

#4
C.F. 313831

OFFICE OF PROFESSIONAL ACCOUNTABILITY (OPA)
Closed Case Report
January-February-March 2014

The Office of Professional Accountability's (OPA) complaint report provides information about Seattle Police Department (SPD) misconduct complaints that are investigated by OPA. This report includes summaries of cases closed during the months of January, February and March 2014, along with data on the number and classification of complaints filed, with a comparison to 2013. This report includes 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.

Statistical Highlights

- In the first quarter of 2014, there were 23 complaints filed in which 41 employees were named (2.3% of 1,820 SPD employees).
- 17% of the allegations closed during this period were Sustained. Sustained findings result in discipline. By comparison, 16% of 2013 allegations resulted in a Sustained finding.
- 17% of allegations closed to date in 2014 resulted in a Training Referral. A finding of Training Referral means that there may have been a violation of policy, but it was not willful and did not rise to the level of misconduct. In such cases, training is provided instead of discipline. In 2013, 13% of allegations were closed with a Training Referral finding.
- The remaining cases were closed as Unfounded, Lawful and Proper, or Inconclusive.





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*Investigations involving alleged misconduct by SPD employees are summarized below.
Identifying information has been removed.*

January-February-March Closed Cases

Case Summary	Case Finding
<p>The complainant, a supervisor within the Department, reported that the named employee abused sick leave from 2009 to 2013.</p>	<p>Allegation and Finding: 1. Abuse of Sick Time—Sustained</p> <p>The evidence showed a pattern of abuse of sick time by the named employee.</p> <p>Discipline imposed by Chief of Police: Termination</p>
<p>The complainant alleged the named employees used unnecessary force against him during his arrest, didn't read him his rights, and didn't allow him to speak with a Sergeant. OPA added an allegation against named employee #2 for failure to use the In-Car Video System.</p>	<p>Allegations and Findings: Named employee #1: 1. Unnecessary Use of Force—Lawful & Proper 2. Advisement of Right to Counsel—Training Referral</p> <p>Named Employee #2: 1. Unnecessary Use of Force—Lawful & Proper 2. In-Car Video/Policy—Lawful & Proper 3. Advisement of Right to Counsel—Unfounded</p> <p>Named employee #3: 1. Unnecessary Use of Force—Unfounded 2. Advisement of Right to Counsel—Unfounded</p> <p>The evidence showed that the named officers used necessary and reasonable force while handcuffing the complainant. The evidence also showed that named employee #1 was the primary officer on this incident and assumed another officer had advised the complainant of his right to counsel. A training referral finding directed the named employee's supervisor to review the Advisement of Right to Counsel Policy with the employee. The evidence found that named employee #2 was not trained in the upgraded In-Car Video System and was issued a new microphone after this incident occurred.</p>



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<p>The complainant alleged the named employee used profanity toward him when he stopped him for a traffic violation and instructed him to get out of the car. The complainant also alleged that the named employee searched him and went into his pockets. OPA added an allegation that the named employee failed to use the In-Car Video System.</p>	<p>Allegations and Findings:</p> <ol style="list-style-type: none"> 1. Professionalism-Courtesy—Unfounded 2. Professionalism—Profanity--Inconclusive 3. In-Car Video/Policy—Training Referral 4. Searches-General/Procedures—Lawful & Proper <p>The evidence, captured on In-Car Video, showed that the named employee was courteous to the complainant during this incident. The evidence neither proved nor disproved that the named employee used profanity when speaking to the complainant. The evidence showed that the named employee did not properly download the In-Car Video at the end of his shift on the day this incident occurred. A training referral finding directed the named employee's supervisor to review this incident with him and to instruct him on how to properly download In-Car Video at the end of each shift. The evidence showed that the named employee's search of the complainant for weapons was lawful and proper.</p>
<p>The complainant alleged that the named employees used excessive force when taking him into custody.</p>	<p>Allegation and Findings:</p> <p>Six named employees, same allegation, same finding</p> <ol style="list-style-type: none"> 1. Unnecessary Use of Force—Lawful & Proper <p>The evidence showed that the complainant was displaying signs of psychotic distress during a major sporting event and was a danger to himself and/or others. The named employees used reasonable and necessary force in taking complainant into protective custody.</p>
<p>The complainant, a supervisor within the Department, alleged that the named employee was being investigated for DV Assault that involved his juvenile daughter.</p>	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> 1. Violation of Law-(DV Assault)—Inconclusive <p>The evidence neither proved nor disproved that the named employee assaulted his juvenile daughter.</p>



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<p>The complainant alleged the named Parking Enforcement Officer (PEO) refused to ticket an illegally parked vehicle hindering his ability to safely exit a driveway where he works. Additionally, the complainant alleged the employee's supervisor contacted him in an attempt to persuade the complainant not to submit a formal complaint.</p>	<p>Allegations and Findings: Named employee #1 1. Professionalism-Exercise of Discretion— Lawful & Proper</p> <p>Named employee #2 1. Public & Internal Complaint Process/Employee Responsibilities— Unfounded</p> <p>The evidence showed that the named employee properly exercised his discretion when he decided not to cite the vehicle and left a courtesy notice instead. The named employee also made a request to the Seattle Department of Transportation that red paint should be placed on the curbs. The evidence also showed that the supervisor of the PEO encouraged the complainant to file a complaint if he believed his concerns were not being properly addressed.</p>
<p>The complainant, a relative of the subject who was involved in a car/pedestrian accident, alleged that the named employee issued a Prohibited Crossing citation to the subject nearly one year after the incident and a few weeks after being deposed for a civil case.</p>	<p>Allegation and Finding: 1. Exercise of Discretion—Unfounded</p> <p>The evidence found that the named employee did investigate this car/pedestrian collision. The named employee referred the investigation to the City Law Department for review of charges for Pedestrian Prohibited Crossing. It was determined that the decision to issue the citation was made by the prosecutor, not the named employee.</p>
<p>The complainants, employees within the Department, alleged the named employee made a comment they perceived as a threat via a social media site. They also claimed that the perceived threat created a hostile working environment for the complainants.</p>	<p>Allegations and Findings: 1. Professionalism-Respectful Workplace— Unfounded 2. Professionalism-Criticism of Others— Unfounded</p> <p>The preponderance of evidence showed that the named employee's comments were private speech and not intended as a physical threat; rather they were political in nature.</p>



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<p>The complainant alleged named employees “jumped him” and shoved him up against a wall, patted him down and removed his wallet from his back pocket without legal justification.</p>	<p>Allegation and Finding: Four named employees, same allegation, same finding</p> <ol style="list-style-type: none"> 1. Unnecessary Use of Force—Lawful & Proper <p>The evidence showed that the named employees were assigned to the Situation Awareness Team (SAT) during the Torchlight Parade. The named employees contacted the complainant due to his suspicious behavior and observed wires hanging from his backpack. The force used on the complainant was reasonable and necessary to keep the complainant from reaching into his backpack. The evidence showed that the named employees did not jump on or shove him against a wall.</p>
<p>The complainant, a supervisor within the Department, alleged the named employees were arrested for DUI. OPA added allegations of Professionalism-Courtesy and Professionalism-Profanity to named employee #1 due to actions toward the arresting officer.</p>	<p>Allegations and Findings:</p> <p>Named employee #1</p> <ol style="list-style-type: none"> 1. Violation of Law—Reckless Driving—Sustained 2. Professionalism-Courtesy—Sustained 3. Professionalism-Profanity—Removed, included in allegation #2 <p>Named employee #2</p> <ol style="list-style-type: none"> 1. Violation of Law—Reckless Driving—Sustained <p>The evidence showed that both named employees entered guilty pleas to the crime of Reckless Driving. The evidence also showed that named employee #1 was discourteous to the arresting officer. The OPA Director removed allegation #3 as it was deemed to be included in allegation #2.</p> <p>Discipline imposed by the Chief of Police: Named Employee #1-10-day suspension without pay; Named Employee #2- 5-day suspension without pay.</p>



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<p>The complainant alleged that the named employee used excessive force and profanity, and crumpled up his cigarettes in front of his face when he was being taken into custody. The complainant also alleged that he reported these actions to the named employee's supervisor, who did nothing about the complaint.</p>	<p>Allegations and Findings: Named employee #1</p> <ol style="list-style-type: none"> 1. Unnecessary Use of Force—Lawful & Proper 2. Professionalism-Profanity—Unfounded 3. Professionalism-Courtesy—Training Referral <p>Named employee #2</p> <ol style="list-style-type: none"> 1. Responsibility of Supervisors—Training Referral <p>The evidence, including In-Car Video, showed that the named employee took hold of complainant's jacket to guide him down to the bumper of his patrol vehicle. This contact was minimal and non-reportable force. The In-Car Video also revealed that the named employee did not use profanity toward the complainant. A training referral finding was given to named employee #1 for destroying the complainant's cigarettes. The evidence found that named employee #2 made contact with the complainant in the King County Jail regarding his allegation of being "roughed up" by named employee #1. Named employee #2 told the complainant he would refer his complaint to OPA but the complainant said he would take care of it himself through the courts. A training referral for named employee #2 will enable his supervisor to correct his failure to properly document and report the complainant's allegation.</p>
<p>The complainant alleged the named employee made a traffic stop to harass him and was overly aggressive in handcuffing him.</p>	<p>Allegations and Findings:</p> <ol style="list-style-type: none"> 1. Professionalism-Exercise of Discretion—Lawful & Proper 2. Professionalism-Courtesy—Training Referral 3. Professionalism-Traffic Stops—Training Referral <p>The evidence showed that the named employee had a lawful basis to stop the complainant for a traffic violation. Training referral findings for the remaining allegations direct the named employee's supervisor to review this incident with the named employee to ensure that the named employee provides citizens with name, rank and reason for the traffic stop, and to be respectful and professional at all times.</p>



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<p>The complainant alleged in 2008 the named employees used excessive force by slamming his head into a tree stump that caused a cut to his face and head when he was being taken into custody.</p>	<p>Allegations and Findings: Two named employees, same allegation, same finding</p> <ol style="list-style-type: none"> 1. Unnecessary Use of Force—Lawful & Proper <p>The evidence, including citizen witnesses, showed that the named employees used minimal and necessary force when taking the complainant into custody for brandishing and threatening citizens with a knife.</p>
<p>The complainant alleged the named employees failed to take a report for his custodial interference incident and provided him with improper legal advice. Additionally, he believes the officers were laughing and mocking him about the situation.</p>	<p>Allegations and Findings: Two named employees, same allegations same findings</p> <ol style="list-style-type: none"> 1. Professionalism-Policy—Unfounded 2. Primary Investigation/General—Lawful & Proper 3. Primary Investigation/Officer Responsibilities—Lawful & Proper <p>The evidence, including an eyewitness, showed that the named employees did not laugh or mock the complainant. The evidence also showed there was no evidence of a crime, so no report needed to be written. Also, neither party requested a report. Named employee #1 advised the complainant to contact family court if he had concerns about the existing parenting plan. This advice was deemed proper and professional.</p>
<p>The complainant alleged when he was crossing the street the named employee's patrol vehicle nearly struck him as the named employee made a left turn in front of the complainant. The complainant noticed the named employee was on his cell phone. The complainant further alleged that the named employee made a U-turn in the middle of traffic and extended his middle finger at the complainant.</p>	<p>Allegations and Findings:</p> <ol style="list-style-type: none"> 1. Professionalism-Courtesy—Sustained 2. Emergency Vehicle Operations—Inconclusive <p>The evidence, including admission by the named employee, found that he did extend his middle finger at the complainant. The evidence neither proved nor disproved that named employee was driving his patrol vehicle in an unsafe manner when he made the U-turn.</p> <p>Discipline imposed by the Chief of Police: Oral reprimand</p>



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<p>The complainant, a supervisor within the Department, alleged the named employee was arrested for DUI.</p>	<p>Allegation and Finding: 1. Violation of Law-DUI—Sustained</p> <p>The evidence showed the named employee entered into a deferred prosecution for this incident.</p> <p>Discipline Imposed by the Chief of Police: 5-day suspension without pay; four days held in abeyance for one year</p>
<p>The complainant alleged that the named employee backed up his vehicle in a restaurant drive thru and hit the complainant's vehicle. The complainant tried to contact the named employee but the named employee drove away.</p>	<p>Allegation and Finding: 1. Violation of Law-Hit & Run—Sustained</p> <p>The criminal investigation resulted in a filing of charges for hit and run. This charge was later dropped after the named employee reached a settlement with the other driver. The OPA investigation found that the named employee had failed to stop and make contact with the other driver as required.</p> <p>Discipline imposed by the Chief of Police: Written reprimand</p>
<p>The complainant, a supervisor within the department, alleged that the named employee was involved in a preventable traffic collision</p>	<p>Allegation and Finding: 1. Emergency Vehicle Operations—Training Referral</p> <p>The evidence, including an investigation by the Department Traffic Collision Investigation Section, found that the named employee was driving too fast than reasonably necessary. A training referral finding directed the named employee to review this incident and the Department's policy on Emergency Vehicle Operations with his supervisor.</p>



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<p>The complainant alleged that the named employees used excessive force when taking her into custody. The complainant further alleged that her driver's license was never returned by the named employees. OPA added a named supervisor to this complaint and alleged that the supervisor failed to interview the complainant to determine if injuries had been sustained.</p>	<p>Allegations and Findings: Two named employees, same allegations, same finding</p> <ol style="list-style-type: none"> 1. Unnecessary Use of Force—Lawful & Proper 2. Mishandling Property/Evidence—Training Referral <p>Named employee #3</p> <ol style="list-style-type: none"> 1. Unnecessary Use of Force—Lawful & Proper <p>Named employee #4</p> <ol style="list-style-type: none"> 1. Use of Force Responsibilities/Failure to Take Appropriate Action—Training Referral <p>The evidence, including In-Car Video, found that the named employees used necessary and reasonable force when taking the complainant into police custody. The evidence also showed that named employees 1 & 2 had the complainant's driver's license in their possession and did not place this item into Evidence for safekeeping. Additionally, named employee #4, a supervisor, did not follow all required steps in investigating force used by an officer under his command.</p>
<p>The complainant alleged the named employee, a Parking Enforcement Officer (PEO), yelled at him and called him an "idiot" when he accidentally walked in a "closed sidewalk" construction zone. OPA added an allegation that the named PEO failed to obtain a secondary work permit to work off-duty at this construction site.</p>	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> 1. Professionalism-Courtesy—Sustained 2. Secondary Employment/Permit—Sustained <p>The evidence, including an admission by the named employee, shows that he did call the complainant an "idiot." The named employee also admitted that he failed to obtain a secondary work permit prior to working this off-duty assignment.</p> <p>Discipline imposed by the Chief of Police: 1-day suspension without pay-held in abeyance for one year; 30-day suspension of all secondary work permits-held in abeyance for one year.</p>



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<p>The complainant, while attending a major sporting event, alleged the named employee yelled and used profanity at her for blocking traffic.</p>	<p>Allegations and Findings</p> <ol style="list-style-type: none"> 1. Professionalism-Courtesy—Inconclusive 2. Professionalism-Profanity—Inconclusive <p>The above allegations could neither be proved nor disproved by a preponderance of the evidence.</p>
<p>The complainant, who was involved in a vehicle collision as he rode his bicycle, alleged the named employee did not investigate the driver of the vehicle for possible DUI nor did the named officer fully document his collision report by including significant witness information on the report. OPA added an allegation that the named employee failed to use his In-Car Video during this incident.</p>	<p>Allegations and Findings</p> <ol style="list-style-type: none"> 1. Professionalism-Exercise of Discretion—Training Referral 2. Primary Investigation-Definition/General—Sustained 3. In-Car Video-Policy/Unfounded <p>The evidence found that the named employee did not record significant witness information in his report nor did he document the driver's level of intoxication and/or mental state. The evidence also found that the named employee was not trained on the In-Car Video System at the time of this incident.</p> <p>Discipline imposed by the Chief of Police: Oral reprimand</p>
<p>The complainant alleged that the named employee failed to take a report that his daughter may have been abused by his former wife. The complainant further alleged that the named employee acted strangely and unprofessional. Finally, the complainant alleged that the named employee failed to give him a business card as he requested.</p>	<p>Allegations and Findings</p> <ol style="list-style-type: none"> 1. Primary Investigation/Failure to Take Appropriate Action—Sustained 2. Professionalism-Courtesy—Unfounded <p>The evidence found that the named employee did not follow up or attempt to contact the child to assess her status. The named employee also did not complete a General Offense report regarding the complainant's reported child abuse allegation per Department policy. The evidence, including a witness officer, found that the named employee did not display strange behavior nor did the named officer or witness officer hear the complainant ask for a business card.</p>



Definition of Findings:

"Inconclusive" means the allegation of misconduct was neither proved nor disproved by a preponderance of the evidence.

"Lawful and Proper" 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" 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 two cases during January through March to be resolved through the Mediation Program. Of the two cases that were selected, one complaint is being scheduled for mediation and one complainant declined to mediate her complaint.

Cases Opened -2013/2014 by Month Comparison

Date	Supervisor Action		Investigation		TOTAL	
	2013	2014	2013	2014	2013	2014
January	24	15	14	55	38	70
February	19	23	13	21	32	44
March	24	28	10	12	34	40
April	16		6		22	0
May	33		18		51	0
June	17		16		33	0
July	35		18		53	0
August	48		16		64	0
September	39		8		47	0
October	32		23		55	0
November	16		20		36	0
December	19		25		44	0
Totals	322	66	187	88	509	154



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