

OFFICE OF PROFESSIONAL ACCOUNTABILITY (OPA)  
COMPLAINT REPORT  
December 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 December 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.

- In 2012, there were complaints filed against 243 employees, representing 16% of all 1,806 employees (1,296 sworn and 510 civilian).
- 12% of allegations closed in 2012 were Sustained, resulting in discipline (12% of cases closed in 2011 also resulted in a Sustained finding).
- 19% of allegations closed in 2012 resulted in a Training Referral, meaning that the named employee received training or counseling as a result of the complaint (as compared to a total of 21% of allegations closed with a Training Referral in 2011).
- The remaining cases were closed as Unfounded, Lawful and Proper, or Inconclusive.
- A more detailed report on OPA complaint trends in 2011 and 2012 will be published later this spring.

Demonstration Management: Several of the cases summarized in this report involve complaints against Departmental officers for actions taken during public marches and protests. While the police actions involved in these cases were found to be Lawful and Proper (and Inconclusive in one case involving allegations against an unknown employee), the cases illustrate some of the Demonstration Management issues reviewed and clarified by the Department during the past year.

The SPD 20/20 plan announced in March 2012 included an initiative aimed at assessing the skills and leadership necessary to facilitate public demonstrations, to ensure that the Department protects the safety and constitutional rights of all involved. A revised policy on Demonstration Management was issued in October 2012, including written guidance on the use of OC spray focused on self-defense, defense of others or to prevent significant property damage. In addition, there was training for bike officers on bicycle tactics and alternatives to using OC spray. The Department also created a work group to develop a guide for Incident Commanders to address conflict avoidance, removal and arrest of criminal disrupters, intervention and communication during demonstrations. Training began in February 2013 for front line patrol officers on tactics and strategies to preserve First Amendment rights, the role of peacekeepers, and police strategies to avoid conflict. Existing Seattle law was checked to be sure that Department procedures for filming demonstrations meet all legal requirements under the Seattle Municipal Code. More details about steps taken to fulfill the Demonstration Management initiative can be found at: <https://www.seattle.gov/spd2020/progress.htm>



Seattle Police Department – Office of Professional Accountability

Complaint Report

December 2012

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

December Closed Cases

Case Summary	Case Finding
<p>The complainant, an outside law enforcement agency, contacted OPA to report that the named employee was arrested for DUI.</p>	<p>Allegation and Finding  1. Violation of Law (DUI)—<b>Sustained</b></p> <p>The evidence, including an admission by the named employee, showed that he did engage in an administrative violation of law.</p> <p>Corrective action: 5-day suspension without pay; Mandatory referral to EAP; Any future sustained violations involving alcohol will result in discipline up to and including termination.</p>
<p>The complainant, a juvenile who was arrested for assault, alleged that named employee used excessive force when taking him into custody.</p>	<p>Allegation and Finding  1. Unnecessary Use of Force—<b>Lawful &amp; Proper</b></p> <p>The evidence, including In-Car Video and holding cell video, showed that the named employee used minimal, non-reportable force while making contact with complainant.</p> <p>The OPA Director notes: The incident was reviewed and approved by the precinct commander, use of force review committee, and patrol operations commander. Most of the issues noted about the handling of the review relate to the fact that the involved officers and others did not believe reportable force was used, and conducted a limited investigation as a result. There has been some confusion under SPD’s current use of force policy as to the investigation required under such circumstances. As the Department continues to consider policy changes, it is important that expectations for investigation, documentation and review be clarified when no reportable force was used but there is a complaint of unnecessary use of force.</p>



Case Summary	Case Finding
<p>The complainant, a sibling of subject who was in court on a charge of burglary, alleged that named employee made threats of bodily harm to her brother and tried to take pictures of subject and his family.</p>	<p>Allegation and Finding</p> <ol style="list-style-type: none"> <li>1. Violation of Law (Threats)—<b>Unfounded</b></li> <li>2. Integrity—<b>Sustained</b></li> <li>3. Professionalism/Policy—<b>Inconclusive</b></li> </ol> <p>The evidence, including a criminal investigation and review by the King County Prosecutor’s Office, showed that the threats allegation did not meet filing standards of either felony or misdemeanor harassment. The allegation on whether the named employee made threats to the subject could neither be proved nor disprove by preponderance of evidence. The evidence showed that the named employee did take photos of the subject and his family during court proceedings.</p> <p>Corrective action: 1-day suspension without pay – Not imposed due to employee’s retirement prior to the conclusion of this case.</p>
<p>The complainant, while being taken into custody for a disturbance, alleges named employees used excessive force causing him injury. Complainant also alleges that his personal belongings were not returned to him.</p>	<p>Allegation and Finding</p> <p>5 named employees with same allegation and finding</p> <ol style="list-style-type: none"> <li>1. Unnecessary Use of Force—<b>Lawful &amp; Proper</b> (5 named employees)</li> <li>2. Evidence &amp; Property/Policy—<b>Lawful &amp; Proper</b> (2 named employees)</li> <li>3. Evidence &amp; Property/Policy—<b>Training Referral</b> (3 named employees)</li> </ol> <p>The evidence showed that all named employees used proper and necessary force while taking the complainant into custody. The evidence showed that three named employees handled belongings from the complainant but did not document nor enter these items into evidence. A training referral will benefit the named employees to review the incident with their supervisor to determine if there are steps that could have been taken to better safeguard Complainant’s belongings.</p>



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Case Summary	Case Finding
<p>The complainant, mother of juvenile victim of a strong armed robbery, alleges that the named employees gave her son inappropriate advice as to how he should have handled a strong armed robbery incident. OPA added the allegation that the named employees failed to write a General Offense Report for the Strong Armed Robbery and the failure to use In-Car Video.</p>	<p>Allegation and Finding  Named employee #1</p> <ol style="list-style-type: none"> <li>1. Professionalism-Exercise of Discretion—<b>Training Referral</b></li> <li>2. Failure to Take Appropriate Action—<b>Sustained</b></li> <li>3. Failure to Use In-Car Video—<b>Training Referral</b></li> </ol> <p>Named employee #2</p> <ol style="list-style-type: none"> <li>1. Professionalism-Exercise of Discretion—<b>Training Referral</b></li> <li>2. Failure to Take Appropriate Action—<b>Sustained</b></li> <li>3. Failure to Use In-Car Video—<b>Sustained</b></li> </ol> <p>The evidence demonstrated that both named employees failed to investigate and document this alleged felony incident. The evidence also demonstrated that the named employees could have communicated better with the juvenile they contacted. A training referral will benefit both named employees to review the incident with their supervisor and for the supervisor to counsel them on effective communication approaches. The evidence showed that named employee #2 was aware that the In-Car Video System was not working properly. Per Department Policy, officers are to ensure that In-Car Video System is working properly prior to going into service. The supervisor for named employee #1 will counsel him on the importance of ensuring that the In-Car Video System is working prior to going into service.</p> <p>Corrective action for both named employees:  Written reprimand</p>
<p>The complainant alleges that named retired officer, while working in a construction zone, used excessive force by grabbing him and pulling him several feet away from the construction zone without any explanation.</p>	<p>Allegation and Finding</p> <ol style="list-style-type: none"> <li>1. Professionalism-Courtesy—<b>Lawful &amp; Proper</b></li> <li>2. Unnecessary Use of Force—<b>Lawful &amp; Proper</b></li> </ol> <p>The preponderance of evidence showed named employee did explain to the complainant why he was stopped and took hold of complainant’s shirt sleeve to assist him away from the construction zone that was closed to pedestrian traffic. The forced used was minimal, necessary and un-reportable.</p>



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Case Summary	Case Finding
<p>The complainant, who was arrested for assault and obstruction after interjecting herself while named employees contacted and detained her husband for running into oncoming traffic and crossing diagonally through intersections, alleged that named officer used excessive force when taking her into custody. OPA added the allegations of Social Contact, Terry Stops &amp; Arrests and Failure to Report the Use of Force.</p>	<p>Allegation and Finding            Named Employee #1            1. Unnecessary Use of Force—<b>Lawful &amp; Proper</b></p> <p>Named Employee #2            1. Social Contacts, Terry Stops &amp; Arrests—<b>Lawful &amp; Proper</b></p> <p>Named Employee #3            1. Social Contacts, Terry Stops &amp; Arrests—<b>Lawful &amp; Proper</b>            2. Unnecessary Use of Force—<b>Lawful &amp; Proper</b>            3. Reporting the Use of Force—<b>Lawful &amp; Proper</b></p> <p>The evidence, including In-Car Videos, showed that the named employees used minimal, necessary and un-reportable force while taking complainant into custody. The evidence also demonstrated that the named employees followed proper policy and procedure when contacting and detaining subject for violating several pedestrian traffic codes.</p>
<p>This complaint involved the handling of an OPA Supervisor Action (SA) complaint. The complainant alleges when named Sergeant contacted him he used profanity when he became frustrated as he attempted to address the underlying complaint. It is also alleged that named Sergeant told complainant he was not going to talk to the officer in question nor send complainant a letter regarding his previous complaint. Complainant also alleged that named Sergeant disclosed to another officer his identity when he had requested it not be disclosed.</p>	<p>Allegation and Finding            1. Responsibility of Supervisors—<b>Unfounded</b>            2. Professionalism-Exercise of Discretion—<b>Unfounded</b>            3. Professionalism-Courtesy—<b>Training Referral</b></p> <p>The evidence showed that the named Sergeant did follow up, document, and sent a follow up letter to complainant on the counseling meeting he had with his subordinate on the SA complaint received by OPA. The evidence also showed that named Sergeant did not disclose complainant's identity, but rather the officer knew of the complainant's identity by receiving a notice of the complaint from OPA. The evidence showed that named Sergeant did use profanity out of frustration, but it was not personalized to the complainant. A training referral will benefit the named Sergeant to review this incident with his supervisor to explore other ways to handle situations he finds frustrating.</p>



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Case Summary	Case Finding
<p>The complainant, a participant in an organized/non-permitted march with 30-60 participants, alleges named officer used excessive force by grabbing and slamming a female to the ground. Complainant also alleges that officers pushed, assaulted and intimidated the crowd with pepper spray.</p>	<p>Allegation and Finding 5 named employees, same allegation, same finding</p> <ol style="list-style-type: none"> <li>1. Unnecessary Use of Force—<b>Lawful &amp; Proper</b></li> </ol> <p>The evidence, including In-Car Videos, showed the officers using numerous PA system announcements telling marchers to get out of the street and use the sidewalk. While taking a subject into custody complainant involved herself by pulling at an officer’s gun belt; focus was then diverted to the complainant when officers and complainant became entangled and all fell to the ground. The named officers used necessary force when taking subject into custody. The use of force was properly documented and reviewed by the Use of Force Review Board.</p>
<p>The complainant, who was detained by named officers after being positively identified as using a stolen credit card, alleges officer used excessive force causing aggravation to a previous disability. Complainant also alleges named employee used profanity when he thought she was not being truthful. OPA added an allegation of Failure to Report the Use of Force.</p>	<p>Allegation and Finding Named employee #1</p> <ol style="list-style-type: none"> <li>1. Professionalism-Profanity—<b>Unfounded</b></li> <li>2. Unnecessary Use of Force—<b>Unfounded</b></li> <li>3. Reporting the Use of Force—<b>Unfounded</b></li> </ol> <p>Named employee #2</p> <ol style="list-style-type: none"> <li>1. Professionalism-Profanity-<b>Training Referral</b></li> <li>2. Unnecessary Use of Force—<b>Unfounded</b></li> <li>3. Reporting the Use of Force—<b>Unfounded</b></li> </ol> <p>The evidence, including surveillance video from a nearby business, demonstrated that the named employees used minimal, un-reportable force when they made contact with the complainant. Named officer #2 admitted to using disparaging language when he felt the complainant was not being truthful with them. A training referral will benefit the employee by having his supervisor review the incident and show how the use of profanity can be offensive and taken as a sign of disrespect by citizens, and is not acceptable by the Department. The supervisor’s review also should consider other tactics the Officer might use to challenge a subject he does not find credible.</p>



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Case Summary	Case Finding
<p>The complainant, a King County Deputy, alleges named employee struck a detainee in the face several times while taking him into custody.</p>	<p>Allegation and Finding</p> <ol style="list-style-type: none"> <li>1. Unnecessary Use of Force—<b>Unfounded</b></li> <li>2. Failure to Report the Use of Force—<b>Unfounded</b></li> </ol> <p>The evidence, including In-Car Video, showed that the named employee did not use any force on the detained subject while he was assisting the King County Deputies taking subject into custody.</p>
<p>The complainant, while being taken into custody for a disturbance, alleges that the named officer used excessive force by shoving her into the wall causing a shoulder injury without just cause. OPA added an allegation of Failure to Report the Use of Force.</p>	<p>Allegation and Finding</p> <ol style="list-style-type: none"> <li>1. Unnecessary Use of Force—<b>Unfounded</b></li> <li>2. Failure to Report the Use of Force—<b>Lawful &amp; Proper</b></li> </ol> <p>The evidence, including two eyewitnesses, demonstrated that there was no reportable force used against the complainant and, therefore no Use of Force Report was generated.</p>
<p>The complainant, a participant in an unplanned/unpermitted protest march, alleges named employee was video recording the march in violation of the Intelligence Ordinance of the Seattle Municipal Code.</p>	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> <li>1. Collection of Information for Law Enforcement Purposes—<b>Unfounded</b></li> </ol> <p>The evidence demonstrated that the named employee was not video recording participants in the march.</p>
<p>The complainant, a participant in a group of 30-40 people who marched in the streets and blocked intersections, alleges that named Lieutenant and Unknown officer used excessive force by deploying OC spray and being knocked to the ground. The complainant also alleges that an unknown officer called her friend a derogatory name and refused to take a complaint from the complainant.</p>	<p>Allegation and Finding</p> <p>Named employee #1</p> <ol style="list-style-type: none"> <li>1. Unnecessary Use of Force—<b>Lawful &amp; Proper</b></li> </ol> <p>Unknown named employee #2</p> <ol style="list-style-type: none"> <li>1. Unnecessary Use of Force—<b>Inconclusive</b></li> <li>2. Complaint Process/Employee Responsibilities—<b>Inconclusive</b></li> <li>3. Professionalism-Derogatory Language—<b>Inconclusive</b></li> </ol> <p>The evidence, including video, statements and use of force review, shows the named Lieutenant's use of force was reasonable and within Department Policy. The evidence also demonstrated that the allegations of unnecessary force, derogatory language and failure to assist citizen making a complaint by unknown officer could not be proved nor disproved by preponderance of the evidence.</p>



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Case Summary	Case Finding
<p>The complainant, a supervisor within the Department, alleges (after reviewing a YouTube video where three named employees were deployed to provide security for a Town Hall meeting) that one named employee is shown using unprofessional comments on how he broke a night stick “on one of you,” and when asked if he was proud of it, named employee stated, “yeah.” It is also alleged that another named employee used his own video recording device to take videos of a lawful political protest or demonstration. Complainant alleges that named Sergeant failed to address the unprofessional statement of one of his officers at the event.</p>	<p>Allegation and Finding            Named employee #1            1. Professionalism/Policy—<b>Training Referral</b>            Named employee #2            1. Collection of Information for Law Enforcement Purposes—<b>Unfounded</b>            Named employee #3            1. Responsibility of Supervisors—<b>Unfounded</b></p> <p>The evidence, including the video recording which is clearly edited, did show the named employee using unprofessional comments. A training referral finding will give the opportunity for the named employee’s supervisor to review the incident with the officer and counsel him on how disparaging remarks might appear to citizens they are sworn to serve and protect. The named Sergeant is commended for addressing this issue of Professionalism with the named officer shortly after the event and before the matter came to the attention of OPA. The evidence also showed that the named officer who video recorded the event asked and received permission of the person he was going to record prior to recording.</p>
<p>The complainant, an SPD employee, alleges that an unknown driver of an unmarked police vehicle committed a hit and run on her privately owned vehicle. OPA added an allegation that named employee failed to report a collision involving a City vehicle.</p>	<p>Allegation and Finding            1. Violation of Law (Hit &amp; Run)—<b>Inconclusive</b>            2. Collisions Involving City Vehicles/Collision Investigations—<b>Inconclusive</b></p> <p>The evidence, including a criminal investigation by the Department’s Traffic Collision Investigation Unit, could not identify the driver nor the unmarked police vehicle.</p>



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<p>The complainant alleges that named officers did not complete a Police Traffic Collision Report (PTCR) in a timely manner. OPA added allegations of Failure to issue traffic citation and failure to use In-Car Video for this incident.</p>	<p>Allegation and Finding  Named employee #1</p> <ol style="list-style-type: none"> <li>1. Professionalism-Completion of Reports—<b>Unfounded</b></li> <li>2. Professionalism-Exercise of Discretion—<b>Unfounded</b></li> <li>3. In-Car Video/Policy—<b>Training Referral</b></li> </ol> <p>Named employee #2</p> <ol style="list-style-type: none"> <li>1. Professionalism-Completion of Reports—<b>Unfounded</b></li> <li>2. Professionalism-Exercise of Discretion—<b>Training Referral</b></li> </ol> <p>The evidence demonstrated that named employee #2 did complete a PTCR but it was misplaced/lost after submitting the report to a supervisor. However, a report was re-written a month later. The evidence showed that named employee #2 did not issue a citation because he was unsure who was at fault; however, this reason was not documented on the PTCR per Department policy. A training referral finding will benefit the named employee to review this incident with the supervisor to ensure the named employee completely documents his reasons for actions taken or not. The evidence also showed that named employee #1 failed to activate the In-Car Video. The training referral finding will benefit the named employee to review this incident with the supervisor to explain the importance of activating the In-Car Video System on every contact with members of the general public per Department policy.</p> <p>Note from the OPA Director: This complaint was generated because of complications related to a misplaced Police Traffic Collision Report (PTCR). If such reports were generated electronically, instead of in hard copy, the problem unlikely would have occurred in the first place. While the Department has many competing priorities, establishing a system for electronically filing PTCRs and other reports currently generated in hard copy is recommended.</p>
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Case Summary	Case Finding
<p>The complainant, while being taken into custody for assault, alleges that named officer #1 used unnecessary force causing bruises and contusions. The complainant also alleges that the named employees did not secure her residence after her arrest resulting in a burglary to her home. OPA added an allegation of lack of courtesy for a comment that was made to the complainant when she asked if her residence could be secured. The allegation of Failure to Report the Use of Force was also added by OPA.</p>	<p>Allegations and Finding</p> <p>Named employee #1</p> <ol style="list-style-type: none"> <li>1. Unnecessary Use of Force—<b>Lawful &amp; Proper</b></li> <li>2. Failure to Report the Use of Force—<b>Unfounded</b></li> <li>3. Professionalism-Exercise of Discretion—<b>Sustained</b></li> <li>4. Professionalism-Courtesy—<b>Training Referral</b></li> </ol> <p>Named employee #2</p> <ol style="list-style-type: none"> <li>1. Professionalism-Exercise of Discretion—<b>Inconclusive</b></li> </ol> <p>The evidence, including In-Car Video, demonstrated that minimal, non-reportable force was used while taking complainant into custody. The evidence demonstrated that named officer #1 did not secure complainant’s residence after being asked to do so and the home was subsequently burglarized. The evidence showed that named employee #1 did make a negative comment toward the complainant and will be counseled by his supervisor to always remain professional even in the most challenging circumstance. The evidence showed that named employee #2 was taking another suspect into custody at the same time complainant asked to have the residence secured and did not hear her request.</p> <p>Corrective action for named employee #1: Oral reprimand</p>



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Case Summary	Case Finding
<p>The complainant, the parent of a juvenile, alleges while she was out of town named employees contacted her juvenile daughter regarding the theft of a cell phone and allegedly illegally entered her home as they questioned her daughter about the whereabouts of the phone.</p>	<p>Allegation and Finding  Named employee #1</p> <ol style="list-style-type: none"> <li>1. Improper Search—<b>Training Referral</b></li> <li>2. Professionalism-Exercise of Discretion—<b>Unfounded</b></li> </ol> <p>Named employee #2</p> <ol style="list-style-type: none"> <li>1. Improper Search—<b>Training Referral</b></li> <li>2. Professionalism-Exercise of Discretion—<b>Unfounded</b></li> </ol> <p>The evidence showed that the named officers did not have sufficient evidence to support a warrantless search to enter the residence to establish who resided in the home. The evidence also established that the named officers did not attempt to recover stolen property inside the residence without a search warrant.</p> <p>Note from the OPA Director: Though it does not appear that the warrantless entry was justified, the primary reason that a Training Referral is appropriate is that the Officers’ line of command all believed that the entry was lawful. If the line of command misunderstands the law under these circumstances, it is difficult to hold an Officer responsible for a misinterpretation. A Training Referral for the Officers is appropriate, though it is clear that training on the law related to searches is necessary for the entire precinct. While more training on searches is being provided Department-wide through Street Skills and otherwise, the OPA Director asked that training be developed as soon as practical at the precinct level. In order to make the Training Referral for the Officers effective, it should occur within the context of the precinct-wide training. The Department’s Legal Advisor is assisting OPA in facilitating this training.</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.

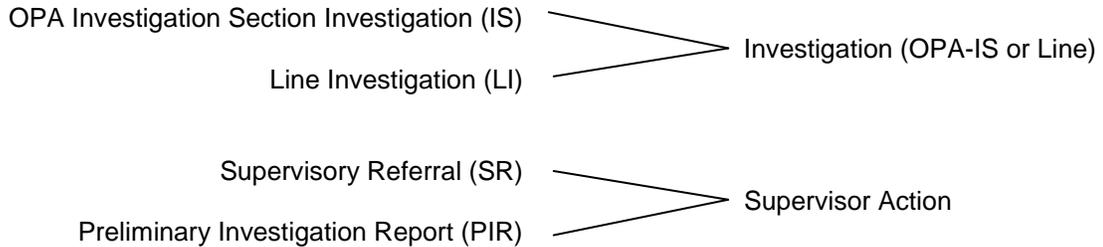
### **Mediation Program**

The OPA Director and Auditor selected 3 cases during the months of December 2012 to be resolved through the Mediation Program. Of the 3 cases that were selected, 1 complainant declined to mediate and in 1 case the officer declined to mediate after the citizen had agreed. 1 case is scheduled for mediation in January 2013.



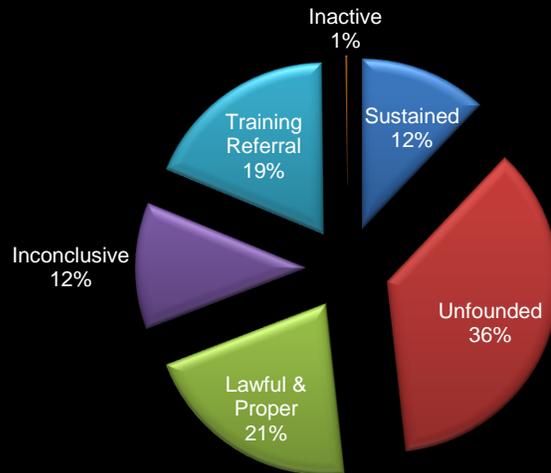
**Cases Opened -2011/2012 by Month Comparison**

	PIR/SR	Supervisor Action	LI/IS	Investigation	TOTAL	
Date	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	42	19	17	56	59
6/1-6/30	29	28	15	18	44	46
7/1-7/31	26	33	9	18	35	51
8/1-8/31	39	46	16	15	55	61
9/1-9/30	22	40	13	17	35	57
10/1-10/31	27	37	15	15	42	52
11/1-11/30	21	26	27	8	48	34
12/1-12/31	26	27	14	12	40	39
<b>Totals</b>	<b>318</b>	<b>405</b>	<b>202</b>	<b>180</b>	<b>520</b>	<b>585</b>





**Disposition of Completed Investigations**  
Cases opened as of January 1, 2012 and closed as of December 31, 2012  
N=195 Closed Cases/516 Allegations



**Disposition of Completed Investigations**  
Open as of Jan 1, 2011 and closed as of December 31, 2011  
N=200 Closed Cases/584 Allegations

