

OFFICE OF PROFESSIONAL ACCOUNTABILITY (OPA)
COMPLAINT REPORT
June-July 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 months of June and July 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 the first 7 months of 2012, there were complaints filed against 158 employees, representing 8.8% of all 1,803 employees (1,292 sworn and 511 civilian).
- 11% of allegations closed since January 2012 were Sustained, resulting in discipline (as compared to a total of 12% Sustained complaints in 2011).
- 18% of allegations closed to date 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 similar finding in 2011).
- The remaining cases were closed as Unfounded, Lawful and Proper, or Inconclusive.
- Though the total number of complaints to date (342) is higher than during the same January – July 2011 time period (300), a higher percentage of complaints are being referred for Supervisor Action, allowing for faster resolution of low level concerns and freeing up time for OPA staff to focus on the most serious allegations.

Improved Communications

OPA has made a number of changes recently to improve communications with both complainants who file allegations of misconduct against SPD employees and the employees named in those complaints. OPA is working to send more consistent messages about the OPA process with details about the steps involved in Supervisor Actions and OPA investigations, an explanation of the role of the OPA Director and Auditor, and information as to the timelines expected at each stage. In addition to sending more consistent messages, OPA is working to communicate more regularly with employees and complainants, to keep them informed as the complaint moves forward. Finally, while OPA has always provided the complainant with an overview of the evidence supporting the disposition of a complaint, the employee will now be receiving more information, rather than just notice of the outcome and an opportunity to review the file. This change came about as a result of a suggestion by an SPD Sergeant who had been involved in an OPA complaint and serves as a reminder that OPA is always open to ideas about ways to improve its process and we encourages the public and SPD employees to share their recommendations.

Also, in an effort to streamline communications with Department personnel who have been identified as either a witness or named employee in a misconduct complaint, OPA is transitioning to an electronic format for all formal OPA notifications to sworn and civilian employees. The electronic notification will be in the form of a standardized email with appropriate notices attached. Using this electronic approach, OPA can provide more timely notifications, will incorporate other information about the OPA process as noted above, and will minimize wasted resources by cutting back on paper, envelopes and toner.



Seattle Police Department – Office of Professional Accountability

Complaint Report

June - July 2012

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

June - July 2012 Closed Cases

Case Summary	Case Finding
<p>The complainant, an SPD supervisor, alleges that a local TV station aired a report alleging that the named employee had cursed at a citizen and stopped this citizen from video recording police activity.</p>	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> 1. Citizen Observation of Officer/Policy-Lawful & Proper 2. Professionalism-Profanity—Sustained <p>The evidence demonstrated that the named officer was securing an active crime scene when an unidentified citizen who was video recording the crime scene was asked to move away from the restricted area. The evidence also demonstrated that the named officer, by his own admission used profanity when speaking to the citizen.</p> <p>Corrective action: 1 day suspension without pay.</p>
<p>The complainant, an SPD supervisor, alleges that the named civilian employee failed to properly report changes in the place of recovery while using sick leave, and misused sick leave for a purpose other than being incapacitated or recovering from an illness or injury.</p>	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> 1. Failure to Properly Report Sick Leave Use—Sustained 2. Misuse of Sick Leave—Inconclusive 3. Dishonesty—Sustained 4. Accumulation/Use of Sick Time—Inconclusive <p>The evidence demonstrated that the named employee failed to properly report sick leave use and violated SPD policy requiring truthful and complete oral and written communications, statements and reports. The allegations of Misuse of Sick Leave and Accumulative/Use of Sick Time was neither proved nor disproved by a preponderance of the evidence.</p> <p>Corrective action: 10-day suspension without pay, 5 days held in abeyance for two years. If there are any future sustained complaints for the same or similar misconduct, the 5 days may be imposed in addition to any discipline for the future complaint.</p>
<p>The complainant, an SPD supervisor, alleges that the named officer used excessive force when contacting a possibly suicidal person. OPA-IS added an allegation of dishonesty due to the discrepancies in the named officer's written report and OPA-IS interview.</p>	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> 1. Unnecessary Use of Force—Inconclusive 2. Dishonesty—Inconclusive <p>The evidence, mainly statements from witnesses and the named employee, could neither prove nor disprove the alleged misconduct occurred.</p>



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Case Summary	Case Finding
<p>The complainant, a passenger in a vehicle that was waved to the side of the road by named employee, alleges the named officer walked up to the motorist and unleashed a barrage of profanity and discourteous language toward the motorist for not pulling to the side of the road when the officer passed with his full emergency equipment activated on his patrol car. It is alleged the named officer also failed to document the traffic stop as required by Department policy.</p>	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> 1. Professionalism-Profanity—Sustained 2. Professionalism-Discourtesy/Rudeness—Sustained 3. Traffic Enforcement/Warning/Contact—Sustained <p>The evidence demonstrated that the named officer was responding to a “help-the-officer” call and the motorist whom he later waved over did not move to the side when the named employee came upon him with full emergency equipment activated. Shortly after passing the motorist the “help-the-officer” call was canceled. The named officer, by his own admission, does not dispute that after waving the driver over he used profanity, was discourteous, and did not document the traffic enforcement.</p> <p>Corrective action: 3-day suspension without pay; 2 days held in abeyance for one year. Any future sustained allegations of the same or similar misconduct will result in imposition of the 2 day suspension without pay in addition to whatever discipline results from the new case; retraining on the driving simulator; review of Department Traffic Stop Policy with his immediate supervisor.</p>
<p>The complainant, a supervisor within the Department, was notified that two named officers were observed engaging in physical intimacy on apartment property by a manager of the complex who employs off-duty officers for security.</p>	<p>Allegation and Finding:</p> <p>2 named employees, same allegation, same finding:</p> <ol style="list-style-type: none"> 1. Violation of Rules/Regulations—Inconclusive <p>The evidence demonstrated that the allegation against the two named employees could neither be proved nor disproved by a preponderance of the evidence.</p>
<p>The complainant, a participant in a large demonstration that resulted in periodic clashes between police and several hundred demonstrators, alleges that the named officer and an unknown officer unjustifiably punched him in the face multiple times and threw him to the ground when arresting him for obstructing a public officer.</p>	<p>Allegation and Finding:</p> <p>2 named employees, same allegation, same finding:</p> <ol style="list-style-type: none"> 1. Unnecessary Use of Force—Inconclusive <p>The evidence demonstrated that the actions of the involved officers during this protest were appropriately supervised, documented and reviewed. The interaction between the named officers and this complainant could neither be proved nor disproved by a preponderance of the evidence.</p>



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Case Summary	Case Finding
<p>The complainant alleges that the named officer failed to take appropriate action to investigate a domestic violence situation and that the named officer told her inaccurate information regarding the legal right of her husband to access her prescription narcotics.</p>	<p>Allegation and finding:</p> <ol style="list-style-type: none"> 1. Violation of Rules and Regulations—Training Referral 2. Professionalism-Exercise of Discretion—Unfounded <p>The evidence demonstrated that the named officer completed a General Offense Report, properly titling it as related to domestic violence. However, the evidence also demonstrated that the named officer failed to comply with department policy regarding information to be provided to the parties to a domestic violence situation. The evidence also showed that the named officer did provide incorrect information regarding whether complainant's husband could access her prescription medication. The named officer will benefit by reviewing this incident with his supervisor along with the department policy on the investigation and reporting of domestic violence. The named officer will also benefit by reviewing the law regarding access to prescription drugs by someone other than the patient named in the prescription.</p>
<p>The complainant, who was involved in a disturbance with night club security personnel who were ejecting him from the club, alleges that unknown officer(s) used excessive force by knocking him down and pushing his face into the ground.</p>	<p>Allegation and finding:</p> <ol style="list-style-type: none"> 1. Unnecessary Use of Force—Unfounded <p>The evidence supports that a finding that none of the responding officers used any force on the complainant and that whatever force that may have been applied to the complainant had been applied by the night club security personnel prior to the arrival of the responding officers.</p>
<p>The complainant, a third party observer of the underlying incident, alleges that named officers had no real reason to stop a subject and they used a false/weak reason to stop him because the subject is black.</p>	<p>Allegation and finding:</p> <p>2 named officers, same allegations, same finding:</p> <ol style="list-style-type: none"> 1. Professionalism-Exercise of Discretion—Lawful & Proper 2. Biased Policing—Unfounded <p>The evidence demonstrated that the enforcement action of the named officers was justified and they acted objectively, reasonably and without bias.</p>



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Case Summary	Case Finding
<p>The complainant, a third party, who observed a portion of the interaction between subject and officers, alleges that the named officer and an unknown officer were rude and used unnecessary force against the subject.</p>	<p>Allegation and finding: 1 named employee and 1 unknown employee. Same allegations and same finding: 1. Professionalism-Discourtesy—Unfounded 2. Unnecessary Use of Force—Lawful & Proper</p> <p>The evidence demonstrated that the named officers were dispatched to a call involving the subject who was threatening people with a knife. The named officer conducted himself professionally and used only force that was reasonable and necessary. The evidence demonstrated that no officer(s) were rude or used unnecessary.</p>
<p>The complainant, who was being removed from a grocery store by an off-duty retired officer at the request of the store manager, alleges that the named officer used unnecessary force by slamming her head against a wall several times.</p>	<p>Allegation and finding: 1. Unnecessary Use of Force—Unfounded</p> <p>The evidence, including store security cameras, demonstrated that the named officer used only reasonable and necessary force to remove complainant from the store and that the named officer properly reported use of force per Department Policy.</p>
<p>An anonymous complainant alleged that the named reserve officer engaged in a pushing match and demonstrated a lack of discretion and poor judgment when interacting with a person while attending a church function.</p>	<p>Allegation and finding: 1. Unnecessary Use of Force—Unfounded 2. Professionalism-Policy—Unfounded 3. Professionalism-Exercise of Discretion—Unfounded</p> <p>The evidence demonstrated that the named reserve officer was not in uniform or acting in a law enforcement capacity at the time of the event. The evidence does not establish that the named officer attempted to identify himself as a reserve officer or to assert his reserve officer authority to the person with whom he was interacting.</p>
<p>The complainant alleges that he was struck by a Seattle Police Department patrol car while he was walking across the street and that the car drove away without stopping to render aid or check on his well-being.</p>	<p>Allegation and finding: 1. Violation of Law (Hit and Run)—Unfounded</p> <p>The SPD Traffic Collision Investigation Unit conducted a criminal investigation and found no evidence that could support the complainant's allegation that he had been the victim of a hit and run collision or that an SPD vehicle had been involved. The complainant declined to participate in either the criminal investigation or the OPA-IS investigation.</p>



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Case Summary	Case Finding
<p>The complainant alleged that the named employee, a civilian, appeared to co-mingle his private business interests with his department employment creating an apparent conflict of interest. Complainant also alleges named employee was soliciting business for his private security company while conducting department business and making recommendations for preferred vendors. It is also alleged that named employee is operating a private security company in violation of department policy prohibiting such secondary employment.</p>	<p>Allegation and finding:</p> <ol style="list-style-type: none"> 1. Conflict of Interest—Unfounded 2. Improper Business Referrals—Sustained 3. Improper Employment Solicitation—Unfounded 4. Prohibited Secondary Employment—Unfounded <p>The evidence demonstrated that the named employee has operated his private security business since 2001. The evidence suggests that the named employee has not attempted to conceal his activities but has conducted his business openly and with explicit or tacit approval of department supervision. However, for the allegation of Improper Business Referrals, the evidence demonstrated that named employee did violate department policy by recommending or suggesting a product or service while conducting department business.</p> <p>Corrective action: Oral reprimand.</p> <p>Note- a myriad of issues related to secondary employment have been raised through OPA complaints over the past two years. The SPD Professional Standards Section identified and worked on a few issues, though it became apparent that Human Resources needed to be involved for any systemic revisions. Because HR has been without a Director for a period of time, there was delay in moving this project forward. Now that an HR Director is in place, the OPA Director has asked the Deputy Chief of Operations to create a task force to include the HR Director and Professional Standards Section to develop a project plan that will address all secondary employment issues highlighted by the OPA Director and Auditor.</p>
<p>The complainant, after being arrested, alleges that the named employee punched him in the head while he was being placed in a precinct holding cell. OPA-IS added an allegation of Failure to Use In-Car Video.</p>	<p>Allegation and finding:</p> <ol style="list-style-type: none"> 1. Unnecessary Use of Force—Unfounded 2. Failure to Use In-Car Video—Unfounded <p>The evidence, including In-Car Video and holding cell video, demonstrated that the alleged use of force did not occur. The In-car video was not available when this complaint was initiated but was located during the investigation.</p>



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Case Summary	Case Finding
<p>The complainant, while observing officers process a DUI arrest in front of his residence, then armed himself with a shotgun to protect his home. He alleges that the named officers arrested him even though he was defending his home and that named employees searched his home without his consent. It is also alleged that the named sergeant failed to have another sergeant screen the arrest and neglected his supervisory duties to coordinate his officer's enforcement efforts in accordance with case law on search and seizure.</p>	<p>Allegation and finding: 4 named officers, same allegation, same finding 1. Professionalism-Exercise of Discretion—Lawful & Proper 2. Improper Search—Lawful and Proper 1 named sergeant 1. Professionalism-Exercise of Discretion—Lawful & Proper Improper Search—Lawful and Proper 2. Responsibility of Supervisor—Lawful & Proper 3. Arrest Responsibility of Supervisor—Lawful & Proper</p> <p>The evidence, including the Seattle Municipal Court finding for probable cause of arrest, demonstrated the named officers and sergeant had legal justification to arrest the complainant and for seizure of the complainant's shotgun. The evidence also showed the name sergeant sought the advice of an experience patrol lieutenant with a legal background to screen the incident.</p>
<p>The complainant, who was arrested and booked into jail, alleges that named officer misplaced her cell phone and a sum of money.</p>	<p>Allegation and finding: 1. Misplacing Evidence/Property—Unfounded</p> <p>The evidence demonstrated that the complainant's cell phone was placed into the SPD Evidence Section. The evidence further demonstrated that the alleged missing money was included in her personal property upon booking into the King County Jail and was returned to her when she was released from jail.</p>
<p>The complainant, who was detained by named employees for a domestic violence disturbance, alleges that the named officers used excessive force, failed to identify themselves and used profanity and derogatory language towards him. OPA-IS added an allegation of Failure to Report Use of Force.</p>	<p>Allegation and finding: 3 named officers, same allegations, same finding 1. Failure to Identify Self—Unfounded 2. Unnecessary Use of Force—Lawful & Proper 3. Failure to Report Use of Force—Unfounded 4. Use of Profanity—Unfounded In addition to above allegations for named officer #1 5. Use of Derogatory Language—Unfounded</p> <p>The evidence demonstrated that the named officers used minimal, necessary, reasonable, and un-reportable force to control the complainant. The evidence also demonstrated that the remaining misconduct alleged did not occur as reported.</p>



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Case Summary	Case Finding
<p>The complainant, a supervisor within the department, alleges that three named officers, while off-duty, were patrons of a night club and while there, became involved in a verbal disturbance with security guards and other night club patrons.</p>	<p>Allegation and finding: 2 named Officers, same allegation, same finding</p> <ol style="list-style-type: none"> 1. Misuse of Authority—Unfounded 2. Exercise of Discretion—Training Referral 3. Use of Derogatory Language—Inconclusive 4. Use of Profanity—Unfounded 5. Wearing Recognizable Police Uniform while Consuming Alcohol (displaying SPD ID card)—Lawful and Proper <p>1 named Officer</p> <ol style="list-style-type: none"> 1. Misuse of Authority—Unfounded 2. Exercise of Discretion—Training Referral 3. Use of Derogatory Language—Unfounded 4. Use of Profanity—Unfounded 5. Wearing Recognizable Police Uniform while Consuming Alcohol (displaying SPD ID card)—Unfounded <p>The evidence demonstrated that the 3 named officers were off-duty, not in uniform and were not acting in their capacity as law enforcement officers. The evidence could not be proved nor disproved that 2 named officers used derogatory language, while derogatory language was not used by named officer #3. Evidence showed that named officers 1 & 2 were justified in showing their police ID to security guards to calm the situation down at the time, and named officer #3 did not show his police ID. Regarding the allegation of professionalism - exercise of discretion by the 3 officers, a training referral finding will give their supervisor the opportunity to review the entire incident with the officers to determine alternative courses of action at different points of the event, to possibly have avoided the situation entirely.</p>
<p>The complainant, a spouse of the named employee at the time of this reported complaint, alleges that named officer misused his authority when he contacted a cell phone company to reactivate his account because he was a police officer.</p>	<p>Allegation and finding: 1. Misuse of Authority—Inconclusive</p> <p>The evidence was inconclusive regarding whether the named officer was attempting to unduly influence the cell phone company representative to reactivate his phone or merely identifying his occupation as a topic of discussion during his negotiation.</p>



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Case Summary	Case Finding
<p>The complainant, after being detained for a disturbance investigation, alleges that the named officers did not return to him his cell phone and wallet.</p>	<p>Allegation and finding: 2 named officers, same allegation, same finding</p> <ol style="list-style-type: none"> 1. Mishandling Evidence/Property—Training Referral <p>The evidence demonstrated that the named officers legitimately took possession of the complainant’s cell phone and wallet but failed to ensure these items were returned to the complainant at the conclusion of their contact. A finding of training referral will benefit the named employees by reviewing the incident with their supervisor and to help them appreciate the importance in handling citizen’s property per department policy.</p>
<p>The complainant, after being arrested by the named officer, alleged that the officers dragged him along the ground causing him injury.</p>	<p>Allegation and finding: 2 name officers, same allegation, same finding</p> <ol style="list-style-type: none"> 1. Unnecessary Use of Force—Unfounded <p>The evidence, including a total recantation by the complainant, overwhelmingly demonstrates that the alleged misconduct did not occur.</p> <p>Note: In light of the fact that the Complainant recanted his original statement alleging that the officers used unnecessary force against him and acknowledged that he was untruthful when he made the original allegation, consideration will be given to pursuing a charge of false reporting against the Complainant.</p>
<p>The complainant, while mingling with others in Downtown area, alleges that the named officer and an unknown officer “roughed him up” without justification causing an injury to his arm.</p>	<p>Allegation and finding: 1 named officer, 1 unknown officer, same allegation, same finding:</p> <ol style="list-style-type: none"> 1. Unnecessary Use of Force—Unfounded <p>The evidence showed that the alleged misconduct did not occur as reported.</p> <p>Note: The OPA Director would have recommended review of this complaint for a false reporting charge, though the evidence indicates the complainant was highly intoxicated and possibly unaware of his actions. While intoxication does not excuse such behavior, proving that he knowingly made a false claim could be very difficult.</p>



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Case Summary	Case Finding
<p>The complainant, who was arrested for DUI, alleged that the named officer, when removing him from the patrol car, pulled up on his handcuffs aggravating a previous injury.</p>	<p>Allegation and finding: 1. Unnecessary Use of Force—Unfounded</p> <p>The evidence, including security video, clearly demonstrates that the alleged misconduct simply did not occur.</p>
<p>The complainant, after being arrested for shoplifting, alleges that the named officer used excessive and unreasonable force by putting his knee on his back too forcefully and pushing on his neck multiple times causing pain. The complainant also alleges that the named officer did not return personal property that belonged to him.</p>	<p>Allegation and finding: 1. Unnecessary Use of Force—Lawful & Proper 2. Mishandling Evidence/Property—Unfounded</p> <p>The evidence, including statements from several Seattle Fire Department Medics who witnessed the arrest of complainant, demonstrated that the use of force by named employee was minimal and necessary to nudge the complainant away from several knives that were in close proximity. The evidence also demonstrated that the complainant’s personal property was entered into the Department’s Evidence Section and is being held as evidence.</p>
<p>The complainant alleges that named officers entered her home without a warrant and that one officer slammed her into a wall while making entry. The complainant also alleges that the named officers did not identify themselves after being asked.</p>	<p>Allegation and finding: 3 named officers, same allegation, same finding: 1. Improper Search—Lawful & Proper 2. Failure to Identify Self—Lawful & Proper 1 named officer, in addition to above allegation 3. Unnecessary Use of Force—Lawful & Proper</p> <p>The evidence demonstrated that the named officers were responding to a 911 hang up call involving a female threatening a male with a handgun. The officers were justified under theories of exigent circumstances and their community care taking function in entering the complainant’s home and conducting a cursory search for victims and the armed suspect. The evidence also demonstrated that 1 name officer used minimal, reasonable and necessary force when entering the complainant’s home. The evidence demonstrated that 1 named officer did give the complainant a business card with all the necessary</p>



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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 7 cases during the months of June and July 2012 to be resolved through the Mediation Program. Of the 7 cases that were selected, 4 complainants declined to mediate complaint. In 1 case, a precinct Captain agreed to work with complainant and officer to resolve the complaint and in 1 case there was no response from the complainant. 1 complaint is schedule for mediation in August.



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	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		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	229	202	113	520	342



