispatcher about a possible domestic disturbance.</p> <p>The evidence demonstrated that the named officers who responded to the dispatched 911 domestic disturbance hang up call acted justifiably when they conducted a cursory sweep of the complainant's address to ensure a possible domestic violence victim was not at risk.</p>

UNNECESSARY FORCE

Synopsis	Action Taken
Complainant alleged the named officers unjustifiably contacted him as he was walking on the sidewalk in the University District, punched him several times, and told him to leave the country or they would persecute him.	<p>Two named officers</p> <p>Allegation #1: Unnecessary Use of Force – NOT SUSTAINED Allegation #2: Poor Exercise of Discretion – NOT SUSTAINED</p> <p>The named officers denied that they used force or threatened the complainant and state they have regular contact with the complainant as someone they know to deal marijuana and to violate the City's "sit and lay ordinance" and "drug traffic loitering ordinance." The available evidence was insufficient to either prove or disprove the allegations.</p>
Complainant, after he had called 911 to report a disturbance at his residence and to state he was arming himself with a knife, alleged the named officer, a female, who was dispatched to the incident, violated Seattle Police Department policy by "patting down" for weapons the complainant, a male, and that the named officer used unnecessary force by hitting his testicles with her hand during the search.	<p>Allegation #1: Unnecessary Use of Force – UNFOUNDED Allegation #2: Improper Search – EXONERATED</p> <p>The evidence established the named officer was acting within Department policy when she frisked the complainant for weapons, specifically, the knife with which he had stated to police radio he was arming himself. The evidence also demonstrated that the named officer did not use force of the type alleged by the complainant when searching the complainant.</p>

UNNECESSARY FORCE

Synopsis	Action Taken
<p>Complainant, whom the named officers contacted while he was sitting in his van parked at a curb in response to a 911 call that he may have been selling illegal drugs to teenagers visiting his van, alleged the named officers hit him, used inappropriate language toward him, improperly searched his vehicle, and improperly impounded his vehicle.</p>	<p>Named officer #1 Allegation #1: Unnecessary Use of Force – UNFOUNDED Allegation #2: Improper Search – NOT SUSTAINED Allegation #3: Unjustified Impound – SUPERVISORY INTERVENTION Allegation #4: Use of Profanity – SUPERVISORY INTERVENTION</p> <p>Named officer #2: Allegation #1: Improper Search – NOT SUSTAINED Allegation #2: Improper Impound – SUPERVISORY INTERVENTION Allegation #3: Use of Profanity – UNFOUNDED</p> <p>The evidence demonstrated that the complainant, age 44 years was living in his van and had befriended many high-school age children who would, according to the complainant, visit his van to talk and smoke cigarettes. The evidence established that residents in the neighborhood had made frequent calls to 911 to report suspicious activity associated with the van and the complainant.</p> <p>The evidence demonstrated that named officer #1 did not use unnecessary force to remove sunglasses from the complainant's face after the complainant had refused to remove them. The evidence is inadequate to either prove or disprove whether the complainant gave the named officers consent to search his van for alcoholic beverages they suspected he may have been providing to the teenagers. The evidence demonstrated that while the named officers were justified in issuing the complainant a parking infraction they should have considered other options before impounding the complainant's van. Finally, the evidence, including the admission of named officer #1, established that named officer #1 did use an inappropriate word with the complainant.</p> <p>Corrective action: The supervisor of named officers discussed with them the importance of considering other options than impounding a vehicle to resolve a parking problem. The supervisor of named officer #1 discussed with him the importance of using appropriate language when talking with people.</p>

UNNECESSARY FORCE

Synopsis	Action Taken
<p>Complainant alleged that, for no reason, the named officers stopped him, twisted his arms behind his back, and handcuffed him, causing injury to his wrist.</p>	<p>Named officer #1 Allegation: Unnecessary Use of Force – EXONERATED Named officer #2 Allegation: Unnecessary Use of Force – SUPERVISORY INTERVENTION</p> <p>The evidence demonstrated that named officer #1 had justification to temporarily detain, and handcuff, the complainant for possible involvement in criminal activity while the complainant was standing at a bus stop. The evidence demonstrates that the complainant, when first contacted by named officer #1, threw himself on his knees to the ground and began acting in a manner that gave named officer #1 reasonable cause to fear for his safety, at which time named officer #1 placed the complainant in handcuffs, which was followed by the complainant twisting and bracing against the application of the handcuffs.</p> <p>The evidence demonstrates that named officer #2, a supervisor called to the scene to screen the contact, failed to ensure the force used by named officer #1 was properly documented. Corrective action for named officer #2: Named officer #2 met with his supervisor to discuss the importance of ensuring compliance with Department policy regarding reporting use of force.</p>
<p>Complainant, whom one of the named officers had arrested 2 weeks earlier in the same area for allegedly selling “crack” cocaine, alleged the named officers used unnecessary force when contacting him again for suspicion of illegal drug dealing.</p>	<p>Three named officers Allegation for each named officer: Unnecessary Use of Force – EXONERATED</p> <p>The evidence demonstrated that the named officers were justified in temporarily detaining the complainant for suspicion of selling illegal drugs. The evidence also demonstrates that the named officers used reasonable and necessary force when they grabbed the complainant’s arms after he repeatedly refused to move his hands away from a glass container he was carrying in his jacket pocket.</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 12 cases to be resolved through the Mediation Program during October 2010.

Of the 12 cases selected for the Mediation Program, 4 complainants declined to participate and 2 officers declined to participate after complainant had agreed. 1 complainant did not respond to correspondence and 5 cases were successfully mediated.

Cases Opened (2008/2009 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	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		10		3		14		50	0
12/1-12/31	19		4		0		7		30	0
Totals	213	199	88	90	26	23	148	157	475	469

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.

