

OFFICE OF PROFESSIONAL ACCOUNTABILITY (OPA)
COMPLAINT REPORT
April 2012

OPA Director's Monthly Message

The Office of Professional Accountability's (OPA) monthly report provides information about Seattle Police Department (SPD) misconduct complaints that are investigated by OPA. This report includes summaries as to cases closed during the month of April 2012, along with data on the number and classification of complaints filed, with a comparison to earlier months and 2011. Monthly reports include charts showing the percentage of cases closed with different types of findings, information about the OPA mediation program, and policy review and training recommendations when made.

April 2012 Highlights

- OPA closed 15 cases involving 40 allegations against 22 employees in April, representing 1.22% of all 1,807 SPD employees (1,297 sworn and 510 civilian)
- 15% of allegations closed through April 2012 were Sustained, resulting in discipline
- 21% of allegations closed to date resulted in a Training Referral, meaning that the named employee received training or counseling related to the complaint
- The remaining cases were closed as Unfounded, Lawful and Proper, or Inconclusive

Last month, the OPA complaint investigation process was summarized to provide citizens and officers with information about what is a very complex process. While those who have reviewed OPA investigations agree that they are generally thorough, well documented and of good quality, there has been on-going concern about the time it takes to respond to complaints of misconduct. While the need to observe deadlines is significant so that the Department is able to discipline officers where appropriate, it is also important to address the interest of citizens and officers with a timely complaint resolution even where discipline is not involved.

A number of steps have been taken in 2012 to address the issue of timeliness. First, as previously discussed, OPA instituted a new classification system, such that all complaints are either handled by the involved employee's supervisor through a Supervisor Action or are scheduled for a full Investigation. The new system allows OPA to continue to monitor matters handled at the precinct level, while focusing on the more serious complaints received. To date in 2012, while the number of complaints has increased, OPA has referred 35 more cases for Supervisor Action and classified 14 fewer cases for investigation as compared to this time in 2011. This allows OPA investigators to concentrate on serious allegations and handle a smaller caseload more quickly.



OPA has streamlined the system for cases referred for Supervisor Action, with more focused direction on steps to be taken by the supervisor and a shorter turn-around time. For cases classified for full investigation, shorter timelines also have been set at the various stages of the process, including time for evidence gathering by the investigators and review by the OPA Lieutenant and Captain, along with the assessment conducted by the OPA Director and Auditor. The goal throughout is to handle cases more expeditiously, while not compromising quality. The OPA Lieutenant and Captain steadily have been working through a backlog of completed investigations and the overall number of days required from initial intake through closure for many cases is being reduced.

Another important change involves the OPA Auditor's review. Previously, she would evaluate the investigation after it had been processed by the OPA Lieutenant and Captain, sometimes after a proposed finding had been issued. A new approach has the Auditor reviewing the investigation before it is referred to the Captain. This means she sees the case earlier in the review process and where she agrees the investigation is complete, the Captain and OPA Director can finish their review with her feedback in mind. It is not frequent that the Auditor suggests further steps be taken in an investigation, but any extra time involved is with the goal of improving overall quality. Earlier review means that there is sufficient time for more investigation if necessary, too.

In addition to those changes noted above, OPA has conducted training and is holding regular staff case reviews to identify ways to improve both the quality and timeliness of its investigations. OPA will continue to evaluate if these steps have a positive impact and will make adjustments or consider other measures as the data is analyzed.



Seattle Police Department – Office of Professional Accountability

Complaint Report

April 2012

Cases involving alleged misconduct of SPD employees in the course of their official public duties are summarized below. Identifying information has been removed.

April 2012 Closed Cases

Case Summary	Case Finding
<p>The complainant, a supervisor within the Department, alleges that during a potential domestic violence investigation, the named employee, who is a civilian, obstructed the officers' efforts to investigate the matter.</p>	<p>Allegations and Findings:</p> <ol style="list-style-type: none"> 1. Violation of Law-Administrative – (Obstruction) – Training Referral <p>The evidence showed that the named employee called 911 for assistance regarding a domestic violence disturbance. In the General Offense report, the responding officer suggested that the named employee was uncooperative, evasive in providing information and hindered the investigative efforts of the responding officers. The City Law Department dismissed charges of obstruction against the named employee. However, it would benefit the named employee to review the incident with her supervisor and someone from the Domestic Violence Unit, and to be counseled about how the Department must and should respond in domestic violence situations and why her cooperation would be required.</p>
<p>The complainant alleged that named officer, while working off duty at a construction site, was rude to him when he became confused about a street closure. It is also alleged that the named employee failed to obtain an approved secondary employment permit and did not log into or out of service on the police radio as required by Department policy.</p>	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> 1. Failure to Possess Secondary Employment Permit – Sustained 2. Failure to Log-in Over Radio for Secondary Employment – Sustained 3. Discourtesy/Rudeness – Inconclusive <p>The evidence demonstrated that named employee did not possess a Secondary Employment Permit and he did not log-in over the radio for secondary employment per Department policy. Regarding the allegation of Discourtesy/Rudeness, the evidence which included a third party witness, appeared to show that the named employee was professional and calm during his interaction with complainant, but overall, the evidence was inconclusive regarding whether the named officer was rude.</p> <p>Corrective action: Written reprimand</p>



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Case Summary	Case Finding
<p>The complainant, a third party, emailed a photograph of the named officer standing next to a woman in public, looking at a cell phone in one hand and “flipping off” (extending his middle finger) to no one in particular. The complainant alleges this photograph was taken sometime in 2008. The complainant states an unknown person gave him the photograph and told him that named officer was giving an unknown woman the “flipping off” gesture in response to her having asked him to pose with her for a picture. The complainant also alleged that named officer was using a non-Department issued Smart phone camera to take photographs of “street kids” with the intention to intimidate them.</p>	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> 1. Use of Profanity – Sustained 2. Photographing Juveniles – Training Referral <p>The named employee admitted to the hand gesture which the photograph memorialized. Regarding the allegation of photographing juveniles, the named officer admitted he sometimes takes photos of citizens in order to disperse a crowd, but there was no evidence that he intentionally took pictures of minors. The named employee will benefit by reviewing with his supervisor the specific policy related to Photographing Juveniles, and also covering in detail 7.030, the Department’s policy on Photographic Imaging, along with the Directive concerning the inappropriate use of a personal cell phone to capture and/or share images related to law enforcement efforts.</p> <p>Corrective action: Since the Collective Bargaining Agreement prohibits the imposition of discipline for complaints made to the Office of Professional Accountability more than three years after the date of the incident; no disciplinary action will be taken on the Sustained finding of Use of Profanity.</p>
<p>The complainant, a nurse employed at the King County Jail, alleges that named employee berated and shouted at her and fellow nurses when she rejected a prisoner for booking for medical reasons.</p>	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> 1. Professionalism-Courtesy – Sustained <p>The evidence, including the named employee’s admission, showed that named officer became frustrated when the prisoner was rejected into the King County Jail and with the poor radio communications at the jail when he tried to relay the rejection information to a dispatcher or supervisor.</p> <p>Corrective action: Written reprimand; letter of apology to be approved by the Captain</p>



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Case Summary	Case Finding
<p>The complainant, after being contacted by the West Precinct Anti-Crime Team, alleges that named officers used unnecessary force by grabbing his arm and pushing him against a wall. The complainant also alleges that named officers were discourteous toward him by using the PA system on their car to talk with him while other unknown people were around and implied publicly that complainant was assisting them by providing information as a “snitch”, and that the named officers were under the influence of alcohol or a controlled substance.</p>	<p>Allegation and Finding: 3 named employees, same allegations, same finding:</p> <ol style="list-style-type: none"> 1. Unnecessary Use of Force – Unfounded 2. Professionalism-Discourtesy – Unfounded 3. Misuse of Alcohol/Substance – Unfounded <p>The evidence demonstrated that the alleged misconduct by named officers did not occur as asserted. Several attempts were made to obtain details or a statement from complainant but all efforts were unsuccessful. Therefore, the only evidence of the alleged misconduct is the complainant’s initial assertion which is unsupported by any other evidence.</p>
<p>The complainant alleges that named officers used excessive force when arresting him, causing him injury. Complainant also alleges that named officer violated policy by failing to utilize the In-Car Video system, depriving him of exculpatory evidence to assist in his defense, therefore causing him to enter a guilty plea.</p>	<p>Allegation and Finding: Two named officers: Named Officer #1:</p> <ol style="list-style-type: none"> 1. Unnecessary Use of Force – Lawful & Proper <p>Named Officer #2:</p> <ol style="list-style-type: none"> 1. Unnecessary Use of Force – Lawful & Proper 2. Failure to Use In-Car Video – Lawful & Proper <p>The evidence showed that named officers used reasonable and necessary force on the complainant who was hostile, aggressive and assaultive toward the officers. Regarding the allegation of Failure to Use In-Car Video, the evidence demonstrated that named officer #2 had reacted quickly when he observed the complainant possibly smoking a controlled substance in an alleyway; providing a reasonable explanation as to why he did not have time to activate the In-Car Video system.</p>
<p>The complainant alleged that named officer, responding to a call of people loitering in the doorway to his business possibly using drugs, used profanity, was discourteous and failed to identify himself after being asked.</p>	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> 1. Use of Profanity – Training Referral 2. Failure to Identify Self – Inconclusive 3. Discourtesy/Rudeness – Training Referral <p>The evidence showed that named officer was not courteous and respectful during the challenging interaction with complainants’ behavior. The named officer will benefit from training and counseling from his supervisor about alternative response approaches in these situations. For the Failure to Identify Self allegation, it was neither proved nor disproved by a preponderance of the evidence.</p>



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Case Summary	Case Finding
<p>The complainant, while participating with a protest group at a local hotel, alleges that unknown officer picked him up, threw him to the ground and pepper sprayed him in the ear.</p>	<p>Allegation and Finding: 1. Unnecessary Use of Force – Inconclusive</p> <p>The evidence showed that the complainant could not identify the named officer other than his build, and videos taken of the protest did not capture alleged use of force by officers described by the complainant. Further, the General Offense and Use of Force Reports were reviewed and no pepper spray deployment was documented. Numerous attempts to contact complainant for more details were not successful.</p>
<p>The complainant, while participating with a protest group at a local bank, alleges that named officer #1 unnecessarily deployed his pepper spray in an indiscriminate manner against protestors and that named officer #2 hit him in the jaw with his mountain bike. OPA-IS added an allegation of Reporting the Use of Force against named officer #1.</p>	<p>Allegation and Finding: Named Officer #1: 1. Unnecessary Use of Force – Lawful & Proper 2. Reporting the Use of Force – Unfounded Named Officer #2: 1. Unnecessary Use of Force – Lawful & Proper</p> <p>The evidence, which included video from YouTube, showed that the use of force, including the deployment of pepper spray and demonstration management tactic of the mobile fence line to move protestors, was necessary and reasonable to affect the lawful purpose intended. The evidence also demonstrated that named officer #1 did report the use of force as required.</p> <p>Note: One of the 20/20 Initiatives recently undertaken by the Department specifically focuses on reform of the SPD management of public demonstrations, including review of use of pepper spray and other crowd management techniques.</p>
<p>Complainant alleges that named employee used excessive force during his arrest for DV assault. The complainant also alleges that the General Offense Report was inaccurate.</p>	<p>Allegation and Finding: 1. Unnecessary Use of Force – Lawful & Proper 2. Failure to Properly Investigate – Unfounded</p> <p>The evidence showed that the named employee used reasonable and necessary force to detain complainant while he investigated a domestic violence disturbance between him and his father. The evidence also demonstrated that the named employee properly and accurately completed a General Offense Report on the incident and completed a Use of Force Report, per Department policy, and the incident was screened by a patrol supervisor.</p>



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Case Summary	Case Finding
<p>The complainant, a Department supervisor, became aware of and reported allegations that a police officer may have been committing criminal acts while associating with a suspect in an SPD investigation.</p>	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> 1. Violation of Law (Narcotics Violation)– Unfounded <p>The Criminal Intelligence Unit conducted an investigation regarding this allegation and found that the person involved is actually a civilian employee in a neighboring jurisdiction outside the City limits. The information was forwarded to the neighboring law enforcement agency.</p>
<p>The complainant, a Department supervisor, alleges that named employee fraudulently filed a Worker’s Compensation claim, violated department policy by engaging in activities while on sick leave, and failed to possess a Secondary Employment Permit.</p>	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> 1. Violation of Law-Administrative – (Fraudulent Labor & Industry Claim) – Unfounded 2. Sick Leave Reporting Responsibility – Inconclusive 3. Restrictions While on Sick Leave – Training Referral 4. Failure to Possess Secondary Employment – Training Referral <p>The evidence demonstrated that the Washington State Department of Labor & Industries allowed the named officer’s injury claim thereby finding that the named officer had not engaged in fraudulent conduct. Regarding allegation 2, the evidence is inconclusive whether the named employee engaged in activities at locations away from his designated place of recovery. For allegations 3 and 4, the named employee will be counseled by his supervisor on Department expectations while on medical leave and stress the need for him to have a current secondary work permit, per Department policy.</p> <p>Policy recommendation: The OPA Director requests that the Professional Standards Section review secondary employment permit expectations when employees work in an elected office outside the Department.</p>
<p>The complainant, a Department supervisor, alleges that the named employee became involved in a road rage incident during which his duty firearm was inadvertently displayed.</p>	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> 1. Violation of Law-Administrative – (Road Rage) – Training Referral <p>The evidence demonstrated that the named employee used poor judgment during the interaction between him and another driver that nearly caused an accident. The named employee will benefit by reviewing the incident with his supervisor and discussing alternative responses for future reference.</p>



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Case Summary	Case Finding
<p>The complainant, a Department supervisor, alleges, after reading statements from another OPA and EEO investigation, the named sergeant violated Department policy regarding honesty by exercising reckless disregard for truth or falsity and expressing criticism of others undermining Department effectiveness.</p>	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> 1. Honesty – Training Referral 2. Professionalism-Criticism of Others – Training Referral <p>The evidence suggests that the named sergeant conveyed, with disregard for truth, information to a subordinate co-worker that was disruptive of the workplace. A Training Referral will allow a supervisor to counsel the named sergeant about how disruptive her actions were for both the involved subordinate and her command staff.</p>
<p>The complainant, who was being followed by a store security guard after having shoplifted merchandise from a retail store implying that he had a weapon in a jacket pocket, alleges that the named officers and an unknown officer used unnecessary force by hitting him with a vehicle and fists during his arrest.</p>	<p>Allegation and Finding:</p> <p>4 named officers, same allegation and finding:</p> <ol style="list-style-type: none"> 1. Unnecessary Use of Force – Lawful & Proper <p>The evidence showed that the complainant, while attempting to flee from officers, ran into the side of a police vehicle, vigorously resisted being taken into custody, and fought with the named officers and the store security guard. The evidence demonstrated that named officers used reasonable and necessary force to overcome the violent resistance of the complainant.</p>

Definition of Findings:

“**Inconclusive**” (formerly Not Sustained) means the allegation of misconduct was neither proved nor disproved by a preponderance of the evidence.

“**Lawful and Proper**” (formerly Exonerated) means a preponderance of evidence indicates the conduct alleged did occur, but that the conduct was justified, lawful and proper.

“**Sustained**” means the allegation of misconduct is supported by a preponderance of the evidence.

“**Training Referral**” (formerly 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.

“**Unfounded**” means a preponderance of evidence indicates the alleged act did not occur as reported or classified, or is false.



Mediation Program

The OPA Director and OPA Auditor selected 1 case during April 2012 to be resolved through the Mediation Program; the complainant agreed to mediate however the officer declined. 2 successful mediations were completed during this month.

Cases Opened -2011/2012 by Month Comparison

Date	PIR/SR	Supervisor Action	LI/IS	Investigation	TOTAL	
	2011	2012	2011	2012	2011	2012
1/1-1/31	17	33	20	16	37	49
2/1-2/29	24	27	18	14	42	41
3/1-3/31	19	26	13	10	32	36
4/1-4/30	31	40	23	20	54	60
5/1-5/31	37		19		56	0
6/1-6/30	29		15		44	0
7/1-7/31	26		9		35	0
8/1-8/31	39		16		55	0
9/1-9/30	22		13		35	0
10/1-10/31	27		15		42	0
11/1-11/30	21		27		48	0
12/1-12/31	26		14		40	0
Totals	318	126	202	60	520	186



