

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

### Commendations:

Commendations Received in December: 12

Commendations Received to Date: 111

Seattle Police Department	Community member states, "please remember that myself and the majority of the public love and respect you . . . ."
Unknown officer	Motorist observed a patrol officer stop to push a disabled person in a wheelchair up a hill to an apartment unit in the Yesler Terrace housing complex and compliments the officer for his kindness.
Officer Louis Chan	Person who misplaced car commends Officer Chan for his assistance, noting he was "calm and supportive," has a "great way with people," and concludes, "we need more officers like him serving the public."
Sergeant Steve Martin	Complainant to OPA commends OPA Sergeant Martin for his helpfulness, commenting, he took the time "to explain what he was going to do and how it (my complaint) would be handled. The completeness of information (he provided) was perfection, his demeanor and professionalism exemplifies everything that the Seattle Police Department stands for."
Officer Sue Wong	Motorist who experienced a flat tire on the Alaskan Way Viaduct commends Officer Wong for her "assistance and professionalism" when helping her with her disabled car.
Detective Leslie Smith	Community volunteer at the Tacoma Dome, working the police officer memorial service, commends Detective Smith for giving her gloves to her to warm her hands as she stood in the cold weather assisting attendees.
Officer Chris Myers	Community member engaged in inappropriate conduct commends Officer Myers "for his kindness and attitude toward me. I was in the wrong and he didn't owe me anything . . . he showed compassion toward me and the situation."
Detective Wesley Friessen	Victim of burglary and her co-workers commend Detective Friessen for the effort he put into solving the crime against her, noting Detective Friessen "did a great job of communicating" with us and describes Detective Friessen as "an intelligent officer on the job who really cared about my case."
Unknown Officers	Community member commends several unknown patrol officers for their courtesy and professionalism when responding to a report of a man brandishing a machete in the street in a menacing manner. He notes they were "extremely courteous" and that he "appreciated the level of professionalism." He also notes the officers thanked him for taking the time to help them.

Officer Douglas Beard	Family members whose sister/daughter was missing under suspicious circumstances commend Officer Beard for his effort in “staying with us, listening to our concerns, and immediately working on filing a missing person report.” They state Officer Beard “showed compassion and professionalism toward our family and sister.” Note: Positive outcome – missing person promptly located even before Officer Beard could submit his report.
Seattle Police Department	Community member states, “Thank you all for your heart and professionalism” during difficult times.
Officer Benjamin Kelly	Several community members commend Officer Kelly for his quick and decisive action in difficult circumstances in subduing the suspect in the death of the four Lakewood PD police officers.

### December 2009 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: LAWS/POLICY/PROCEDURES

Synopsis	Action Taken
During a “due diligence” check of Department employees, it was discovered named employee, a non-sworn member of the Department, had been arrested by another jurisdiction for patronizing a prostitute and driving while under the influence.	Violation of Law Administrative (Patronizing a Prostitute) – SUSTAINED Violation of Law Administrative (Reckless Driving) – SUSTAINED Failing to Report to the Department Involvement in Criminal Conduct (two allegations) – SUSTAINED for both The evidence established named employee entered an Alford Plea to the criminal charge of Patronizing a Prostitute and pled guilty to an amended charge (originally DUI) of Reckless Driving. The evidence also established named employee failed to report to the Department, in violation of Department policy, his involvement in criminal conduct.

**STANDARDS OF CONDUCT: LAWS/POLICY/PROCEDURES**

Synopsis	Action Taken
<p>Complainant alleged that after she began talking to named employee about a parking situation and referred to named employee, a non-sworn member of the Department, as a “meter maid,” that named employee pushed her to the ground.</p>	<p>Violation of Law (Misdemeanor Assault) – NOT SUSTAINED  The Homicide Assault Unit investigated the alleged assault and the City Law Department filed a charge of assault. However, shortly thereafter, the City Law Department dismissed the criminal charge, with prejudice, citing proof problems. The evidence of the administrative investigation was insufficient to permit a determination of whether the alleged misconduct had occurred, due to divergent accounts of the incident, a lack of physical and witness evidence to support either version, and an absence of factors that would tip the credibility determination of the involved parties one way or the other.</p>
<p>A Department supervisor alleged named sergeant, while off-duty in another jurisdiction, became involved in an altercation with members of an outlaw motorcycle gang and, in the aftermath of this encounter, to help conceal his identity, unlawfully changed the license plate on his vehicle.</p>	<p>Violation of Law Administrative (Improper Vehicle License Display) – NOT SUSTAINED  The evidence was insufficient to establish whether named sergeant switched the license plate of a vehicle.</p>
<p>Complainant, after ending a dating relationship with the roommate of the named officer, alleged the named officer sent her abusive and harassing text messages from his personal cell phone while off-duty.</p>	<p>Violation of Law Administrative (Phone Harassment) – ADMINISTRATIVELY UNFOUNDED  Initially the incident was investigated by the Homicide Assault Unit because of the potential criminal nature of the matter. After investigation and review by the King County Prosecutor’s Office, the KC Prosecuting Attorney determined the alleged misconduct fell far short of meeting the filing standards for the crimes of Harassment or Cyberstalking and did not constitute criminal conduct. The evidence from the administrative investigation established that the conduct, while perhaps offensive, occurred while named officer was off-duty and lacked a sufficient nexus to his employment status to justify Department sanction.</p>
<p>Department supervisor alleged the named officer and named sergeant failed to recognize an assault situation as being a domestic violence assault and to process the situation accordingly.</p>	<p>Named officer:  Professionalism/Exercise of Discretion – SUSTAINED  Knowledge &amp; Adherence to Department Policy – SUSTAINED  Named sergeant:  Responsibility of a Supervisor – SUSTAINED  Knowledge &amp; Adherence to Department Policy – SUSTAINED  The evidence demonstrated named employees failed to recognize the incident as a domestic violence situation and process it accordingly.  Named officer, as corrective action, received a 10-day suspension and transfer from his unit of assignment.  Named sergeant received a 12-day suspension and mandated training in responding to domestic violence incidents.</p>

**STANDARDS OF CONDUCT: LAWS/POLICY/PROCEDURES**

Synopsis	Action Taken
Complainants allege they were standing at a bus stop when the three named officers, for no reason, detained them and searched their bags. It was also alleged named officers were not in compliance with the Department's in-car video policy.	Three named officers Allegations against each named officer: Searches General/Procedure – EXONERATED In-Car Video Policy – EXONERATED The evidence established the named officers had been dispatched to the bus stop to investigate an intoxicated male with a child making threats to the child that he was going to “shoot all white people” as they went by. The named officers temporarily detained the intoxicated male, the child, and the male's sober female companion to resolve their suspicions about an impending assault. After talking to the people and searching their bags for a handgun or other weapons, and concluding crime was not imminent, they disengaged from the couple and left. The evidence demonstrates the named officers were justified in temporarily detaining the complainants and that their use of the in-car video system was in compliance with Department policy.

**STANDARDS OF CONDUCT: RULES/EXPECTATIONS**

Synopsis	Action Taken
Supervisor of named officer alleged named officer failed to report an incident in a complete and timely manner.	Professionalism/Failure to Complete Report – SUSTAINED The evidence established named officer had been dispatched to investigate a suspicious circumstance incident involving the possible assault of a child inside a car and that the named officer did not complete the General Offense Report until three days after the incident and only when a supervisor noticed the tardiness of the report. The evidence further established named officer also failed to appreciate the seriousness of the incident being investigated. Named officer received discipline of a two-day suspension without pay.

**STANDARDS OF CONDUCT: PROFESSIONALISM**

Synopsis	Action Taken
Off-duty sergeant involved in an incident out of state with members of an outlaw motorcycle gang alleged to have used unprofessional and disparaging language toward various law enforcement personnel and agencies involved in addressing the matter.	Professionalism/Courtesy – SUPERVISORY INTERVENTION The evidence established the named sergeant made unprofessional and disparaging comments toward various law enforcement personnel and agencies. A supervisor of the named sergeant discussed with him the importance of prudence when making comments under the emotion of the moment.

**STANDARDS OF CONDUCT: PROFESSIONALISM**

Synopsis	Action Taken
<p>Victim of a minor assault, when he attempted to report the assault in person at a precinct, alleged the officer with whom he spoke appeared to minimize the importance of his situation by telling him to sit for a few minutes and compose himself before talking. Complainant also alleged named officer made “snide” comments to others present that he interpreted as being directed toward him. Complainant left without providing information for a report.</p>	<p>Professionalism/Courtesy – NOT SUSTAINED  Failing to Take a Report – NOT SUSTAINED  The evidence, including reluctance on the part of the complainant to provide sufficiently detailed information regarding the alleged misconduct, was insufficient to establish whether the named officer used discourteous language toward complainant. Again, in part due to the complainant’s lack of consistency in providing evidence to support his assertions and a lack of corroborating evidence, the evidence was insufficient to establish whether the named officer violated Department policy regarding the completion of a General Offense Report.</p>
<p>Complainant, whose 19-year old son had an encounter with a neighbor armed with a handgun, alleged named sergeant should have ordered the arrest of the neighbor and that the named sergeant bullied her with the inflection of his voice.</p>	<p>Professionalism/Courtesy – EXONERATED  The evidence established named sergeant acted appropriately, courteously, and in compliance with Department policy when supervising the police response to the situation. The evidence established the incident was properly investigated, reported, and submitted to the prosecutor’s office for charging consideration.</p>
<p>Complainant, when leaving the magistrate’s courtroom after contesting a parking citation issued to him by the named officer, alleged the named officer approached him and began verbally harassing him.</p>	<p>Professionalism/Exercise of Discretion – EXONERATED  The evidence established that the magistrate upheld the validity of the parking citation and that named officer, in a thoughtful attempt to address complainant’s misunderstanding about the citation, after the hearing, attempted to empathize with him and help him better understand what had happened. Complainant interpreted this gesture as harassment and intimidation, a perspective not supported by the evidence.</p>
<p>Complainant, an acting sergeant supervising the named officer, alleged named officer persisted in making uninvited and inappropriate comments to her that caused her to feel awkward, stating, “I had to get out of there (that work area). I knew . . . that something was not right with him.”</p>	<p>Workplace Harassment – SUPERVISORY INTERVENTION  The evidence established named officer made uninvited and inappropriate comments to complainant on several occasions and that these comments made complainant feel awkward and uncomfortable around named officer. Though the comments did not necessarily rise to the level of harassment, a supervisor counseled the employee about the perception others might have concerning such comments.</p>

**STANDARDS OF CONDUCT: PROFESSIONALISM**

Synopsis	Action Taken
Complainant alleged named officer, working as a training officer for a group of 25 – 30 police Explorer Scouts, inappropriately “hazed” several of the Explorers at a summertime training academy.	Professionalism/Exercise of Discretion – SUPERVISORY INTERVENTION Professionalism/Courtesy – SUPERVISORY INTERVENTION The evidence established the named officer, while attempting to provide a “challenging” and “difficult” training experience for the police Explorers at their training academy, exercised immature and imprudent judgment by engaging in some of the practices used. The named officer’s supervisor has discussed this matter with him and the Department is reviewing the operation of the Police Explorer program.

**UNNECESSARY FORCE**

Synopsis	Action Taken
Complainant, whom named officers escorted out of a tent in which he was not authorized to be during the annual Sea Fair Hydroplane Race, alleged named officers hurt his wrist when they handcuffed him.	Three named officers Unnecessary Use of Force – EXONERATED The evidence established complainant was trespassing inside a tent at the Sea Fair event, refused to comply with directions to leave and was handcuffed and escorted away by named officers to be removed from the area. Named officers, after complainant began saying they had hurt his wrist, had SFD Medics check his wrist (no injury noted), and eventually released him to a family member who was also present at the event. The evidence established complainant’s own irresponsible conduct led to his situation and that complainant exaggerated both the degree of force used to escort him away and the “injury” to his wrist.
Complainant alleged that immediately after he had exited a downtown nightclub where he had been drinking and at a birthday party, named officers for no reason threw him to the ground and kneed him in the stomach, rupturing his pancreas.	Two unknown officers Unnecessary Use of Force – NOT SUSTAINED The evidence established that employees of the Club Venom ejected complainant and a companion from the club for unacceptable conduct and that about one month later complainant reported to OPA the alleged misconduct by the unknown officers. Due to complainant’s refusal to cooperate with the OPA investigation, the lack of evidence identifying which, if any, SPD officers used force on complainant, and significantly confusing information about what may have happened, the evidence is insufficient to establish if SPD officers were involved in the incident and, if they were, whether they used force on complainant.
Complainant, a known drug dealer in the downtown area, alleged named officers, while arresting him for dealing narcotics, contacted him for no reason and used unnecessary force to take custody of and handcuff him.	Three named officers Unnecessary Use of Force (named officer #1) – EXONERATED Terry Stops and Social Contacts (3 named officers) – EXONERATED The evidence established named officers had a lawful justification for contacting and arresting complainant for illegal narcotics dealing and that the force used to subdue and control complainant was reasonable and necessary.

**UNNECESSARY FORCE**

Synopsis	Action Taken
<p>Complainant alleged named officer, for no reason, used unnecessary force on him when he grabbed him and searched his duffle bag as he lay asleep in a sleeping bag in a downtown city park.</p>	<p>Unnecessary Use of Force – EXONERATED  Unjustified Search – EXONERATED  The evidence established named officer was investigating whether complainant was the suspect in a series of 911 phone calls in which the caller was claiming to be armed with a handgun, wearing body armor, was going to shoot people, and had knowledge of how to mix chemicals to make explosive devices. Following up on available evidence, named officer contacted complainant, temporarily detained him, and determined complainant was not the suspect in the incident he was investigating. The evidence established named officer’s conduct was reasonable and justified under the circumstances.</p>
<p>Complainant alleged named officer used unnecessary force when he held her wrist while escorting her from her car back to his patrol car during a traffic stop.</p>	<p>Unnecessary Use of Force – EXONERATED  The evidence established named officer used minimal, non-reportable force when he temporarily held complainant’s wrist while escorting her back to his patrol car to talk with her about her conduct. The evidence established complainant was uncooperative and refused to follow simple, legitimate directions from named officer. The evidence clearly established complainant’s own irresponsible behavior led to her predicament and that the named officer acted reasonably and prudently while interacting with her.</p>
<p>Complainant alleges named officer, who is a Retired Special Commission officer, had momentarily stopped to prevent him from entering into a closed off construction area, alleged named officer unnecessarily and forcefully grabbed his arm and attempted to taunt him into an escalating confrontation.</p>	<p>Unnecessary Use of Force – UNFOUNDED  Professionalism/Courtesy – UNFOUNDED  The evidence clearly established named officer acted in a courteous and reasonable manner when preventing complainant from entering a hazardous construction zone. Notably, a third-party witness who observed the encounter states he heard named officer state to complainant, “Sir, you really need to move to the other side of the street” and that the named officer may have lightly and inadvertently touched the complainant on his shoulder while asking him to move on. This witness notes the complainant exploded and kept telling the named officer, “Don’t touch me! Get your hands off me!” The evidence established the complainant exaggerated the situation, overreacted emotionally, and behaved irresponsibly.</p>

**UNNECESSARY FORCE**

Synopsis	Action Taken
<p>Complainant, whom named officers had arrested for Domestic Violence Assault, alleged an abrasion he had on his forehead had been inflicted by a named officer and not incurred during the domestic violence assault and that the other named officer had not reported it correctly.</p>	<p>Named officer #1: Unnecessary Use of Force – EXONERATED Reporting Use of Force – NOT SUSTAINED</p> <p>Named officer #2: Primary Investigation – SUSTAINED</p> <p>The evidence demonstrated named officers reported the arrest of complainant and that the force used by named officer #1 was reasonable and necessary. However, the evidence also established named officer #2 should have been more inquisitive about the cause of the abrasion on the complainant's forehead, even though the complainant initially attributed the cause of "all" of his injuries to his female companion, the victim of the domestic violence assault. Named officer #2, as corrective action, was directed to compose a memorandum addressing the importance of accurately and completely documenting the use of force.</p>

## **Mediation Program:**

8 cases were selected by the Director for resolution through mediation in December.

1 case is scheduled for mediation in 2010

7 cases, complainants declined to mediate

## Definitions of Findings:

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

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

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

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

**“Supervisory Intervention”** means while there may have been a violation of policy, it was not a willful violation, and/or the violation did not amount to misconduct. The employee’s chain of command is to provide appropriate training, counseling and/or to review for deficient policies or inadequate training.

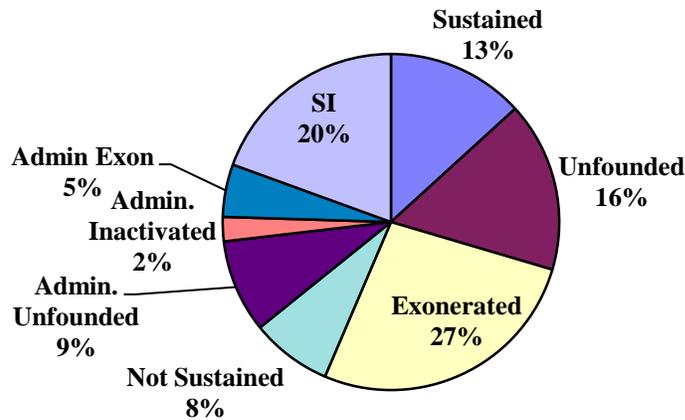
**“Administratively Unfounded/Exonerated”** is a discretionary finding which may be made prior to the completion that the complaint was determined to be significantly flawed procedurally or legally; or without merit, i.e., complaint is false or subject recants allegations, preliminary investigation reveals mistaken/wrongful employee identification, etc, or the employee’s actions were found to be justified, lawful and proper and according to training.

**“Administratively Inactivated”** means that the investigation cannot proceed forward, usually due to insufficient information or the pendency of other investigations. The investigation may be reactivated upon the discovery of new, substantive information or evidence. Inactivated cases will be included in statistics but may not be summarized in this report if publication may jeopardize a subsequent investigation.

Cases Opened (2008/2009 by Month Comparison)

Date	PIR		SR		LI		IS		TOTAL	
	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009
1/1-2/15	38	18	9	3	1	1	16	15	64	37
2/16-3/15	24	14	8	6	2	2	12	8	46	30
3/16-4/15	30	16	4	3	0	6	9	15	43	40
4/16-5/15	26	15	4	6	2	5	15	12	47	38
5/16-6/15	23	20	2	10	1	3	12	9	38	42
6/16-7/15	17	14	2	9	3	3	14	8	36	34
7/16-8/15	27	16	9	11	3	0	25	17	64	44
8/16-9/15	19	16	7	9	2	1	16	14	44	40
9/16-10/15	23	21	11	9	2	1	14	16	50	47
10/16-11/15	20	21	6	8	1	1	11	13	38	43
11/16-12/15	23	23	6	10	2	3	9	14	40	50
12/16-12/31	8	19	3	4	0	0	5	7	16	30
Totals	278	213	71	88	20	26	158	148	527	475

**Disposition of Completed Investigations**  
**Open as of 1 Jan, 2008 or after and Closed as of December 31, 2008**  
**N=144 Closed Cases/257 Allegations**



One case may comprise more than one allegation of misconduct.

