

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 01/01/19 **DATE OF COMPLETION:** 02/07/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #: The complaint raises matters outside the DPA's jurisdiction.

CATEGORY OF CONDUCT: N/A **FINDING:** IO-1 **DEPT. ACTION:**

FINDINGS OF FACT: This complaint raises matters outside DPA's jurisdiction. This complaint was forwarded to:

**San Francisco Police Department
Internal Affairs Division
1245 3rd Street
San Francisco, CA 94158**

SUMMARY OF ALLEGATION #: The complaint raises matters outside the DPA's jurisdiction.

CATEGORY OF CONDUCT: N/A **FINDING:** IO-1 **DEPT. ACTION:**

FINDINGS OF FACT: This complaint raises matters outside DPA's jurisdiction. This complaint was forwarded to:

**SMUD HUMAN RESOURCES
6301 S Street
Sacramento, CA 95820 EA_402**

**DEPARTMENT OF POLICE ACCOUNTABILITY
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DATE OF COMPLAINT: 01/02/19 **DATE OF COMPLETION:** 02/12/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATIONS #1 - 2: The officers failed to take required action.

CATEGORY OF CONDUCT: ND **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated he did not receive a response to his public records request in a timely manner.

The named officer denied the allegation, stating she complied with her responsibilities by forwarding the public records request to SFPD's Legal Division.

The other named officer denied the allegation, stating she complied with her responsibilities by referring the public records request to a non-sworn civilian. She stated the non-sworn civilian did not respond to the public records request in a timely manner.

The evidence proved that the acts alleged in the complaint did not occur.

SUMMARY OF ALLEGATION #: The complaint raises matters outside the DPA's jurisdiction.

CATEGORY OF CONDUCT: **FINDING:** IO-1 **DEPT. ACTION:**

FINDINGS OF FACT: This complaint raises matters outside the DPA's jurisdiction. This complaint was partially referred to:

SAN FRANCISCO POLICE DEPARTMENT
INTERNAL AFFAIRS DIVISION
1245 3RD STREET
SAN FRANCISCO, CA 94158

**DEPARTMENT OF POLICE ACCOUNTABILITY
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DATE OF COMPLAINT: 12/23/18 **DATE OF COMPLETION:** 02/13/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATIONS #1-2: The officers used unnecessary force.

CATEGORY OF CONDUCT: UF **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated he was sitting on a couch in a hotel when the named officers abruptly grabbed him, without notice. The complainant stated he was taken outside where he lost his balance and almost fell.

The hotel manager stated she called the police because the complainant was trespassing and refused to leave. The named officers asked the complainant very nicely to leave, but the complainant was very argumentative and vulgar, and he continued to refuse to leave. She stated the named officers took the complainant by the arms, got him off the couch and walked him outside. The officers were gentle and respectful, and they did not push the complainant, nor did the complainant fall.

Another witness stated the complainant was very belligerent, argumentative and uncooperative. He stated the named officers did not touch the complainant besides helping him off the couch. The named officers escorted the complainant outside the hotel.

No other witnesses were identified.

Body Worn Camera footage from both named officers show them asking the complainant several times to leave the hotel premises, telling him he is a trespasser. After several unsuccessful requests to leave, the named officers take the complainant by the arm and escort him outside to his awaiting walker. The complainant does not lose his balance.

The evidence proved that the acts alleged in the complaint did not occur.

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DATE OF COMPLAINT: 01/03/19 **DATE OF COMPLETION:** 02/21/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The officer arrested a person without cause.

CATEGORY OF CONDUCT: ND **FINDING:** NF **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated that she tried to contact an investigator at Central Station regarding a case, but no one called her back regarding the matter.

The complainant did not respond to multiple requests for further information.

The complainant failed to provide additional information.

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DATE OF COMPLAINT: 01/09/19 **DATE OF COMPLETION:** 02/21/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The officer misrepresented the truth.

CATEGORY OF CONDUCT: CRD **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant received a citation from the named officer. She stated that the named officer committed fraud by listing a different officer than who she remembered on the citation.

The named officer denied the allegation, stating that he and another officer issued the complainant a moving violation and both of their names are listed on the citation.

Body Worn Camera (BWC) video footage shows the named officer issue the complainant a citation while his partner waits and then gets into the driver's side of the patrol car.

The citation lists the named officer and his partner.

The evidence proved that the acts alleged in the complaint did not occur.

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DATE OF COMPLAINT: 01/16/19 **DATE OF COMPLETION:** 02/05/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: This complaint raises matters not rationally within DPA jurisdiction.

CATEGORY OF CONDUCT: NA **FINDING:** IO-2 **DEPT. ACTION:**

FINDINGS OF FACT: This complaint raises matters not rationally within DPA jurisdiction.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 01/17/19 **DATE OF COMPLETION:** 02/07/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: This complaint raises matters not rationally within DPA jurisdiction.

CATEGORY OF CONDUCT: N/A **FINDING:** IO-2 **DEPT. ACTION:**

FINDINGS OF FACT: This complaint raises matters not rationally within DPA jurisdiction.

**DEPARTMENT OF POLICE ACCOUNTABILITY
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DATE OF COMPLAINT: 01/20/19

DATE OF COMPLETION: 02/08/19

PAGE# 1 of 1

SUMMARY OF ALLEGATION: The officer failed to take required action.

CATEGORY OF CONDUCT: ND FINDING: NF DEPT. ACTION:

FINDINGS OF FACT: The complainant stated that he called the police regarding a drunk man who was yelling outside his house, but no officers responded. He stated that an officer eventually called him from a restricted number and told him that what the man was doing was not illegal.

The complainant failed to respond to multiple requests for additional information.

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DATE OF COMPLAINT: 02/01/19 **DATE OF COMPLETION:** 02/06/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #: The complaint raises matters outside the DPA's jurisdiction.

CATEGORY OF CONDUCT: **FINDING:** IO-1/SFPD IAD **DEPT. ACTION:**

FINDINGS OF FACT: This complaint raises matters outside DPA's jurisdiction. This complaint was forwarded to:

San Francisco Police Department
Internal Affairs Division
1245 3rd Street
San Francisco, CA 94158

**DEPARTMENT OF POLICE ACCOUNTABILITY
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DATE OF COMPLAINT: 02/06/19 **DATE OF COMPLETION:** 02/12/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #: The complaint raises matters outside the DPA's jurisdiction.

CATEGORY OF CONDUCT: N/A **FINDING:** IO-1/SFPD IAD **DEPT. ACTION:**

FINDINGS OF FACT: This complaint raises matters outside DPA's jurisdiction. This complaint was forwarded to:

San Francisco Police Department
Internal Affairs Division
1245 3rd Street
San Francisco, CA 94158

**DEPARTMENT OF POLICE ACCOUNTABILITY
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DATE OF COMPLAINT: 02/06/19 **DATE OF COMPLETION:** 02/15/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The complaint raises matters outside the DPA's jurisdiction.

CATEGORY OF CONDUCT: **FINDING:** **IO-1/SFMTA** **DEPT. ACTION:**

FINDINGS OF FACT: This complaint raises matters outside DPA's jurisdiction. This complaint was forwarded to:

San Francisco Municipal Transit Authority
San Francisco Municipal Transportation Agency
Department of Parking and Traffic
11 South Van Ness Avenue
San Francisco, CA 94103

**DEPARTMENT OF POLICE ACCOUNTABILITY
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DATE OF COMPLAINT: 02/06/19 **DATE OF COMPLETION:** 02/20/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #: The complaint raises matters outside the DPA's jurisdiction.

CATEGORY OF CONDUCT: N/A **FINDING:** IO-1/IAD **DEPT. ACTION:**

FINDINGS OF FACT: This complaint raises matters outside DPA's jurisdiction. This complaint was forwarded to:

**San Francisco Police Department
Internal Affairs Division
1245 3rd Street
San Francisco, CA 94158**

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 02/11/19 **DATE OF COMPLETION:** 02/12/19 **PAGE# 1 of 1**

SUMMARY OF ALLEGATION #: The complaint raises matters outside the DPA's jurisdiction.

CATEGORY OF CONDUCT: **FINDING:** **IO-1/DEM** **DEPT. ACTION:**

FINDINGS OF FACT: This complaint raises matters outside DPA's jurisdiction. This complaint was forwarded to:

Division of Emergency Communications
Department of Emergency Management
1011 Turk Street, San Francisco, CA 94102

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 02/23/18 **DATE OF COMPLETION:** 02/08/19 **PAGE#** 1 of 2

SUMMARY OF ALLEGATIONS #1-2: The officers arrested the complainant without cause.

CATEGORY OF CONDUCT: UA **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated he was bicycling at a crosswalk area when a man called him names and started recording him on his cellular phone. The complainant stated he took offense to the other party recording him without his permission, so he knocked the phone out of the other party's hand. The complainant stated an argument ensued and both he and the other man made angry statements to each other. He said he and the other man then swung their fists at one another. The complainant admitted that he punched the other man and swung his bicycle at him. The complainant stated a witness from a nearby bar intervened and grabbed the complainant, stopping the fight. The complainant stated he rode away from the scene. The complainant stated responding officers detained and questioned him and was then booked at Mission Station for assault, battery and a hate crime.

The named officers stated they responded to a call of an assault. The named officers stated dispatch provided the description of a suspect, who was detained by back-up officers near the reported crime scene. The named officers interviewed the reportee/victim, who stated the complainant spat on and assaulted him, then grabbed his phone and threw it away. The named officers said the victim requested a citizen's arrest and completed the required form naming the complainant, after he had identified the complainant in a cold show. The named officers stated back-up officers interviewed witnesses in the area regarding the altercation. The officers stated that the victim and witnesses corroborated that the complainant and the victim had been arguing and fighting with one another with the complainant using his bicycle to strike the victim. The named officers stated they arrested the complainant based on the victim statement, the victim's visible injuries, and statements from two witnesses at the scene. The complainant was placed under arrest for violations of 245(a)(1) PC, assault with a deadly weapon, 422.6 PC, hate crime and 242 PC, battery.

The purported victim stated that the complainant struck him repeatedly with his hands and bicycle, causing visible injuries on his legs and feet. However, he admitted he used profanity and struck the complainant a few times in order to defend himself.

A witness from the scene stated he was working security at a bar when he heard a man and a dog-owner yelling and screaming nearby. He stated he saw they tussle, spat and swung at one another. The witness also stated the complainant held his bicycle as a weapon against the victim. The witness stated he intervened and attempted to end the altercation by stepping in between them.

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DATE OF COMPLAINT: 02/23/18 **DATE OF COMPLETION:** 02/08/19 **PAGE#** 2 of 2

SUMMARY OF ALLEGATIONS #1-2: (Continued)

Another witness stated he was a bystander who observed the complainant and the other party fighting and name calling one another. The witness stated the purported victim antagonized, spat on, and slapped the complainant. The witness further stated the complainant struck the victim with his bicycle during the altercation. The witnesses did not hear the dialog between the complainant and the victim during the altercation.

Footage from the body worn cameras of the officers on the scene confirmed the named officers and several back-up officers interviewed the complainant, witnesses and the victim separately. The footage documented the visible injuries the victim sustained and the visual identification procedure, or cold show, in which the victim identified the complainant.

SFPD records indicated that the complainant was arrested pursuant to a private person arrest. The proper form, signed by the victim, was filed by the named officers pursuant to Department General Order 5.04, Arrests by Private Persons.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper

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DATE OF COMPLAINT: 02/19/19 **DATE OF COMPLETION:** 02/26/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #: The complaint raises matters outside the DPA's jurisdiction.

CATEGORY OF CONDUCT: N/A **FINDING:** IO-1/DEM **DEPT. ACTION:**

FINDINGS OF FACT: This complaint raises matters outside DPA's jurisdiction. This complaint was forwarded to:

**Department of Emergency Communications
Department of Emergency Management
1011 Turk Street
San Francisco, CA 94102**

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 03/29/18 **DATE OF COMPLETION:** 02/04/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The officer misrepresented the truth.

CATEGORY OF CONDUCT: CRD **FINDING:** NS **DEPT. ACTION:**

FINDINGS OF FACT: The complainant alleged that the named officer committed perjury, lying in court about a DPA sustained finding for misrepresenting the truth on a prior DPA case. In addition, the complainant alleged that the named officer lied about not having been sued in the past.

The named officer denied the allegation, stating he answered the questions to the best of his knowledge.

DPA records showed that the named officer was in fact previously sustained for misrepresenting truth. The named officer appealed the finding and the sustained finding was later dismissed.

Court records showed that the named officer was sued. However, there was insufficient evidence to establish whether or not the named officer was served with the lawsuit or was aware of it.

There was insufficient evidence to either prove or disprove the allegation.

SUMMARY OF ALLEGATION #: The complaint raises matters outside the DPA's jurisdiction.

CATEGORY OF CONDUCT: N/A **FINDING:** IO-1/IAD **DEPT. ACTION:**

FINDINGS OF FACT: This complaint raises matters outside the DPA's jurisdiction. This complaint was partially referred to:

**San Francisco Police Department
Internal Affairs Division
1245 3rd Street
San Francisco, CA 94158**

**DEPARTMENT OF POLICE ACCOUNTABILITY
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DATE OF COMPLAINT: 04/04/18 **DATE OF COMPLETION:** 02/13/18 **PAGE#** 1 of 8

SUMMARY OF ALLEGATIONS #1-5: The officers detained a person without cause.

CATEGORY OF CONDUCT: UA **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated that he was stopped, detained and searched several times without reason. He stated officers have told him the detentions are due to his probation status, but he is not on probation. The complainant also stated that officers question him regarding people and circumstances unrelated to the detentions.

During the first incident, named officer #1 stated that he and other named officers were in plainclothes on patrol when he observed the complainant sitting in a vehicle, parked illegally on a sidewalk. Named officers #1 and 2 stated that the nearby homeowners had made prior complaints of subjects loitering, gambling, and smoking marijuana in front of their residence. The named officers stated that an individual in the vehicle, with the complainant, was known to be on probation for possession of a firearm. Named officers #2 and 3 stated that they knew from past contacts that the complainant was prohibited from possessing firearms. Named officer #1 stated that, based on the illegal parking code violation and probation status of the complainant's passenger, all occupants were asked to exit the vehicle, pat searched, and detained. Named officer #2 stated that he found a firearm in another vehicle near the illegally parked vehicle, and the complainant was detained with other subjects until the investigation was completed.

Named officer #5 stated that on another date, while on patrol, he stopped, pat-searched, and briefly detained the complainant because he suspected him of carrying a firearm. The named officer stated his reasonable suspicion was based on recent social media images of the complainant with firearms. The named officer stated that he had knowledge that the complainant was prohibited from possessing firearms.

Named officers #1, 2, and 3 stated that, at a third incident, they were asked by another agency to look for a vehicle that they were investigating. The named officers stated that, while on patrol, they observed a vehicle that matched the description, and named officer #1 stated he recognized the complainant as the driver. Named officer #1 stated that based on previous contacts he knew the complainant did not have a valid license. All three named officers stated the complainant and passenger were asked to exit the car, pat-searched, and detained. The named officers stated that, based on the location of the incident and safety concerns, they obtained permission from a sergeant to take the vehicle and the complainant to the district

station to complete the citation and determine the disposition of the vehicle. Named officer #1 stated that he issued the complainant a citation for driving without a license and released him from the station.

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DATE OF COMPLAINT: 04/04/18 **DATE OF COMPLETION:** 02/13/18 **PAGE#** 2 of 8

SUMMARY OF ALLEGATIONS #1-5: (Continued)

Witness officers at the second incident confirmed that the complainant and others were detained during an investigation related to a gun found in a car.

Department of Emergency Management records show the first incident was classified as a C-priority call for a “suspicious person.” The record for the second incident shows that it was a C-priority call of a “suspicious person,” with notations by the named officer regarding the detention, reasonable suspicion, social media posts, and pat search. The third incident was documented as a C-priority call of a “suspicious vehicle.”

The incident reports for the first incident and third incident were written by named officer #1 who articulated the reasons for the detentions and arrests, along with the investigative steps taken, evidence collected, and officers on scene. The incident report for the third incident noted that permission was granted by a sergeant to take the vehicle and the complainant to the station. A Notice to Appear documents that named officer #1 cited the complainant for violating section 12500 of the California Vehicle Code.

BWC recordings from the first incident did not show the initial detention but did capture officers transporting one of the arrested parties. The brief film clips show several plainclothes officers and subjects in the background along with the complainant. The BWC recording available for the second incident shows the complainant detained briefly by named officer #5. The recording shows the named officer asked the complainant about keys and offered a Certificate of Release.

Department General Order 5.03, Investigative Detentions, states, “A police officer may briefly detain a person for questioning or request identification only if the officer has a reasonable suspicion that the person’s behavior is related to criminal activity. The officer, however, must have specific and articulable facts to support his/her actions; a mere suspicion or ‘hunch’ is not sufficient cause to detain a person or to request identification.”

In each instance, the named officers were able to demonstrate that they had reasonable suspicion to detain the complainant. The named officers were able to point to specific facts regarding criminal activity that would justify a detention.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

**DEPARTMENT OF POLICE ACCOUNTABILITY
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DATE OF COMPLAINT: 04/04/18 **DATE OF COMPLETION:** 02/13/18 **PAGE#** 3 of 8

SUMMARY OF ALLEGATION #6: The officer arrested a person without cause.

CATEGORY OF CONDUCT: UA **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated that officers stopped him while driving, then arrested him for no reason.

The named officer stated that he and his two partners observed a vehicle matching the description of a vehicle under investigation by another agency. The named officer stated that he also had prior knowledge that the complainant did not possess a valid driver's license. The named officer said he stopped the complainant and verified he did not have a license. He stated that he obtained permission from a sergeant to take both the complainant and the vehicle back to the police station. He stated the complainant was then cited for the violation of driving without a license and released from the station. The named officer said the complainant was cited and released, however, he was not released on scene due to safety reasons and the fact that he did not have identification.

The named officer's partners confirmed the facts provided by the named officer. They stated that the area of the stop was on a narrow street in an unsafe area, so with a sergeant's permission, the vehicle and the complainant were taken to the district station to complete the investigation.

The incident report, authored by the named officer, documents that the complainant was stopped because he was known to not have a valid driver's license, and that this was confirmed through a call to dispatch. It also documents that a sergeant provided permission to take the complainant and the vehicle to the district station to complete the investigation and citation. The Notice to Appear shows that the named officer cited the complainant for a misdemeanor.

SFPD General Order 5.06, Citation Release, states:

It is the policy of the San Francisco Police Department, in accordance with state law, that officers cite and release all persons arrested for misdemeanor and infraction offenses.

If a person is arrested for a misdemeanor offense(s), he/she shall be subject to custodial arrest rather than citation release when any of the following conditions exists ... Failure to present a driver's license or other satisfactory evidence of identity.

If a person is eligible for citation release, cite and release him/her at the location of arrest.

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SUMMARY OF ALLEGATION #6: (Continued)

The named officer had reasonable suspicion to cite the complainant for the misdemeanor of driving without a license. Although a misdemeanor offense would generally require that a person be cited and released on scene, in this case the complainant did not provide a driver's license or satisfactory evidence of identity, and the named officer was justified in taking him to a district station for further investigation.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

SUMMARY OF ALLEGATIONS #7-11: The officers searched a person without cause.

CATEGORY OF CONDUCT: UA **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated that officers performed pat down searches during detentions based on his probation status, but he is not on probation.

Named officers #1-3 stated that the complainant was detained as part of two investigations involving traffic violations, where the complainant was either the driver or sitting in the driver's seat of a suspicious vehicle. The named officers stated that the complainant was found on both occasions in vehicles with passengers that have probation search conditions. They stated that all occupants involved with the vehicles were pat searched based on officer safety reasons. Named officer #5 stated he detained the complainant because he suspected he might have a firearm. He stated that he pat searched the complainant for safety reasons. The named officers stated that the complainant is known from past contacts to possess firearms and to post pictures of himself on social media with firearms.

A pat down search is warranted if the person is lawfully detained and the searching officer can articulate reasonable belief that the person is dangerous or may be carrying a weapon. The named officers all had articulable concerns that the complainant might have firearms on him, while they were otherwise engaged in a valid detention. The complainant was not searched because he was on probation.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

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DATE OF COMPLAINT: 04/04/18 **DATE OF COMPLETION:** 02/13/18 **PAGE#** 5 of 8

SUMMARY OF ALLEGATIONS #12-14: The officers searched a vehicle without cause.

CATEGORY OF CONDUCT: UA **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated that the car he was driving was searched without justification on an occasion in which he was detained and released with a citation.

The named officers stated they observed a vehicle matching the description of one that was under investigation by another agency. The named officers stated the vehicle was stopped, and neither the complainant or his passenger had a valid driver's license. They said that they obtained permission from a sergeant to transport the vehicle and the complainant to the district station, in part because they were on a narrow street, where it was dangerous to remain stopped. The named officers stated that there was no licensed driver available to take the car initially, and it was under investigation by another agency, so an inventory search was conducted in anticipation of the vehicle being towed. Named officer #1 stated that the vehicle was later released from the district station to a licensed driver.

SFPD General Order 9.06, Vehicle Tows, states in part, "When towing a vehicle, officers shall inventory the contents of the vehicle. The purpose of the inventory is to locate and secure any valuable property, to guard against false claims, and to protect officers and others from dangerous objects." Although the vehicle was not ultimately towed, it would have been towed if an appropriate licensed driver had not come forward. In preparation for the tow, it was justified for the named officers to conduct an inventory search.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

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DATE OF COMPLAINT: 04/04/18 **DATE OF COMPLETION:** 02/13/18 **PAGE#** 6 of 8

SUMMARY OF ALLEGATIONS #15-17: The officers searched personal property without cause.

CATEGORY OF CONDUCT: UA **FINDING:** NS **DEPT. ACTION:**

FINDINGS OF FACT: The complainants stated that he was detained, arrested, and taken to a police station. He stated that his cellphone was confiscated and searched by officers based on his review of texts and various applications when it was returned to him.

The named officers stated that his cell phone was taken and placed in a property envelope. All named officers denied searching the complainant's cell phone.

There was insufficient evidence to either prove or disprove the allegation.

SUMMARY OF ALLEGATIONS #18-22: The officers harassed the complainant.

CATEGORY OF CONDUCT: CRD **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated that he has been harassed by officers due to repeated stops, detentions, pat searches, and an arrest.

All named officers acknowledge that they had contact with the complainant on separate instances for investigations of criminal activity and/or arrests. They stated that, on one occasion, the complainant was with somebody who had a search condition due to weapons violations.

Available department records document reasonable suspicion for detentions and probable cause for one arrest.

The investigation established that the named officers had valid, law enforcement reasons for contacting the complainant.

The evidence proved that the acts alleged in the complaint did not occur.

**DEPARTMENT OF POLICE ACCOUNTABILITY
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DATE OF COMPLAINT: 04/04/18 **DATE OF COMPLETION:** 02/13/18 **PAGE#** 7 of 8

SUMMARY OF DPA-ADDED ALLEGATION #1: The officer failed to comply with DGO 10.11, Body Worn Cameras.

CATEGORY OF CONDUCT: ND **FINDING:** S **DEPT. ACTION:**

FINDINGS OF FACT: While investigating the incident, the DPA reviewed a BWC recording that suggested the named officer had not promptly activated his BWC camera when required.

The named officer acknowledged that he initiated a detention and conducted a pat search of the complainant. He stated that he saw the complainant from his patrol car. He said he had not immediately activated his BWC due to officer safety reasons. In particular, the named officer stated that he was on patrol as a solo officer in a high crime area, and he stopped the complainant based on his prior knowledge that he might have weapons. He stated that he had to go “hands on” first and ensure that the complainant did not have weapons. The named officer said that his understanding of DGO 10.11, at the time, was that officers had to activate their BWC’s sometime during the incident and “when practical.”

The named officer’s BWC recording is 2 minutes 58 seconds long. The recording starts after, and did not capture, any pat search. It shows the named officer asking the complainant to sit down. Two security guards and a few bystanders can be seen in the background. The recording shows that the named officer allowed the complainant to leave after he answered a few questions.

Department of Emergency Management records show the named officer on scene for a call that was labeled as “Suspicious Person.” The dispatch records documented the named officer detained and pat-searched the complainant.

SFPD General Order 10.11, Body Worn Cameras, states in part:

All on-scene members equipped with a BWC shall activate their BWC equipment to record in the following circumstances... Detentions and arrests... Cursory searches.

...

If a member determines that officer or public safety would be compromised if a BWC were activated during an incident requiring its use, the member shall document in CAD, an incident report, a written statement or a memorandum the reason(s) for not using the BWC.

Even if DGO 10.11, at the time, permitted a camera to be activated at any time during an incident, it has always required activation during a cursory search; and the named officer’s BWC was not activated at all

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SUMMARY OF DPA-ADDED ALLEGATION #1: (Continued)

during his search. Although his explanation for delayed activation was officer safety, he did not present facts that would adequately explain why activating his camera would have compromised officer safety. The named officer was not surprised by the complainant, and the complainant did not run from the named officer. The scene appeared calm. While it is true that there was the potential for danger, this would be more reason to activate one's BWC quickly, rather than wait. The named officer saw the complainant from his car and knew then he was going to detain him. He could have easily pushed the button on his camera at that point. Furthermore, the named officer did not document any reason for his failure to activate his BWC during the cursory search, or his delay in activating it during the detention.

A preponderance of the evidence proved that the conduct complained of did occur, and that, using as a standard the applicable regulations of the Department, the conduct was improper.

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DATE OF COMPLAINT: 04/19/18 **DATE OF COMPLETION:** 02/11/19 `3**PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The officer failed to properly investigate.

CATEGORY OF CONDUCT: ND **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated that he went to Bayview Station and spoke to a police officer regarding his automobile being stolen in Concord. He stated that the police would not investigate this incident.

The named officer was identified via a station poll. She had no memory of speaking to the complainant on the date in question but stated that one month prior to that the complainant reported the theft of his car in San Francisco to her. The named officer provided the case number for that incident.

Department records indicate that a stolen vehicle report was generated for the theft of the complainant's car in San Francisco. Department records also reflect that a supplemental report was made when the car was recovered ten days later.

A preponderance of the evidence established that the named officer took proper action consistent with Department policy.

The evidence proved that the acts alleged in this complaint did not occur.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 04/26/18 **DATE OF COMPLETION:** 02/07/18 **PAGE#** 1 of 2

SUMMARY OF ALLEGATIONS #1-4: The officers drove unsafely.

CATEGORY OF CONDUCT: ND **FINDING:** NS **DEPT. ACTION:**

FINDINGS OF FACT: The complainants in separate complaints for different incident dates stated while bicycling on Market Street with other bicyclists, two officers in the same identified SFPD police car drove the vehicle unsafely. One of the complainants in his complaint stated the police officers drove their car aggressively by accelerating and stopping behind bicyclists to complete a lane change. The other complainant in his complaint stated a police officer completed a U-turn from the opposite lane and accelerated head-on toward the complainant. The complainants identified the same car number and that there were two police officers in the police vehicle that was involved with each of their complaints. The complainants identified the vehicle's number.

The Equipment Sign In/Sign Out records from the district station for the incident dates showed that the named officers checked out the vehicle identified by the complainants.

Department of Emergency Management records showed that the named officers were close by at the times recalled by the complainants. However, there were no documented incidents involving bicyclists in the locations alleged by the complainants.

The named officers said they did not remember the incidents and that they were not near or at the scenes.

No witnesses came forward.

There was insufficient evidence to either prove or disprove the allegations.

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SUMMARY OF ALLEGATIONS #5-8: The officers made behaved and spoke inappropriately.

CATEGORY OF CONDUCT: CRD **FINDING:** NS **DEPT. ACTION:**

FINDINGS OF FACT: The complainants in their separate complaints for different incident dates stated while bicycling on Market Street with other bicyclists, two officers in a SFPD police car behaved and spoke inappropriately. One of the complainants in his complaint stated the passenger officer yelled child-like taunts at the complainant and the other bicyclists which he felt was an embarrassment to SFPD. The other complainant in the other complaint stated it was truly believable that an officer in the city would threaten the bicyclists with inappropriate comments. The complainant did not recall exactly what inappropriate comments the driver from the police car said to him. The complainants identified the vehicle's number.

The Equipment Sign In/Sign Out records from the district station showed that the named officers checked out the vehicle identified by the complainants.

Department of Emergency Management records showed that the named officers were close by at the relevant times. However, there were no related incidents with bicyclists in the locations alleged by the complainants.

The named officers said they did not remember the incidents and that they were not near or at the scenes.

No witnesses came forward.

There was insufficient evidence to either prove or disprove the allegation.

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DATE OF COMPLAINT: 05/03/18 **DATE OF COMPLETION:** 02/14/19 **PAGE#** 1 of 5

SUMMARY OF ALLEGATIONS #1 - 2: The officers arrested the complainant without cause.

CATEGORY OF CONDUCT: UA **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated he was arrested for grabbing a woman and brandishing a knife. He denied having done so and stated he encountered the woman at the entrance of their building and had not seen her before.

The named officers stated the probable cause for the arrest was the reportee's statement, the photo she had of the complainant, the fact that the manager recognized the complainant's photo and provided the location of the apartment where the complainant lived, and the positive cold show by the victim. One of the named officers stated that he asked the building manager about surveillance video but was told it was not available at that time.

The body-worn camera recordings document that the named officers interviewed the victim using Language Line, and she explained that she had been grabbed by a male who called her a "bitch," then displayed a knife to her. She stated that she fled, but later saw the same man in her apartment building. The recordings show that the named officers also spoke to the manager of the building. The recordings show that the officers detained the complainant to do a cold show, which resulted in a positive identification. The recordings show that the complainant was not questioned at length on scene, but he denied knowing anything about the allegations made against him. They show that he provided a different story about an interaction he had with a female whom he let in the building, but who then began acting "crazy" and accusing him of things. The recordings show that the complainant was upset that he was detained for touching someone and letting a "drunk bitch" into the building.

Records from the Department of Emergency Management document that the reporting party called 911 to report that a man followed her and had attempted to grab her hand, but she ran and saw he had a knife in his hand. The reporting party spoke in Spanish. She said the suspect went into her apartment building, but that she had not seen him before. She reported that she was on the second floor; the suspect looked down at her from the third floor and said something to her in English, which she did not understand. The reporting party said she took a photo of the suspect at that time with her cell phone.

The incident report documents that the reporting party identified the complainant as the suspect who threatened her with a knife. The report documents that a sergeant approved the booking of the complainant. The report also states that the complainant was read Miranda Rights; however, he did not wish to provide a statement at the station.

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SUMMARY OF ALLEGATIONS #1 – 2 contd.

The complainant was not questioned at length on scene, but he provided information that, at least, corroborated that he had a bad interaction with the reporting party earlier that evening. The named officers relied primarily on the statements made by the reporting party and her identification of the complainant as the suspect. The reporting party reported a serious crime, stood by and told police her story, then identified the complainant in certain terms. The named officers did an extensive interview with the reporting party, using Language Line to interpret her statement and then to conduct the cold show. Under the circumstances, the named officers had sufficient probable cause to make an arrest.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

SUMMARY OF ALLEGATIONS #3 - 4: The officers failed to properly investigate.

CATEGORY OF CONDUCT: ND **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated he was never questioned about the incident and that the identification of him by the victim was done from his side profile without her seeing his full face and while he was wearing different clothing than what he had on when he encountered the victim.

The named officers stated the complainant was not questioned at the scene, because they needed to conduct the cold show and then Mirandize him to interview him at the station. The complainant refused to provide a statement after being Mirandized. One of the named officers stated that when conducting cold shows, they always shield the victim from the suspect as much as possible. In this case the complainant's side profile was used, and that was enough to make a positive identification.

The building manager stated that he spoke to the named officers and they asked him about the reporting party and the complainant. He also stated that they asked him about video, but he told them that he did not know how to operate the recording devices.

A Cold Show Admonition and Report Form was signed by the victim. The BWC recordings document that the complainant was told about the allegations against him and did offer some information to the named officers at the time. The recordings also document that the cold show admonition was translated into Spanish.

The evidence proved that the acts alleged in the complainant did not occur.

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SUMMARY OF ALLEGATIONS #5: The officer failed to provide medical treatment.

CATEGORY OF CONDUCT: ND **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated he was not provided medical treatment after complaining of pain from the handcuffs. He stated that the handcuffs were particularly painful because of his recent carpal tunnel surgery.

The named officer said the complainant had a wrap on his right wrist from surgery a week prior to his police contact. He said the complainant complained of pain to his right wrist from the handcuffs. The named officer explained that because he answered yes to one question on the medical screening card, he was unable to put him in a holding cell and asked if he needed medical assistance, but the complainant declined. The named officer stated the complainant was double cuffed to the bench for approximately 30 minutes, during which he complained again about wrist pain. The named officer said he asked again if the complainant needed medical treatment, and he declined, but asked if he could remove the cuff from his right wrist. The named officer said he explained the reasons that he had to handcuff the complainant to the bench, but he also made an exception and removed one handcuff. The named officer stated the complainant was very thankful and did not complain of pain to his wrist for the remainder of his time at the station. The named officer stated he completed a medical screening card after asking the complainant multiple questions.

The named officer and witness officers stated that there was no training or exceptions for handcuffing persons with previous wrist injuries, and that the main requirements are that handcuffs be double-locked and not excessively tight.

The BWC recordings document that the complainant complained of pain to his wrist. The recordings document the medical screening and the fact that additional handcuffs were provided to the complainant to help his arm elevation. The SFPD Medical Screening Form documents that the complainant did not need immediate medical attention. Jail Medical Records document that the complainant arrived with dressings on his right hand due to recent surgery. They document that his wound was cleansed, and new dressings were provided.

The named officer accommodated the complainant's injured wrist at the station after his repeated requests by making an exception to station policy and allowing just one of his hands to be handcuffed to a bench. There was no requirement, under the circumstances, to provide additional medical treatment at that time.

The evidence proved that the act alleged in the complaint did not occur.

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SUMMARY OF ALLEGATIONS #6: The officer failed to take required action.

CATEGORY OF CONDUCT: ND **FINDING:** NS **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated he requested a copy of the incident report documenting the allegations against him and his arrest. He stated he needed them because he wanted to file a civil suit against the accuser. The complainant stated he had not received the report over a month after his request. The complainant said he had followed up at the Records Division twelve days after his request and was told that it was still pending, but he was provided the number to a district station and told he could call there and ask for the status. He stated he received a call back from a female who told him that they had a lot of requests that they processed recently but that they do not keep records of what they process. The complainant said he decided to contact records management again, where he spoke with a woman who told him she would expedite the request back over to the station. The complainant said he followed up 10-15 days later and spoke to a woman, who told him that there was still no follow up and that she would email the station and bring up the matter to her supervisor because of the length of time. The complainant stated he eventually received an email from Records with a copy of the report nearly two months after his request.

The named officer stated he was a sergeant working on the district station investigation team (SIT). The named officer stated he routinely receives requests for police reports via SFPD inter-department mail, and that such requests come from the Records Division and could be addressed to him, another sergeant or the SIT Lieutenant. He said he could not explain the delay in this case, and he had no recollection of this specific request. When presented with an email in which he acknowledged a delay and instructed Records to release a redacted report, the named officer said that he is always polite and professional in his communications. He said he is familiar with the time restrictions in responding to such requests, and he complied fully with Department policy.

A supervisor at the Records Division stated that his department keeps track of every report request on a spreadsheet. He stated they send the request, via inter-office mail, to the appropriate investigative unit assigned to the case with a cover sheet/slip. He stated the assigned investigator then reviews the report and tells them what can be released with or without redaction and sends it back to them. The supervisor provided the timeline for the complainant's request and confirmed that the report was not released to him until well after the ten-day deadline – by his records, seven weeks and one day after the request. The supervisor said that the notes show that he sent an email to the named officer six days before the report was released, and the sergeant responded on the release date, apologizing for the delay and approving the report's release with redactions.

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SUMMARY OF ALLEGATIONS #6 contd.

In an email sent from the supervisor to the named officer, the supervisor wrote that a request had been sent nearly two months prior, and he was again requesting a response. The named officer's response email came six days later, and the named officer wrote, "Sorry for the delayed response."

SFPD Bulletin 17-143, Protocol for Release of Police Reports, states in part (emphasis in the original):

The Crime Information Services Division (CISD) is responsible for releasing police reports to members of the public ... Per CA Gov. Code 6253(c), the agency must respond to the requestor within 10 calendar days, so processing shall not be delayed. Investigative Units or SIT investigators receiving this request form shall do the following **within 4 working days**:

1. Determine if the report is associated with an investigation currently in progress.
2. Decide if the report should be released or not.
3. If the report should be released, perform any required redactions, ensuring the redacted material is not visible, and indicate the reason on the *Police Report Release Request*. ...
4. If the report cannot be released, indicate the reason on the *Police Report Release Request*.
5. Complete and return the *Police Report Release Request* via inter-department mail, with any attachments, and the report (if being released), to CISD – records ...

The named officer complied with Department policy if he first received the request when the Records supervisor sent the email that came nearly two months after the original request. If the named officer had received the request two months prior, then his response would have been excessively delayed. His email seemed to acknowledge a delay. However, it is possible that the named officer was just politely acknowledging that a delay occurred, not that he was responsible for that delay. The Records Division could have made an error, or the mail room could have made an error. There was insufficient evidence to establish what caused the delay. As such, there was insufficient evidence to either prove or disprove the allegation.

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SUMMARY OF ALLEGATION #1: The officer drove improperly.

CATEGORY OF CONDUCT: ND **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated that the named officer made an illegal left-hand turn while driving a SUV towing four jet skis.

The named officer stated he approached the intersection and observed heavy congestion due to construction and a lane closure. The narrowing lane and the size of his vehicle and trailer presented a safety risk. He received authorization from a superior officer to make the illegal left turn. He stated that he activated his lights and siren, and safely made the left turn.

The superior officer corroborated the named officer's statement

Section B of Department General Order 5.05 states, "officers may respond Code 3 when an emergency response appears reasonably necessary to prevent serious injury to persons, whether or not a criminal offense is involved."

The evidence proved that the act, which provided the basis for the allegation occurred. However, the act was justified, lawful, and proper.

SUMMARY OF DPA-ADDED ALLEGATION #1: The officer failed to take required action.

CATEGORY OF CONDUCT: ND **FINDING:** NS **DEPT. ACTION:**

FINDINGS OF FACT: An officer driving an SUV informed DPA that the named officer, his superior, was a passenger in his vehicle during an incident wherein he authorized an illegal left turn. The named officer initially returned a DPA identification poll stating he was unable to identify the officer involved in the complaint. Later, in his Member Response Form, he identified the officer involved in the incident.

The named officer stated that when he received the identification poll, he had no recollection at the time that he was involved in the incident. He stated that he authorized the illegal left hand turn for safety reasons.

There was insufficient evidence to prove or disprove that the named officer did not recall the incident when he conducted the DPA identification poll. As such, there was insufficient evidence to either prove or disprove the allegation.

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SUMMARY OF ALLEGATION #1: The officer failed to properly investigate.

CATEGORY OF CONDUCT: ND **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated that he was involved in a fight with another individual that resulted in his arrest. During the investigation, a witness officer provided a statement that accurately described security camera footage where it appeared that the other party was the aggressor. The complainant said that the named officer omitted this information from his chronological of the investigation. The complainant also stated that the named officer changed a civilian witness' statement.

A civilian witness stated that he was crossing a street with the complainant when the other party honked at them to move out of the way of his vehicle. The witness stated that the complainant then approached the other party's vehicle, brandished a knife, and slashed the car's two rear tires.

Another civilian witness provided a video he shot with his cell phone, which shows the complainant drawing a knife and slashing the two rear tires of a vehicle.

Security camera footage shows the complainant walking down the street and being stopped by the individual whose tires were slashed. The individual has his hand extended and is holding a taser. The complainant and the individual go out of frame. The two come back into frame shortly after and can be seen exchanging blows. They eventually stop shortly before police officers arrive on scene.

A witness officer stated that her supervisor ordered her to obtain security camera footage of the incident from a nearby building. The witness officer stated that since she was in training and not yet certified to extract and retrieve such footage, her supervisor advised her to view the footage and document what she saw. The witness officer wrote a statement for the incident report indicating that based off security camera footage, the other individual involved in the fight was the aggressor.

The reporting officer of the incident report noted in his narrative that, "Due to party statements and both videos, it appeared that the second altercation was mutual combat however the initial altercation had [the complainant] as the aggressor."

The named officer was the rebooking officer for this incident. He stated that he interviewed all relevant witnesses, reviewed the cell phone video, and submitted all the materials to the District Attorney's office.

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SUMMARY OF ALLEGATION #1: (Continued)

The named officer stated that he did not view the security camera footage which made it appear that the other party was the aggressor. However, he stated that the witness officer did so and noted this in the incident report. The named officer noted that the incident report was submitted to the District Attorney's

office in the rebooking packet, and it would have been redundant to copy and paste the witness officer's statement into his chronological since it was already being provided to the DA in the incident report.

A recording of the civilian witness' interview indicates that the named officer's chronological was consistent with the witness' statement. In addition, the officer who viewed the security footage prepared a written statement, which was attached to the incident report.

A preponderance of the evidence established that the named officer's actions were proper.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

SUMMARY OF ALLEGATION #2: The officer violated the complainant's Miranda rights.

CATEGORY OF CONDUCT: ND **FINDING:** NS **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated that after he was arrested, he was taken to a nearby police station where the named officer attempted to question him about the incident. The complainant stated that he invoked his Miranda rights, but the named officer still attempted to question him. The complainant informed the named officer that he was required to stop questioning him. The complainant said that the named officer then snapped and said, "Actually, I can!"

The named officer stated that he brought his tape recorder into the area where the complainant was being detained. The named officer stated that the complainant immediately stated that he wanted to see his lawyer, prompting the named officer to immediately stop and leave the room.

No audio recordings of the attempted interview were located. No witnesses were identified.

It should be noted that the complainant's refusal to provide a statement to the named officer was documented in the named officer's Chronological of Investigation.

There was insufficient evidence to either prove or disprove that the named officer attempted to continue to question the complainant after the complainant invoked his Miranda rights. There was insufficient evidence to either prove or disprove the allegation.

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SUMMARY OF ALLEGATION #1: The officer used excessive force.

CATEGORY OF CONDUCT: UF **FINDING:** S **DEPT. ACTION:**

FINDINGS OF FACT: The complainant complained about the named officer using excessive force on a disabled person. Together with his complaint, the complainant submitted a video footage as proof of his claim.

Department records showed the named officer was the first responder on scene for a silent robbery alarm.

The video footage showed the named officer contacting the disabled person, later identified as the suspect, on a sidewalk. The suspect could be seen holding whirling around his leather bag a couple of times at the officer. It is, however, unclear from the video if the bag, or any part of it, made contact with the officer. As the two continued to talk, the officer suddenly pushed the suspect to the ground. A physical struggle ensued between the officer and the suspect, and at one point, the officer could be seen punching the suspect several times. The physical altercation only stopped when the suspect's nurse came out from a building and pacified the situation.

The named officer stated that upon arrival at the scene, a crying female pointed to him the suspect and said that the latter had earlier attacked her. The named officer stated the female said the suspect was crazy and might be off his medications. The named officer stated he looked at suspect and observed him experiencing mental crisis. He thought he could calm the suspect down, so he contacted the suspect. The named officer stated the suspect was agitated, yelling and cursing the whole time. He thought the suspect was having mental breakdown, was intoxicated and under the influence of narcotics. The named officer stated he tried to understand the suspect by asking what was bothering him and if he was taking his medications, but the suspect refused to provide straight answers. The named officer stated the suspect screamed at him, used profanities and started swinging his leather bag around. The named officer stated he moved out of the way a couple of times in order not to get hit with the bag and told the suspect to stop. The named officer stated the suspect refused to listen and swung his bag at him again, hitting him in the head with the bag's strap. The named officer stated he then pushed the suspect to the ground.

The officer stated he punched the suspect two or three times on the shoulders because the suspect's hands were scratching his face and eyes. The named officer stated he was not sure if the suspect could understand, but he believed the suspect was emotionally and mentally unstable. The officer stated he did not call for additional resources but acknowledged that he should have called one earlier in the contact.

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SUMMARY OF ALLEGATION #1 (Continued)

A witness stated that she saw the suspect laying on the ground with the named officer on top of him punching the suspect three times in the face.

Another witness stated it appeared to her like the suspect was fighting with the officer because the suspect tried stretching or punching his hands out during the commotion. The witness stated she did not see the initial contact between the officer and the suspect and did not see the officer punch the suspect.

Another witness stated he did not see the physical altercation between the officer and the suspect.

The suspect recalled being taken down to the ground outside the hotel's front door by the named officer. He recalled the officer grabbing him and throwing him down and people telling the officer to stop. The suspect stated the officer just kept on assaulting him, and all he did was to block the officer's assault.

A patrol supervisor stated that when he arrived at the scene, the named officer initially told him that he pushed the suspect and latter stumbled to the ground due to intoxication. The patrol supervisor stated that when he reviewed the video footage of the incident, he realized that the named officer had struck the suspect several times. The patrol supervisor stated he immediately reported the named officer's use of force and talked to the named officer again who admitted that he punched the suspect several times.

No other witnesses came forward.

Section I(C) of Department General Order 5.01, Use of Force, states:

DE-ESCALATION. Officers shall, when feasible, employ de-escalation techniques to decrease the likelihood of the need to use force during an incident and to increase the likelihood of voluntary compliance. Officers shall when feasible, attempt to understand and consider the possible reasons why a subject may be noncompliant or resisting arrest. A subject may not be capable of understanding the situation because of a medical condition; mental, physical, or hearing impairment; language barrier; drug interaction; or emotional crisis and have no criminal intent. These situations may not make the subject any less dangerous, but understanding a subject's situation may enable officers to calm the subject and allow officers to use de-escalation techniques while maintaining public and officer safety. Officers who act to de-escalate an incident, which can delay taking a subject into custody, while keeping the public and officers safe, will not be found to have neglected their duty. They will be found to have fulfilled it.

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SUMMARY OF ALLEGATION #1 (Continued)

Section III(C) of the same Department General Order states, in part:

DE-ESCALATION. When encountering a non-compliant subject or a subject armed with a weapon other than a firearm, officers shall when feasible, use the following de-escalation tactics in an effort to reduce the need or degree of force:

3. Request additional resources, such as Crisis Intervention Team (CIT) trained officers, Crisis/Hostage Negotiation Team, or Extended Range Impact Weapon;

The evidence showed the suspect was behaving strangely and was not of sound mind. According to the named officer, the suspect was experiencing mental crisis and was emotionally disturbed. He also observed the suspect to be intoxicated and under the influence of narcotics. According to the named officer, the suspect did not understand what he was saying, and he recalled being warned that the suspect might not have been taking his medications. Despite the crucial information, the named officer failed to call for additional resources, as required, to better deal with the situation. The named officer acknowledged that he should have called one earlier in the contact. The evidence showed it was feasible for the named officer to call for additional resources, and had he did it, the use of force would have likely been averted.

Pushing the suspect hard to the ground was excessive and unreasonable. The named officer was aware that the suspect was physically disabled. The suspect was visibly using a walker to assist his mobility. Although the suspect whirled his bag around a couple of times, there was no clear evidence that the bag, or any part of it, contacted the named officer. As they continued to talk, the named officer suddenly pushed the suspect hard to the ground without apparent provocation on the part of the suspect. Once on the ground, the named officer repeatedly punched the suspect on his shoulders and on the side of his face. The named officer argued that he punched the suspect several times because the suspect was scratching his face and his eyes out. However, the named officer was the initial aggressor. The suspect had the right to defend himself against the named officer's unlawful use of force. The suspect might have been verbally aggressive, but the evidence showed he was not in his proper mental state. Instead of hastily using force, the named officer should have called for additional resources as required under DGO 5.01.

A preponderance of the evidence therefore proved that that the conduct complained of did occur, and that using as a standard the applicable regulations of the Department, the conduct was improper.

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SUMMARY OF DPA-ALLEGATION #1: The officer failed to comply with Department General Order 10.11, Body Worn Cameras.

CATEGORY OF CONDUCT: ND **FINDING:** S **DEPT. ACTION:**

FINDINGS OF FACT: The applicable Department policy is DGO 10.11, Body Worn Cameras, dated June 1, 2016. Section III(C) of the DGO states, in part, that all on-scene members equipped with a BWC shall activate their BWC equipment to record in the following circumstances:

1. Detentions and Arrests
2. Consensual encounter where the member suspects that the citizen may have knowledge of criminal activity as a suspect, witness, or victim, except as noted in Section III, D.

The named officer acknowledged not activating his Body Worn Camera (BWC). The contact was a consensual encounter that later became a detention. The named officer thought the suspect committed the crime of assault or had knowledge of criminal activity. The named officer had enough time to activate his BWC. The named officer acknowledged his mistakes and stated that he should have activated his BWC pursuant to Department policy. The evidence showed the officer was counseled by his supervisor for not activating his BWC.

A preponderance of the evidence therefore proved that that the conduct complained of did occur, and that using as a standard the applicable regulations of the Department, the conduct was improper.

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SUMMARY OF DPA-ALLEGATION #2: The officer misrepresented the truth.

CATEGORY OF CONDUCT: CRD **FINDING:** S **DEPT. ACTION:**

FINDINGS OF FACT: The named officer allegedly had misrepresented the truth by not being truthful about the force used on the suspect.

DGO 2.01, General Rules of Conduct, states in part:

9. MISCONDUCT. Any breach of peace, neglect of duty, misconduct or any conduct by an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action.

The patrol supervisor stated that the named officer initially told him that he only pushed the suspect to the ground. However, after watching the video footage of the incident, he learned that the named officer struck the suspect several times. The patrol supervisor stated that he immediately notified his lieutenant about the named officer's unreported use of force and failure to activate BWC. The patrol supervisor stated he also talked to the named officer again wherein the latter admitted punching the suspect several times.

The video footage from the supervisor's BWC showed the named officer telling the supervisor that he only pushed the suspect and the latter stumbled to the ground. In his words, the named officer said, "But like I said, I didn't punch him. I pushed him."

The named officer's regular supervisor stated that he verbally counseled the named officer about activating his BWC and reporting every use of force. He stated the named officer should have reported the use of force to any supervisor on scene pursuant to Department policies that require immediate reporting of any use of force. He stated that the named officer acknowledged his mistakes during the counseling.

The named officer stated he initially did not tell the patrol supervisor that he punched the suspect several times because he believed there was no reason for him to go into specific details about the incident. The named officer acknowledged that punching the suspect was a reportable use of force. However, he stated that he had no duty to notify the supervisor because the latter was not his immediate supervisor.

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SUMMARY OF DPA-ALLEGATION #2 (Continued)

The named officer stated that when the patrol sergeant talked to him again, he admitted that he punched the suspect several times on the shoulders and on the side of his face.

The evidence showed the patrol supervisor asked the named officer about his contact with the suspect. The named officer did not report to the patrol supervisor that he punched the suspect several times on the shoulders and on the side of his face. He initially reported that he only pushed the suspect and the latter stumbled to the ground due to intoxication. It was only after patrol supervisor learned about the use of force and talked to him again that he told the truth about the force used on the suspect. The named officer had misrepresented the truth. Pursuant to DGO 2.01, his untruthful conduct was prejudicial to the efficiency and discipline of the Department.

A preponderance of the evidence proved that the conduct complained of did occur, and that using as a standard the applicable regulations of the Department, the conduct was improper.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 05/19/18 **DATE OF COMPLETION:** 02/15/19 **PAGE#** 1 of 4

SUMMARY OF ALLEGATION #1-3: The officers engaged in biased policing based on race.

CATEGORY OF CONDUCT: CRD **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated that she met with her movers (who were African-American) and they were visibly upset. She stated that the movers told her they were questioned by police. The complainant said she did not know who called the police or why they were called. The complainant stated the officers' response to the call for service and the subsequent questioning was based on the movers' race.

The named officers stated that they responded to a call regarding a fight with no weapons, that was later discovered to be a traffic collision. The named officers said that the descriptions of all involved parties were provided by dispatch, based on information from the reporting parties. They acknowledged that one or more suspects were described as black, male, in his 20's. The named officers also said that one of the suspects was described as driving a yellow moving truck. One named officer stated that one suspect was located, who matched the description given by dispatch, and who was near a yellow moving truck. That suspect was interviewed, and he admitted to hitting the reporting party's parked vehicle, but said he was in the process of leaving his contact information. That named officer stated that another police unit had interviewed one of the reporting parties and confirmed that no physical altercation had occurred. The named officer described the interaction with the driver of the moving truck as pleasant. A second named officer stated that he responded to the call but had minimal contact with the movers. A third named officer stated that he was a back-up officer and assisted with the information exchange between the involved parties. All named officers stated that the race of the involved parties was not a factor in the way they handled the call.

Witness officers stated that they did not observe any officers engage in any inappropriate behavior.

Two witnesses were interviewed and stated that the police were contacted to assist in the information exchange related to a traffic collision, but they were not present during the named officers' contact with the movers.

The movers did not respond to requests for an interview with the DPA.

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SUMMARY OF ALLEGATION #1-3: (Continued)

Department of Emergency Management records show the named officers were responding to a call labeled as a “Priority A, Type 418-Fight No Weapon”. The records show that one suspect was described as a black, male, adult, in his 20s; another as a black, male driving a yellow moving truck. Later comments were added by both a named officer and another police unit, that the call was an “exchange of information only.”

SFPD Body Worn Camera (BWC) recordings show one of the named officers interviewed movers who were African American and had a yellow moving truck. The recordings show one named officer explained to the movers that the reason for the multiple police units was because the report was of a fight. The recordings show that one of the subjects admitted he was the driver, had hit the reporting party’s car, and was in the process of leaving his contact information. The recordings show the named officers assisted with the exchange of information.

SFPD General Order 5.17, Policy Prohibiting Biased Policing, states in part:

Department personnel may not use, to any extent or degree, actual or perceived race, color, ethnicity, national origin, religion, gender, age, sexual orientation, or gender identity in conducting stops or detentions, or activities following stops or detentions except when engaging in the investigation of appropriate suspect specific activity to identify a particular person or group. Department personnel seeking one or more specific persons who have been identified or described in part by any of the above listed characteristics may rely on them in part only in combination with other appropriate identifying factors. The listed characteristics should not be given undue weight.

The named officers questioned the movers based on the description provided by dispatch. That description included race, but also included age, gender, location, and a vehicle description. The BWC video showed that one or more of the movers appeared to match the description and that they were using a yellow moving truck, as described by the reporting party. The named officers used race appropriately as one characteristic, among others, to identify suspects, then quickly determined a fight had not occurred.

The evidence proved that the acts alleged in the complaint did not occur.

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SUMMARY OF DPA-ADDED ALLEGATIONS #1-2: The officers failed to comply with Department General Order 10.11, Body Worn Cameras.

CATEGORY OF CONDUCT: ND **FINDING:** S **DEPT. ACTION:**

FINDINGS OF FACT: While investigating the incident, the DPA discovered the named officers had not activated their BWC's while on scene.

Both named officers acknowledged that they did not activate their body-worn cameras. Both named officers stated they responded to a call involving a fight and they both spoke to the reporting party. The named officers stated they did not have any contact with any other parties on scene. One named officer stated she did not recall the specifics of the conversation with the reporting party, but he was asked if he was hurt and told the officers about a traffic collision. The same named officer stated that the situation did not warrant body-worn camera activation because they, "determined after speaking with the reporting party that it was just a 518, with no injuries as a result of the collision." A second named officer stated that the reporting party told them that he requested police assistance because he was uncomfortable handling the situation alone. The same named officer stated that although they were the first officers to speak to the reporting party, they had been there a short period of time before another police unit took over and they were dispatched to another call. The second named officer stated that based on the reporting party's statement, and lack of evidence that a fight had occurred, they determined that the situation was only a traffic collision, and BWC activation was not required. Both named officers stated they did not recall if the reporting party mentioned a fight.

Department of Emergency Management records show the named officers, along with several other police units, were responding to a call that was initially labeled a "Priority A, Type 418-Fight No Weapon". After the named officers were on-scene and interviewing the reporting party, comments were added by other police units describing the situation as an "exchange of information only" and "no merit to 240 or 418."

SFPD General Order 10.11 states in part, "All on-scene members equipped with a BWC shall activate their BWC equipment to record in the following circumstances... Consensual encounters where the member suspects that the citizen may have knowledge of criminal activity as a suspect, witness, or victim."

While a mere exchange of information related to a traffic collision may not require activation of BWCs, an investigation of a reported fight would require activation under DGO 10.11. If the named officers had learned, before arrival, that the call had been downgraded, that might have justified their lack of BWC

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SUMMARY OF DPA-ADDED ALLEGATIONS #1-2: (Continued)

activation. In this case, the named officers responded to a reported fight and should have activated their BWCs when they arrived on scene, and during their investigation.

A preponderance of the evidence proved the conduct complained of did occur and, using as a standard the applicable regulations of the Department, the conduct was improper.

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DATE OF COMPLAINT: 05/21/18 **DATE OF COMPLETION:** 02/06/19 **PAGE#** 1 of 4

SUMMARY OF ALLEGATION #1: The officer wrote an incomplete and/or inaccurate incident report.

CATEGORY OF CONDUCT: ND **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant's 13-year old son was involved in a physical altercation with another student at school. The complainant stated he was unable to file criminal charges against the other child because of inaccuracies in the incident report prepared by the named officer. The complainant was not present when the incident occurred, nor was he present when the named officer took the report and spoke with the school principal.

The complainant identified 3 statements in the incident report he contends are inaccurate.

- 1) The incident report states his child was "elbowing" his way out of the classroom and inadvertently made contact with the child that assaulted him. The complainant stated his son was not "elbowing" his way out of the classroom and that his son was pushed twice before pushing back, then he was struck.
- 2) The incident report states there was a "verbal altercation" between his son and the other student. The complainant disagrees and stated there was no verbal exchange between his son and the other student.
- 3) The incident report states the teacher came to his son's aid as soon as the incident occurred and took his son to the office. It also states that he was called immediately. The complainant said the teacher did not notify him, it was his son who called him from his cell phone immediately after the incident. The complainant stated that he directed his son to go to the principal's office at that time.

The named officer stated that he authored an incident report, at the request of the complainant, approximately two weeks after the incident occurred. The named officer stated he explained the police report process to the complainant via telephone and set up a meeting with the principal to take a report. He interviewed the principal and documented the incident based on what the principal told him. After the initial report, he told the complainant the case would be passed on to an investigative sergeant for follow up and additional interviews. The "elbowing" described in the report came from the principal's statement based on her investigation. The named officer stated he did not know if the case would have been referred to the District Attorney for prosecution as this would be decided by the investigating sergeant based on the follow up investigation.

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SUMMARY OF ALLEGATION #1: (Continued)

The officer in charge of the investigation stated the case was not referred to the District Attorney based on the statements of the victim, witnesses, and teacher. That officer obtained statements from four students who said that the complainant's son was the initial aggressor. That officer also said the complainant's son made inconsistent statements during the investigation. The investigating officer conferred with the acting lieutenant and they concluded no criminal charges would be filed against the suspect because he was not the initial aggressor in the incident.

The school principal stated she did not witness the incident. A student at the school in another classroom reported what happened to her. The principal said that other students and the teacher reported that the complainant's son elbowed his way out of the classroom, pushed his way through four or five students, then pushed the suspect. The principal said, according to these witnesses, the suspect pushed back, words were exchanged, and the suspect punched the complainant's son. The principal stated the suspect came down to the office and reported the incident to her. The teacher tried to get the complainant's son to go to the office with her, but he initially refused. The principal stated the parents later informed her that their son had suffered a concussion, so she contacted the named officer. The principal stated the named officer was very thorough and handled everything very professionally. She later spoke with the officer in charge of the investigation and provided that officer with the teacher's statement.

The incident report narrative states that the named officer met with the school principal, who "shared with me the following incident: ..." The narrative documents that the complainant's son and the other student, "were both sent to the principal's office and parents were notified." The report narrative does not state that the teacher came to his son's aid, that the teacher took his son to the office, or that he was called immediately. The report includes four student statements, which were booked as evidence. Department records show the involved parties were later interviewed by the investigating sergeant and statements were obtained from four students who witnessed the incident.

The named officer reported what was told to him by a reportee, the school principal, and this was clear from his report. Although not summarized in the narrative, the report includes four statements from students as evidence. The decision to move forward with criminal charges was not the named officer's decision and was not based solely on the incident report. The investigation continued after the report was filed. The report accurately documents the information gathered by the named officer and is sufficiently complete for a report written seventeen days after the incident.

The evidence proved that the act alleged in the complaint did not occur.

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SUMMARY OF ALLEGATION #2: The officer failed to take required action.

CATEGORY OF CONDUCT: ND **FINDING:** NS **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated he requested a copy of his son's interview and that the named officer, who conducted the interview, did not provide a copy to him. The complainant also stated the named officer did not respond to his email correspondence.

The named officer stated the complainant emailed her on May 15, 2018 and requested a copy of his son's statement. The complainant's wife emailed her May 17, 2018, also asking for a copy of their son's written statement and the report. The named officer stated she did not respond to these email communications because her investigation had already concluded by May 1, 2018. The named officer forwarded all the emails to the acting lieutenant. The named officer and the acting lieutenant agreed that the named officer should not respond to any further communications from the complainant and his wife, pursuant to DGO 3.16, which requires juvenile information be withheld. The named officer stated she did not respond to the complainant's email because she felt that the complainant and his wife were attempting to bully her because they were not happy with the outcome of the investigation and wanted the juvenile suspect to be criminally charged. The named officer stated she believed the complainant's son was uncomfortable with his parents in the same room while he wrote his statement because of his request for his parents to leave the room while he wrote the statement.

The named officer stated the complainant requested documentation of their son's account of the incident. She took the son's statement and included the statement in the investigation. She did not provide a copy of statement to the complainant because information concerning a juvenile is withheld. At the time she closed the investigation she spoke with the complainant. She stated the complainant was appreciative and indicated he understood the conclusion. He thanked her for conducting the investigation.

E-mail correspondence between the named officer, the complainant and his wife reflect that the named officer responded to emails from the parties on April 30, 2018, May 1, 2018, and May 9, 2018. In the May 9th email the named officer noted inconsistencies in their son's statement and what he recounted to both of his parents. She also informed the complainant and his wife the suspect received discipline as a result of the incident. An email on May 15, 2018 from the complainant to the named officer stated he obtained the incident report and has a better understanding of why they can't move forward and file charges against the suspect.

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SUMMARY OF ALLEGATION #2: (Continued)

Department General Order 3.16 Release of Police Reports, I. Policy C, states, the following shall be withheld:

The name and address of a juvenile who is a suspect or who has been arrested or detained, or any information which might lead to the identity of a juvenile who is a suspect or who has been arrested or detained may not be released without a court order. (*TNG v. Superior Court* (1971) 4 C.3d 767).

It appears that the named officer was generally communicative, up to a point, with the complainant. In regard to providing the complainant a copy of his son's statement, the Department has a protocol for obtaining police reports. There was insufficient evidence to either prove or disprove that the named officer failed to take required actions.

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DATE OF COMPLAINT: 05/13/18 **DATE OF COMPLETION:** 02/26/19 **PAGE#** 1 of 3

SUMMARY OF ALLEGATION #1: The officer used unnecessary force.

CATEGORY OF CONDUCT: UF **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: In a complaint submitted through the SFPD, the complainant stated that he encountered officers involved in an altercation with a citizen on the street. The named officer and his partner were speaking to a homeless man who had been sitting on a sidewalk in violation of San Francisco's "Sit-Lie" policy. The complainant saw the named officer grab the face or throat of the citizen, who was seated on the sidewalk in handcuffs.

The named officer stated that he was assigned to foot patrol the day of the incident. He received numerous complaints about "quality of life issues" from merchants and residents in the area. He stated that he has known the homeless citizen for over two years and has witnessed him in violation of the sit-lie policy many times, but never cited him until the date of the incident. The officer said that he asked the citizen to stand up and move along. The man refused, stood up aggressively, with fists clenched, and shouted expletives at the officer. The named officer and his partner tried to place him in handcuffs. The man resisted, and the three fell to the ground. The officers eventually gained control of the man's hands and secured him in handcuffs, using methods from the Arrest and Control manual.

The named officer denied grabbing the man's face or throat. The named officer stated that he grabbed the man's collar area to get the man's attention and look him in the eyes while talking to him.

Body-worn camera footage from the named officer's camera shows him grasping the man's shoulder/neck/collar area while speaking to him.

A preponderance of the evidence established that the officer's actions were proper.

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DATE OF COMPLAINT: 05/13/18 **DATE OF COMPLETION:** 02/26/19 **PAGE#** 2 of 3

SUMMARY OF DPA-ADDED ALLEGATION #1: The officer behaved and/or spoke inappropriately.

CATEGORY OF CONDUCT: CRD **FINDING:** S **DEPT. ACTION:**

FINDINGS OF FACT: Body-worn camera footages from the officers at the scene show the named officer using profanity while holding the citizen's collar area and telling him to stop talking. As they continued to argue, the named officer clapped his hands and said to the complainant, "Yeah! Yeah! Run your mouth!" The officer also says, "You need to shut the fuck up. You understand that?" The arrestee responds, "Or else you gonna fuck me up again?" The officer the say, "Yes." Arrestee responds, "Seriously, you're gonna fuck me up again?" Officer whispers, "Seriously, fuck you!" The named officer also tells arrestee that the reason arrestee is unable to have a relationship with a woman is because he is a sex registrant.

The named officer acknowledged using profanity. He stated that he used profanity to drive his point because the arrestee was already on verbal tirade. He also stated that in his prior contacts with the complainant, courteous words and tone did not work. He stated that he was trying to control the arrestee. However, the arrestee was handcuffed and seated amongst several uniformed, armed officers who would have been able to quickly subdue arrestee if he became physically aggressive.

Department General Order 2.01, General Rules of Conduct, states in part:

Par. 14. PUBLIC COURTESY. When acting in the performance of their duties, while on or off duty, members shall treat the public with courtesy and respect and not use harsh, profane or uncivil language. Members shall also address the public using pronouns and titles of respect appropriate to the individual's gender identity as expressed by the individual. When requested, members shall promptly and politely provide their name, star number and assignment.

Par. 9. MISCONDUCT. Any breach of peace, neglect of duty, misconduct or any conduct by an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action.

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SUMMARY OF DPA-ADDED ALLEGATION #1 (Continued)

The evidence shows that the named officer was discourteous and disrespectful to the arrestee. The officer used profanity and mocked the complainant. The officer's conduct reflects discredit to the Department and was prejudicial to its efficiency and discipline, in violation of DGO 2.01.

A preponderance of the evidence proved that the act complained of did occur, and that using as a standard of the applicable regulations of the Department, the conduct was improper.

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DATE OF COMPLAINT: 05/31/18 **DATE OF COMPLETION:** 02/22/19 **PAGE#** 1 of 2

SUMMARY OF ALLEGATIONS #1-2: The officers used excessive force during a detention.

CATEGORY OF CONDUCT: UF **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The anonymous complainant stated he witnessed two officers talking to a homeless man. The complainant stated he/she was walking in an intersection when he/she observed the officers use excessive force while detaining the subject. The complainant stated one of the officers tackled the subject to the ground. The complainant further stated the subject did not resist, flee or take part in a physical altercation with the officers. The complainant, who filed the complaint online, did not provide any contact information for further evidence.

The named officers denied using excessive force, stating the amount of force used was reasonable and necessary, because the subject was physically resisting, combative and uncooperative. The officers stated that they followed a Department-trained escalation of force, from their uniformed presence, to verbal persuasion and finally to attempts to control the subject physically. They stated that they used only the force necessary to take the man into custody and did not injure him. The officers stated they were dispatched to the area to investigate a report of a person threatening to strike people with a stick or pipe. The named officers stated the subject was the only male in the area. The named officers stated they contacted the subject and began talking to him. The named officers said the subject refused verbal orders to sit down and step back. The named officers stated the subject clenched his fists, took a fighting stance and then took off his scarf and wrapped it around his right hand. The named officers stated the subject threatened them with injury and asked if they wanted to “square off” or fight him. The named officers stated an immediate use of force was required to get the complainant handcuffed for their safety and his. The named officers stated they struggled to get him into handcuffs before back-up officers arrived.

One of the named officers stated he attempted to grab the subject’s arm, but the subject tucked it underneath his body and refused to give it up. The officer stated he delivered knee strikes to the subject’s torso to force the release of the man’s arm and to get him to flatten on the ground. The named officer further stated he pushed the subject’s head to stop him from turning on his side to gain leverage against the officers.

The other named officer stated that as soon as he saw the subject was preparing to strike at them, he charged the subject, striking with his right forearm across the subject’s chest and using a control hold to secure one of the subject’s arms. The named officer stated the subject was a larger, heavier person than either of the officers.

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SUMMARY OF ALLEGATIONS #1-2: (Continued)

Body Worn Camera (BWC) footage from the named officers showed that they attempted to de-escalate the situation when they initially spoke to the subject, but that the subject failed to comply with requests to calm down and the multiple verbal orders given to him. The footage shows the subject taking a fighting stance, clenching his fists and wrapping a scarf around his right hand. The man threatens the officers and effectively challenges them to fight. One of the named officers tackles the subject and takes him to the ground, while the other named officer grabs one of the subject's arms. The subject actively resists the officers while on the ground, pulling, yelling, and refusing to allow his handcuffing. One of the named officers delivers several knee strikes to the subject's abdomen, which are initially ineffective. As the struggle is ongoing, for several minutes, one of the officers calls over his radio for additional officers.

Department records showed that the officers were dispatched to a call regarding a possibly mentally disturbed person who had threatened the reporting party with a stick. The records also showed that the named officers reported the use of force to their supervisor, and the supervisor made the entry into the Use of Force Log, and completed a Supervisory use of Force Report evaluation, deeming the force as reasonable.

SFPD General Order 5.01, Use of Force, states, in part: "officers may use force during the performance of their duties...to effect the lawful arrest/detention of persons resisting or attempting to evade that arrest/detention." The order also instructs that officers, when encountering a threat from a possibly mentally disturbed person, should attempt to de-escalate the situation and call for additional resources.

The named officers in this incident were faced with an immediate threat followed the instructions in the General Order, and properly used the minimal amount of force necessary to accomplish their law enforcement goal.

No witnesses came forward.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

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DATE OF COMPLAINT: 05/31/18 **DATE OF COMPLETION:** 02/05/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The officer threatened to arrest the complainant without justification.

CATEGORY OF CONDUCT: CRD **FINDING:** NS **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated that the named officer threatened to arrest him and his colleague. The complainant stated they work security at the shopping mall. The complainant stated they contacted a subject who complained to shoppers about his recent dissatisfaction with one of the mall's retail store. The complainant further stated the subject refused to leave the mall. The complainant contacted dispatch and requested assistance from the police to escort the subject from the mall.

The named officer stated he did not threaten to arrest the complainant and his colleague. The named officer stated he only advised them that they needed to be careful in civil matters as they could put their company in jeopardy of a civil suit from the subject based on their own admissions of allowing him to stay at the mall. The named officer stated they told the officers that the subject purchased something, therefore he was not a trespasser. The named officer further stated the complainant and his colleague confirmed that there was no merit to any violations to the code of conduct, and the subject could stay in the mall. The named officer stated a mutual solution was reached between the security guards and the subject.

The witness officer denied hearing the named officer threatened to arrest the complainant and his colleague.

The complainant's witness, a colleague, stated the named officer told them that they would be arrested, because they were impeding on the subject's civil rights to protest.

No other witnesses were identified.

There was insufficient evidence to either prove or disprove the allegation.

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DATE OF COMPLAINT: 06/07/18 **DATE OF COMPLETION:** 02/19/19 **PAGE#** 1 of 3

SUMMARY OF ALLEGATION #1: The named officer behaved inappropriately and made inappropriate comments.

CATEGORY OF CONDUCT: CRD **FINDING:** NS **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated the named officer told her the case involving her vehicle was with the District Attorney, and the named officer didn't have any other information other than to tell the complainant it was related to a kidnapping incident. The complainant stated the named officer spoke to her like she was a criminal. The complainant did not provide any further information.

The named officer denied the allegation, stating that he was courteous and professional when he spoke to the complainant.

No witnesses were identified.

There was insufficient evidence to either prove or disprove the allegation.

SUMMARY OF ALLEGATION#2: The complainant's vehicle was searched without cause.

CATEGORY OF CONDUCT: UA **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated her vehicle was searched without a search warrant. The complainant stated she gave the vehicle to her son to use as his vehicle.

The named officer stated a search warrant was obtained to search the complainant's vehicle. Probable cause was based on the fact the complainant's vehicle was used in a felony kidnapping incident.

Department records showed that the search was conducted pursuant to a search warrant.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

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SUMMARY OF ALLEGATION #3: The officer seized a vehicle without cause.

CATEGORY OF CONDUCT: UA **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated her car was seized while in her son's possession. She stated the named officer placed a hold on her vehicle and would not tell her when she would get her car back. The complainant stated the named officer had no right to seize the vehicle.

The named officer stated he ordered the seizure of the complainant's vehicle because it was used in a felony kidnapping incident. The vehicle was towed for evidence as part of the criminal investigation.

Department Records show the hold on the vehicle was removed after it was processed for evidence. The complainant has since retrieved her vehicle.

SFPD General Order 9.06 Vehicle Tows states:

It is the policy of the Department that an officer, may, in addition to other circumstances described in this order, tow a recovered vehicle when either of the following conditions exists:

- a. The vehicle is not operable.
- b. The officer believes a hold must be placed on the vehicle, e.g., the vehicle was involved in the commission of a crime, contains physical evidence, altered VIN.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

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SUMMARY OF ALLEGATION #4: The officer intentionally damaged property.

CATEGORY OF CONDUCT: UA **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated the District Attorney allowed her to go to Auto Return to retrieve her personal property from her vehicle. The complainant stated that when she saw her vehicle, she noticed there was damage to the interior compartment.

The named officer stated he met the complainant at Auto Return to allow the complainant to retrieve her personal property from the vehicle. The named officer stated he observed damage to the driver seat upholstery. The named officer stated the damage may have been caused by the Crime Scene Investigations Unit when they processed the vehicle for evidence related to the felony kidnapping crime.

Department Records show the complainant's vehicle was processed for fingerprints and DNA evidence.

Photographs of the damage to the car seats appear consistent with a forensic examination of a vehicle.

The evidence established that the named officer was not responsible for the damage caused to the complainant's vehicle.

The evidence proved that the act alleged did not occur.

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DATE OF COMPLAINT: 06/26/18 **DATE OF COMPLETION:** 02/04/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The officer made inappropriate comments and acted inappropriately.

CATEGORY OF CONDUCT: CRD **FINDING:** NS **DEPT. ACTION:**

FINDINGS OF FACT: The complainants stated that they were at a large rally and march. The complainants got into a verbal conflict with another group at the march. A police officer driving an SFPD vehicle was following the march. At one point the driver of the SFPD vehicle yelled something to the effect of, "I will run you over." The comment caused the tension to escalate amongst the two groups arguing.

The named officer stated that he was assigned to patrol the march and respond if there was a critical incident such as a terrorist attack or mass shooting. The named officer did see a conflict happening among some people in the march but did not know what the source of the conflict was. The named officer denied saying anything to the effect of, "I will run you over." The named officer stated that he had nothing but positive contact with people throughout the entire rally. The named officer stated he did not activate his body-worn camera because there was no valid reason to activate it.

A witness who was affiliated with another group than the complainants stated that she did not witness any inappropriate conduct by SFPD officers, and she specifically stated that she did not hear an officer say he would run people over. The witness also stated that the complainants could be lying about the incident.

The DPA reviewed multiple videos of the conflict publicly available online and did not observe anything that the complainants described.

No other witnesses were identified.

There was insufficient evidence to either prove or disprove the allegation.

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COMPLAINT SUMMARY REPORT**

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SUMMARY OF ALLEGATIONS #1 - 2: The officers detained the complainants without justification.

CATEGORY OF CONDUCT: UA **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainants, who are sisters, stated that the named officers detained them and their cousin without justification. The first complainant stated they were on their way home and had just exited a taxi because her sister needed to use the restroom. The first complainant stated she thought her sister was going to get a ticket for urinating in public because she had her pants pulled down when the two named officers pulled up in a patrol car and shined a light on them. The first complainant stated the named officers told them to sit down because they matched the description of three females who beat up an older lady at a hotel. The complainant stated her sister matched the description of one of the suspects. The first complainant denied being at the hotel where the battery occurred, and she did not remember the name of the hotel where they had been drinking. The first complainant stated her sister gave the officers a “false name” because she had an outstanding arrest warrant in another jurisdiction. She said that a patrol car pulled up with a lady in it, and her sister was identified as a suspect.

The second complainant stated they had just left a hotel where they had been drinking and got into a taxi and were traveling to another hotel when she started to urinate on the seat of the taxi. The taxi driver pulled over and the three of them got out. The complainant stated she was urinating on the sidewalk when two officers pulled up in a patrol car and asked them what they were doing. The complainant stated she asked the officers about probable cause, and one of the officers told her they were investigating a complaint about three girls beating up a man at a hotel. The complainant denied she was at the hotel where the battery occurred. The officers detained them and made them sit on the ground. The officer told them they were bringing the victim down to identify them. The complainant stated another patrol car pulled up with the male victim and the victim identified her as the suspect.

The named officers stated they stopped the complainants and their cousin because they matched the description provided by dispatch, were in the vicinity of where the taxi company said they were dropped off, and because one of the women was urinating in public.

Department records show that officers were dispatched to a hotel regarding a vandalism incident. The caller stated that three adult black females were tearing up things and trying to get into the hotel which was closed. The caller provided a description of the suspects. Dispatch also advised the officers the subjects had left the hotel in a yellow cab and provided the cab number. The victim, who was the bellman at the hotel, told the responding officers three women were requesting to enter the hotel to use the

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SUMMARY OF ALLEGATIONS #1 – 2 contd.

bathroom. The bellman denied their requests because the hotel was closed, and they were not guests of the hotel. One of the women got angry and went towards the reception desk to push a computer to the ground.

She then forcefully grabbed the bellman's jacket. The bellman said that all three females then got into a cab and left the scene. Dispatch contacted the driver of the cab to pull over. The driver dropped off the 3 passengers. The named officer and his partner responded as backup and searched the area where the females had been dropped off. According to the documentation, they detained the three female subjects based on the location, provided description, and because one of the females was observed urinating on the sidewalk.

The complainants' cousin did not respond to DPA's request for an interview.

Body Worn Camera (BWC) recordings of the incident shows the named officers approach and question the complainants and their cousin on a street corner. The recordings show that one of the complainants apologized and said that she had urinated on herself. The recordings show the primary unit officers, investigating the vandalism and battery at the hotel, drove the victim to the location where the three females were being detained, and conducted a cold-show. The victim positively identified the second complainant as the one who grabbed his jacket. The victim told the officers he wanted to press charges against the second complainant and signed a Citizen's Arrest form. The recordings show that the named officers confirmed the identities of one of the complainants and her cousin, who were issued Certificates of Release and allowed to leave. The named officers were unable to identify the second complainant because she did not have any identification in her possession. The recordings show that she provided a name that did not appear to be her name, based on the officers' queries. When the second complainant was transported to the station and fingerprinted, the named officers confirmed the second complainant's actual identity. The named officers discovered the second complainant had an outstanding no bail warrant out of another jurisdiction. The recordings show the second complainant made multiple inconsistent statements to the named officers during the contact.

SFPD General Order 5.03, Investigative Detentions, states, "A police officer may briefly detain a person for questioning or request identification only if the officer has a reasonable suspicion that the person's behavior is related to criminal activity. The officer, however, must have specific and articulable facts to support his/her actions; a mere suspicion or 'hunch' is not sufficient cause to detain a person or to request identification."

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SUMMARY OF ALLEGATIONS #1 – 2 contd.

The named officers had sufficient facts to rely on to justify detaining the complainant, her sister and cousin. First, they saw one engaged in criminal conduct. Second, they were three individuals together, female, African American, and in the area where a taxi reportedly dropped off suspects. They were questioned, and detained, only as long as it took to conduct the cold show.

The evidence proved that the acts, which provided the basis for the allegations occurred. However, the acts were justified, lawful, and proper.

SUMMARY OF ALLEGATIONS #3 - 4: The officers engaged in biased policing due to race.

CATEGORY OF CONDUCT: CRD **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainants stated the named officers told them the only reason they stopped them is because they were black females. Both complainants stated the named officers told them they were looking for three black females who assaulted a person at a hotel.

Both of the named officers denied the allegation. The named officers stated there was reasonable suspicion to detain the complainants because they were investigating a crime that had just occurred at a hotel and the complainants matched the physical description put out by dispatch, and they were observed in the vicinity of the suspects' last known location provided by dispatch. Both officers stated their actions were based on the facts and not motivated by bias based on race or gender.

Department records show there was a call for service related to vandalism at a hotel and that dispatch broadcast information regarding three black female suspects who got into a taxi cab. The information provided to the officers by dispatch included a clothing description of one of the suspects, the taxi cab vehicle number and the direction of travel of the taxi. Dispatch was in contact with the dispatcher of the taxi company who was in contact with the driver of the taxi. The taxi driver was instructed to pull over and the three females exited the taxi. The named officers arrived at the location shortly afterwards and observed the three females, one of whom was urinating on the sidewalk.

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SUMMARY OF ALLEGATIONS #3 – 4 contd.

SFPD General Order 5.17, Policy Prohibiting Biased Policing, states:

Department personnel may not use, to any extent or degree, actual or perceived race, color, ethnicity, national origin, religion, gender, age, sexual orientation, or gender identity in conducting stops or detentions, or activities following stops or detentions except when engaging in the investigation of appropriate suspect specific activity to identify a particular person or group. Department personnel seeking one or more specific persons who have been identified or described in part by any of the above listed characteristics may rely on them in part only in combination with other appropriate identifying factors.

The evidence established that the named officers detained the complainants and their cousin based on the information provided by dispatch. In addition, the officers observed one of the complainants urinating in public. The evidence proved that the acts alleged in the complaint did not occur.

SUMMARY OF DPA-ADDED ALLEGATION #1: The officer failed to comply with SFPD Department Bulletin Nos. 16-208 and 17-213, eStop – Contact Data Collection Program.

CATEGORY OF CONDUCT: ND **FINDING:** S **DEPT. ACTION:**

FINDINGS OF FACT: SFPD Department Bulletin 16-208, eStop – Contact Data Collection Program, requires members to collect and enter stop data for “all stops, including but not limited to pedestrian, bicycle and vehicle stops. ... In order to avoid duplicate entries, if more than one member is involved in a stop, the member who initiated the stop is required to collect the above information and ensure it is properly entered into eStop.”

The named officer stated he was acting as a Field Training Officer at the time and was on patrol with his recruit. The named officer did not recall making the required entry and stated he believed the primary unit officer or the recruit officer was responsible for entering the required data. The named officer stated he did not know who initiated the detention between him and his recruit, as they both exited the car and detained the subjects at about the same time. The named officer acknowledged he was the senior officer.

The Department found no record of the required traffic stop data being collected and entered as required.

A preponderance of the evidence proved the conduct complained of did occur, and that using as a standard the applicable regulations of the Department, the conduct was improper.

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SUMMARY OF ALLEGATION #1: The officer behaved inappropriately and made inappropriate comments.

CATEGORY OF CONDUCT: CRD **FINDING:** NF/W **DEPT. ACTION:**

FINDINGS OF FACT: The complainant requested a withdrawal of the complaint.

SUMMARY OF ALLEGATION #2: The officer issued a citation without cause.

CATEGORY OF CONDUCT: UA **FINDING:** NF/W **DEPT. ACTION:**

FINDINGS OF FACT: The complainant requested a withdrawal of the complaint.

SUMMARY OF ALLEGATION #3: The officer wrote an inaccurate citation.

CATEGORY OF CONDUCT: ND **FINDING:** NF/W **DEPT. ACTION:**

FINDINGS OF FACT: The complainant requested a withdrawal of the complaint.

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SUMMARY OF ALLEGATIONS #1-3: The officers used unnecessary force.

CATEGORY OF CONDUCT: UF **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated that from her window she saw two or three officers tackle a man to the ground. The two officers restrained the man, while another officer slammed the man's head to the ground.

Two witnesses stated they saw a man slap and choke a woman. When the witnesses intervened on the woman's behalf, the man charged at them. Another bystander intervened and attempted to calm the man down and they walked out of view. The man returned a short time later, so the police were called to report the assault and battery. An officer arrived at the scene while the man was in eyesight of the witnesses. The same officer followed the man to detain him. One witness stated that the man was aggressive toward him and the officers, but neither witnesses saw the handcuffing or arrest.

The named officers denied the allegation, stating the male subject failed to comply with lawful orders and physically resisted arrest. They stated that they used reasonable force to arrest the male subject. They stated body-worn camera footage would support their actions.

Police records show that initially one officer arrived at the scene to detain the male subject; however, after the male subject physically resisted arrest, the officer called for backup. The detaining officer reported that he used his baton to effect the arrest, while the other two backup officers tackled and used control holds to assist in the arrest. The male subject was arrested for domestic violence and an active warrant. The female battery victim provided a statement and received an Emergency Protective Order.

DPA made attempts to contact the female battery victim and the male subject but received no response.

Body worn camera footage shows the male subject actively resisting arrest. The arrest required multiple officers due to the male subject's size, strength, and willingness to fight. An officer holds the male subject's head down to keep him from moving while the other officers grab untuck his arms to handcuff him. Once the handcuffs are placed on the male subject, the officer removes his hands from the subject's head.

A preponderance of the evidence established that the named officers used reasonable amount of force to take the suspect into custody. The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

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SUMMARY OF ALLEGATION#1: The officer had a rude demeanor.

CATEGORY OF CONDUCT: CRD **FINDING:** NS **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated that she is disabled, and public transportation is her primary mode of transportation. The complainant was waiting to take her regular bus home at night, but the bus driver was refusing to drive and already missed two departure times. The complainant asked the bus driver why he was not departing. The bus driver got angry and called police. The SFPD officer who arrived was rude to the complainant. The officer made her get off the bus. The officer suggested the complainant pay for a ride share, which the complainant could not afford.

The named officer stated that he responded to a call to meet with a city employee. When the named officer arrived, the bus driver told him that the complainant was unruly and disruptive. The named officer asked the complainant to get off the bus, and the complainant complied. The named officer stated that he could not recall any other details.

The Municipal Transportation Agency confirmed that there was a disturbance reported on the bus at the time of the incident, but there is no indication that the MTA investigated the matter any further.

No other witnesses were identified.

There was insufficient evidence to either prove or disprove the allegation.

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SUMMARY OF ALLEGATIONS #1-7: The officers searched the complainant's house without justification.

CATEGORY OF CONDUCT: UA **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated that officers entered her home searching for a man who was present in the home, and whom the complainant acknowledged was on probation. The complainant alleged that the search was unjustified.

Two of the named officers saw a male dismounting from a stolen motorcycle. The officers followed the man, whom they later identified and learned had gone into the complainant's home. Shortly thereafter, other named officers arrived at the scene. The officers performed a record check and found that a man who lived in the complainant's home was on probation with a search condition. The officers entered the complainant's house, conducted a probation search of the residence, located the suspect and evidence that tied him to the stolen motorcycle.

Department records showed that the person was on active probation at the time of the incident. The complainant admitted that the person was on probation at the time.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

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SUMMARY OF ALLEGATIONS #8-9: The officers behaved inappropriately.

CATEGORY OF CONDUCT: CRD **FINDING:** NS **DEPT. ACTION:**

FINDINGS OF FACT: The complainant alleged that she was naked when the officers entered her house. The complainant stated the officers improperly watched her get dressed.

The named supervising officer stated that he and the other named officer did enter the room where the complainant was when they entered her home, but he said the complainant was fully clothed when he and his officers entered the house. The officer stated no one watched the complainant get dressed.

The other named officer stated that he did not recall if the complainant was unclothed.

Department records indicated that the two named officers entered the home through the bedroom window, where the complainant said she was located.

Several other officers at the scene stated that the complainant was fully clothed when they saw her.

No other witnesses came forward.

There was insufficient evidence to either prove or disprove the allegation.

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SUMMARY OF ALLEGATION #1: The officer spoke and behaved inappropriately.

CATEGORY OF CONDUCT: CRD **FINDING:** NS **DEPT. ACTION:**

FINDINGS OF FACT: The complainant said the named officer was unprofessional, insensitive, and sarcastic during five telephone conversations with him about the complainant's missing daughter, who was found with her mother about to board a flight in the San Francisco Airport.

The named officer acknowledged speaking to the complainant but could not recall whether he made any of the remarks attributed to him during multiple telephone conversations.

No witnesses were identified.

There was insufficient evidence to either prove or disprove the allegation.

SUMMARY OF ALLEGATION #2: The officer failed to take required action.

CATEGORY OF CONDUCT: ND **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant said he has joint custody of a juvenile with the juvenile's mother, who is restricted from leaving the country without his permission. The complainant provided no evidence to support the restriction when the named officer allowed the mother to board a flight at San Francisco International airport to leave the country with the juvenile.

The named officer prepared the missing person-located incident report required per DGO 6.10 and DB 17-086 in which the named officer stated that the mother showed him a document stamped by a Texas court detailing her exclusive right to designate the primary residence of the juvenile, without regard to geographic location.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

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SUMMARY OF ALLEGATION #1-2: The officers failed to take required action.

CATEGORY OF CONDUCT: ND **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainants stated that they were assaulted by another person in their building. The complainants said that the named officers did not do a custodial arrest of the suspect even though the complainants were injured and had signed a citizen's arrest form.

The named officers stated that a custodial arrest was not made because this was a misdemeanor and not a felony. The named officers stated this determination was based on the types of injuries, the criminal history, the lack of weapons, and the fact that all parties refused medical treatment. The named officers also stated that a custodial arrest was not made because Department policies favor citing and releasing for many types of misdemeanors.

The incident report documents that the named officers spoke with all the involved parties. It documents that the complainants asked for a private person's arrest, while the person who assaulted them did not seek a private person's arrest of them. The report states that, in addition to the injuries and complaints of pain from the complainants, the person who assaulted them also had scratches on her arm. The report documents that the citation and release of the suspect was approved by a sergeant.

The Body Worn Camera (BWC) recordings show that the named officers spoke to all parties and informed them about the possibility of getting a restraining order. The recordings show that the parties were told to keep a distance from each other.

SFPD General Order 5.04, Arrests by Private Persons, states in part:

Whenever a private person summons an officer to take custody of an individual that the private person has arrested or wants to arrest, officers shall ... Determine if probable cause exists to believe the individual committed the crime in question. If probable cause exists such that an arrest should be made, accept the private person's arrest and book or cite the individual as appropriate (see DGO 5.06, "Citation Release").

SFPD General Order 5.06, Citation Release, states in part:

It is the policy of the San Francisco Police Department, in accordance with state law, that officers cite and release all persons arrested for misdemeanor and infraction offences.

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SUMMARY OF ALLEGATION #1-2: (Continued)

If the person is arrested for a misdemeanor offense(s), he/she shall be subject to custodial arrest rather the citation when any of the following conditions exists ... There is reasonable likelihood that the offense would continue or the safety of persons or property would be imminently endangered by the release of the person ... The person is charged with a felony or an offense punishable as either a felony or a misdemeanor (“wobbler”).

...

When receiving an arrest from a private person, the decision to cite or book the suspect shall be made on the basis of eligibility, not the arresting person’s preference ...

The named officers cited the suspect with a misdemeanor and would generally be required to cite and release her on scene. There was not a clear indication that the offense would continue, as the suspect was generally calm while the officers were present, declined to press charges herself, and she was admonished to stay away from the complainants.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

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DPA-ADDED ALLEGATION #1: The officer failed to comply with DGO 10.11, Body Worn Cameras.

CATEGORY OF CONDUCT: ND **FINDING:** S **DEPT. ACTION:**

FINDINGS OF FACT: During the DPA investigation, the named officer's BWC recording began in the middle of the suspect's statement and appeared to have been activated late.

The named officer stated that he did not activate his BWC immediately upon arrival to the scene because he had not yet determined whether or not there was a crime, and he was not going to record something with no evidentiary value. The named officer said he was trying to calm down a boy who was crying while the suspect was giving him the back story. The named officer stated that he activated his BWC when the suspect began to speak of what happened that day. He said he recognized at that point that the information would be helpful for evidentiary purposes.

The named officer's BWC recording starts when he is speaking with the individual who assaulted the complainants. She was crying and appeared to be discussing the earlier confrontation with the complainants. According to the time stamp on the recordings, the named officer activated his BWC more than five minutes after his partner activated his. His partner's BWC was activated at the start of his conversation with the complainants, right after walking up the stairs into the residence.

Records from the Department of Emergency Management show that the named officers responded to an incident, categorized as an "A" priority call 240 Assault/Battery.

SFPD General Order 10.11, Body Worn Cameras, requires that officers activate their BWC's during "consensual encounters where the member suspects that the citizen may have knowledge of criminal activity as a suspect, witness, or victim," and "during any citizen encounter that becomes hostile." In this case, the named officer and his partner were responding to a reported assault in a residence, immediately began interacting with the involved parties and viewing the location of the alleged incident when they entered the residence. Under these circumstances, the named officer was required to activate his BWC upon entering the home, as his partner did, but he failed to do so.

A preponderance of the evidence proved that the conduct complained of did occur, and that using as a standard the applicable regulations of the Department, the conduct was improper.

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SUMMARY OF ALLEGATIONS #1-2: The officers used unnecessary force.

CATEGORY OF CONDUCT: UF FINDING: PC DEPT. ACTION:

FINDINGS OF FACT: The Department of Police Accountability (DPA) initiated an investigation into this officer-involved shooting pursuant to San Francisco Administrative Code §96.11 which states, in pertinent part:

The DPA shall conduct a timely and complete investigation of any incident occurring within the City and County of San Francisco in which a member of the uniformed ranks of the San Francisco Police Department discharges a firearm resulting in the physical injury or death of a person, even if the discharge is accidental.

In 2017, two San Francisco Police Department (SFPD) members discharged their firearms at an individual within the City and County of San Francisco resulting in the death of that individual. The individual is referred to herein variously as the “man,” “subject,” “stepfather,” and “decedent.”

The evidence proved that on the date of the incident the decedent, who was under the influence of methamphetamine and armed with a handgun, took his ex-girlfriend and two young children hostage and barricaded the family in the ex-girlfriend’s apartment. SFPD officers arrived and were met with the decedent threatening to shoot them if they entered the apartment. While the officers retreated and waited for back-up units, the decedent shot one bullet from within the apartment. The evidence proved that a 3-hour standoff between the subject and SFPD ensued while the Hostage Negotiation Team (HNT) tried to end the situation peacefully. After hours of failed and revived negotiations, the subject shot another bullet from within the apartment and told officers that the bullet was for the police and he had shot his ex-girlfriend. SFPD Tactical Company units entered the apartment to rescue the children hostages and found that the decedent had not killed his ex-girlfriend. The decedent had a gun and pointed the gun at officers. Two members discharged their weapons at the subject during the rescue. The subject succumbed to his injuries at the hospital.

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Statement of Named Officer #1

Named Officer #1 was interviewed by SFPD Homicide Detail, Internal Affairs Division, and the DPA. He stated he had not been on duty on the date of the incident but was called out as a member of SFPD Tactical Company to respond to a hostage critical incident and was a part of the crisis entry team on scene. The officer stated that, upon arrival, he was told that a man was holding his ex-girlfriend and their two children hostage. He was told the subject had fired a gunshot earlier. He stated he was told that members of the HNT were in communication with the man. Named Officer #1 stated he and the other members of Tactical Company waited for hours while the HNT tried to negotiate the safe surrender of the hostages. He stated that, during the wait time, he and the team discussed tactical strategies and scenarios, and they were kept abreast of the status of negotiations. He stated the turning point was when another gunshot was heard from within the apartment, and the team was told that the subject stated to the HNT that the shot was for the police and that he had shot his ex-girlfriend. The order was made for the crisis entry team to enter the apartment to rescue the children and render aid to the ex-girlfriend.

Named Officer #1 stated he and his team were provided a hand-drawn layout of the apartment. He stated the front door entry into the apartment was difficult because there was a pile of garbage and debris on the stairway leading up to the main residence. Some of the members of the team headed toward the back entrance to make entry while he, Witness Tactical Officer, Named Officer #2, and Witness Tactical Sergeant climbed up the debris-filled stairway. Once inside the main residence, he stated he identified the room in which the family was being held, and he heard children screaming in terror from within. He kicked open the door and attempted to throw a flash bang into the bedroom as a tactical diversion. The door was immediately slammed, striking and redirecting the flash bang, which detonated near the officers. Named Officer #1 stated he tried to kick open the door again, and he and the subject engaged in a struggle with the door. He kicked the door a third time and Witness Tactical Officer and he were able to enter the bedroom with Named Officer #2 right behind them. Named Officer #1 stated he held his Department-issued rifle at low-ready with complete field of view over the top. He stated he heard Witness Tactical Officer commanding the subject to drop the gun and show his hands. He stated he could see Witness Tactical Officer losing balance, but he did not see the cause. Named Officer #1 stepped in the room, saw the hostages in one corner of the room to the left, and focused on the subject, who was sitting on the corner of a bed to the right. He stated the subject had a gun in his left hand. He stated the subject started standing up and lunged at him from one-to-two feet away. Named Officer #1 stated he believed the subject was going to shoot him in the face. He stated he discharged his firearm to eliminate the threat. He did not recall how many shots he fired. He stated Named Officer #2 discharged his firearm at the same time or a "little bit before" him. Named Officer #1 stated he stopped firing when the subject crumpled and the gun fell out of his hand onto the floor. He stated that, once the threat was eliminated, the officers secured the subject's firearm, handcuffed the subject, and rendered medical aid until the paramedics arrived.

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Statement of Named Officer #2

Named Officer #2 was interviewed by SFPD Homicide Detail, Internal Affairs Division, and the DPA. He stated that he had not been on duty on the date of the incident but was called out as a member of SFPD Tactical Company to respond to a hostage critical incident stemming from domestic violence and was a part of the crisis entry team on scene. The officer stated that, upon his arrival, he was briefed about the hostage situation. He and other team members gathered at a crisis entry point near the apartment building. While there, he heard a gunshot and the team was told that the subject stated that the shot was for police. The officer stated that a short time later he heard another shot, and the team was told that the subject stated that he had just shot his ex-girlfriend and, "her brains are all over the place." He stated that it was after the second shot that the order was given to make entry and rescue the hostages.

Named Officer #2 stated that the team was equipped with a hand-drawn layout of the apartment and had previously conducted reconnaissance of the apartment. Named Officer #2 stated the front door to the apartment was barricaded with debris and furniture. He stated that, after an initial unsuccessful attempt to breach the door, some members of the team left to enter through an alternate back entrance. He stated he and Witness Tactical Officer #1 continued working to open the front door. Once opened, Witness Tactical Officer climbed the debris-filled stairs with Named Officer #2, Named Officer #1, and Witness Tactical Sergeant behind him, in that order. Once at the top of the stairs, Named Officer #2 saw light underneath a door and heard hysterical screaming inside. He stated he heard someone screaming, "please help us." He stated that Named Officer #1 kicked the door, but it slammed shut. He stated that Named Officer #1 readied a "flash bang" and kicked open the door again. The door shut again, and the "flash bang" hit the door, landed, and detonated near the officers outside the door. The door was opened again, and Witness Tactical Officer entered first. Named Officer #1 entered next and stood in a crouching position. When Named Officer #2 entered, he saw the subject half on the bed and half off, laying with his feet on the floor. He stated he believed that the subject had been behind the door preventing them from entering. He also stated the subject had kicked Witness Tactical Officer off balance. He stated he saw the subject had a gun. He stated that someone was commanding the subject to show his hands. He stated the subject started to get up into a shooting stance while he was moving the gun from his side to pointing at the officers. He stated the gun was pointed directly at his face. Named Officer #2 stated he was holding his Department-issued rifle at low ready with perfect field of view to see his immediate surroundings. He was focused on the subject, who was within a few feet of him. Named Officer #2 stated he discharged his firearm because the subject was going to kill him, his teammates, or the hostages. He believed he shot two times. His intention when he shot his firearm was to stop the threat. He stated he stopped firing when the subject collapsed on the bed. He stated Named Officer #1 fired as well. Named Officer #2 stated that, after he stopped firing, he immediately placed his foot on the handgun to secure it. He stated the gun was on the

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bed and remained on the bed after he left. He stated he gave commands to Witness Tactical Officer and Named Officer #2 to place handcuffs on the subject and to start rendering aid.

Statement of Witness Tactical Officer

Witness Tactical Officer was interviewed by SFPD Homicide Detail and the DPA. He stated he was on-duty on the date of the incident and responded to a hostage rescue situation involving an armed suspect who had taken his ex-girlfriend and children hostage. He stated that when he arrived on scene, he was told that earlier in the night patrol officers had responded to a domestic violence call. He stated he was told that the patrol officers were denied entry and the front door was barricaded. He stated he was told someone fired a gunshot at the patrol officers. Witness Tactical Officer stated he was part of the crisis entry team. He stated the team had a hand drawn sketch of the apartment layout, a photo of the suspect, and received updated information regarding negotiations throughout the night. Other information received included that the subject was very agitated and had a gun. He stated he heard a gunshot while they were staged near the apartment. He stated he was told that the subject told HNT that he had shot his ex-girlfriend and there was blood everywhere. Tactical Witness Officer stated the team was afraid the subject would shoot the two small children. He stated he and his team were ordered to enter the premises to rescue the children and render medical aid to the ex-girlfriend.

Witness Tactical Officer stated that, after much effort and half their team breaking away to enter through the back entrance, he, Named Officer #1, Named Officer #2, and Witness Tactical Sergeant breached the front door. While breaching the door, he stated he heard a male voice say that he was going to shoot and kill them all; that there was going to be a gunfight. The officers found chest-high debris covering the entry staircase. He stated he was the first to climb the debris-filled stairs. He stated he heard screaming coming from a door. He stated he reached the bend in the stairs and pointed his firearm towards where he heard the screaming while he waited for his teammates to climb the stairs. He stated that, while he was waiting, the door opened and he saw a female with sheer terror on her face, who stated, "oh my God, help me, he's in here," and the door slammed. A second later, the door opened again, and the female stated, "oh my God, he's in here, he's going to get us," and then the door slammed again. Named Officer #1 and Named Officer #2 joined him, and they moved forward toward the door. He stated that Named Officer #1 kicked open the door to throw a "flash bang," but the door slammed and blocked the device, and the "flash bang" detonated near the officers. Named Officer #1 kicked the door a couple more times and Witness Tactical Officer was able to shoulder his way into the room. He scanned the room and saw the ex-girlfriend and two children towards the back of the room and saw the subject lying on the bed to the right with his feet dangling off. He stated he saw the subject holding a gun in his hand across his chest. He stated he gave commands for the subject to drop the gun and show his hands, or something to that effect. He stated the subject laid the gun down on his chest, braced himself up with his arms, reared up, and kicked the officer's rifle, knocking Witness Tactical Officer backwards and off balance and knocking his rifle off his

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shoulder. Named Officer #1 entered the room. As Tactical Witness Officer regained control of his rifle, he saw the subject move his right hand across his body to grab the gun and try to kick Named Officer #1. He stated the subject's body language indicated he was "amped up and aggressive." He stated that, in his mind, he believed he was in imminent danger and he was going to have to use lethal force as soon as he obtained his sight picture¹. He stated he then heard gunshots to the right of him. He did not recall who fired first. He stated he could not see if the subject successfully grabbed the gun because, from his vantage point, he could only see the subject turning his body and reaching for the gun. After the shots were fired, the subject rolled back. Witness Tactical Officer stated the gun fell onto the bed and Named Officer #2 secured the weapon by placing his foot on it. He stated he escorted the hostages to Witness Tactical Sergeant. Thereafter, he and Named Officer #1 handcuffed the subject and moved him to a flat hard surface to render medical aid.

Statement of Witness Tactical Sergeant

Witness Tactical Sergeant was interviewed by SFPD Homicide Detail and the DPA. Witness Tactical Sergeant stated he had been off-duty on the night of the incident but was called in to respond to a critical incident as the Acting Lieutenant of Tactical Company and team leader of the crisis entry team. When he arrived on scene, he was told that officers responded to a domestic violence incident and a shot was fired while they were on scene. He was told a woman and two young children were being held hostage. He stated that Witness Tactical Officer conducted reconnaissance of the location, and his team had a hand drawn sketch of the layout of the apartment and a photo of the subject. He and his team staged near the apartment building and received updates regarding the status of the on-going negotiations. Other information received included that the subject was irate, erratic, possibly on drugs, and had threatened to shoot anyone who came into the apartment. Witness Tactical Sergeant stated he received information that, during the negotiations, the subject vacillated among wanting to safely surrender, wanting to come out using his family as a shield, wanting to come out with his gun taped to his hand, and wanting to be killed by officers.

Witness Tactical Sergeant stated he and his team heard one shot fired from within the apartment. The sergeant was told by HNT that the subject had stated he shot his ex-girlfriend in the head. At that point, the order was made to make entry into the apartment to save the children. He stated the front door was barricaded with debris and furniture. Due to the time it was taking to clear the front entryway, half the crisis entry team left to try to go in through the back door. Eventually, Witness Tactical Officer, Named Officer #2, Named Officer #1, and he, in that order, were able to enter the front door and climb the stairs. The sergeant stated that Named Officer #1 tried to throw a distractionary device into the bedroom where the subject held the hostages, but he saw the subject kick the door shut, and the device bounced off the

¹ A "sight picture" is when the rear sight, front sight, and the target all perfectly align.

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door and detonated near the officers. Thereafter, Witness Tactical Officer, Named Officer #1, and Named Officer #2 entered the bedroom. The sergeant stated he was positioned at the top of the stairs outside the bedroom, making his way up to the landing. He stated he saw muzzle flash and heard four-to-six rapid shots. He was not sure if the officers were hit or if the subject was hit. He stated he did not see what happened prior to the shots. Thereafter, he looked in the bedroom, saw the subject lying on the bed and saw Named Officer #2 with his foot on a firearm on the bed. The sergeant stated he saw the ex-girlfriend and children huddled in the corner of the room. He asked if they were harmed and they answered in the negative. He saw officers handcuff the subject and start medical aid. He stated he immediately removed the hostages from the room.

Statement of Witness Tactical Lieutenant

Witness Tactical Lieutenant was interviewed by the DPA. He stated he had been off-duty on the night of the incident but was called in to respond to the critical incident as Tactical Commander. He stated that when he arrived on scene, he set up the command post and made sure the crisis entry team, HNT, and Specialist team were assembled. He was told that officers responded to a domestic violence call, that when they responded they heard a lot of yelling and screaming, that they heard a female voice saying, "Stop. Don't do it," that there were children involved, and that the subject threatened to shoot officers if they entered the apartment. He stated he was also told that a shot was fired earlier. After the initial briefing, the lieutenant stated he facilitated updates from the HNT to the crisis entry team. He stated that he heard a gunshot clearly and was told that the subject stated that the shot was for police. He was also told that the subject stated he had shot his ex-girlfriend. He stated that, at that point, the mission went from negotiating with a barricaded subject with hostages to hostage rescue. The lieutenant gave the order to enter the premises, and Witness Tactical Sergeant took over command.

Department of Emergency Management (DEM) Records

San Francisco Department of Emergency Management (DEM) records indicated that, at 11:35 p.m., the reporting party (see Statement of Witness #2, *infra*) called dispatch requesting police to go to her mother's apartment. She stated that her mother had called her screaming and hysterical and told her to come home. The reporting party stated that her stepfather was at the mother's apartment, that he had a history of drug abuse, and he was not in his right mind. The adult daughter stated that she called her stepfather after speaking with her mother, and he was very apologetic. Thereafter, she stated that her mother did not answer her calls. The adult daughter stated she believed her stepfather had some sort of weapon but did not believe he had a gun. She further stated she was afraid because her young half-siblings, aged 5 and 11, were also inside the apartment with her mother and stepfather. The responding party was en route to her mother's apartment and flagged officers down when they responded.

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DEM records indicated that the initial units met with the reporting party. Then, as the officers approached the apartment, they could hear a female asking for help and a lot of noise coming from the apartment. The units immediately declared a "Code 33" to request the channel be cleared for an emergency and asked for more units. DEM records indicated that the officers found the front door to the apartment locked and the lights inside turned off. While officers were trying to gain entry, they heard the stepfather tell them that if they did not get back, he would shoot.

DEM records indicated that officers heard shots fired.

Following the gunshot, multiple units were called to the scene, including Specialists, Tactical Company, and the HNT. A command post was set up and the HNT began negotiations. DEM records indicated that the negotiations ceased and then resumed multiple times over three hours. The records indicated that the subject made several statements including that he wanted to be killed by police.

DEM records indicated that, at 2:53 a.m., shots were fired from the apartment through the wall to the outside. The records indicated that the subject stated that the gunshot was for police.

SFPD Records

SFPD Crime Scene Unit records indicated that a pistol and .380 auto bullets were found on the bed in the bedroom where the subject was holding the hostages. Additional .380 auto bullets were found in the subject's pants pocket. Records indicated that the subject's DNA was found on the pistol. Records further indicated that there were three .380 bullet casings found inside the apartment. Records showed that there were two bullet defects in the exterior, outside wall of the apartment living room that corresponded to bullet defects found in the wall of the apartment across the street. Records indicated one of the fired bullets was found resting on the carpet under the dining table in the apartment across the street.

SFPD Body Worn Camera video showed the officers maneuvering the debris-filled staircase. The video showed a "flash bang" detonate near the officers, who were standing outside the bedroom. The video further showed the hostages huddled in the corner of the room when officers entered.

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San Francisco Medical Examiner (ME) Records

SFPD ME records indicated that the subject's blood toxicology identified the presence of morphine, methamphetamine, amphetamine, and methadone. The records indicated that the cause of death was multiple gunshot wounds.

Civilian Witnesses

Witness #1 stated she was held hostage by the decedent on the night of the incident. She stated the decedent was the father of two of her children, who were also held hostage. She stated there was a restraining order in place protecting her and the children from the decedent. She stated she was asleep with her 5-year-old son in her bed when she awoke to the decedent pointing a gun at her face. Earlier in the evening, the decedent had called her, and she could tell that he was on drugs. After she woke with the gun in her face, the decedent punched her in the mouth. She stated the decedent told her he was going to kill her. She stated the decedent gathered her and the two children and went into the children's room. She stated he barricaded the doors by breaking furniture. She stated she either called her adult daughter or her adult daughter called her when he was away barricading the front door. She told her adult daughter to call the police. When the decedent returned, she stated she tried to block the door to the bedroom with furniture so he could not enter. She stated he stuck his hand through the door opening and fired two gunshots, one of which came very close to her head. She stated the children were screaming and crying. She stated that, after the gunshots, she realized the gravity of the situation and submitted to the decedent.

Witness #1 stated that, over the course of the incident, the decedent shuffled the family to different rooms. He told her again he would kill her. He pointed his gun to her head. She stated the decedent broke his methamphetamine pipe at one point and asked 9-1-1 dispatch for a meth pipe and marijuana. After that conversation, he hung up the phone and pistol-whipped Witness #1 on the side of her head. She stated that her 11-year-old-daughter tried to prevent the decedent from killing her. She stated the decedent made statements such as, "they're going to kill me," "I want to die," and, "I'm not going to jail." The decedent and the family ended up in her bedroom. The decedent blocked the window with a mattress.

Witness #1 stated the decedent fired a third gunshot while they were in the bedroom. When the negotiator called the decedent on the phone after the gunshot, the decedent told Witness #1 not to say anything or he would kill her. She stated the decedent told the negotiator that she was dead. "He said to the negotiator, 'see what you made me do? [Witness #1 is] dead.'" After the phone call, the decedent told her he was going to shoot her and pointed the gun to her head. He pointed the gun to his own head. She stated she eventually heard loud pops outside the bedroom, which she came to find out were "grenades." After the pops, the decedent opened the door and saw the officers. He then started loading his gun. Witness #1 stated she tried to get the gun away from the decedent so the officers would come in, but he overpowered

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her and pointed the gun again to her head. She believed her 11-year-old daughter also tried to get the gun away from him.

The decedent told his family to back away, so they gathered in the far corner of the room. She stated the decedent sat on the bed and held the door shut with his leg. She stated she placed her children, so they were huddled behind her. She stated that one officer entered, and the others were behind him. Witness #1 stated it appeared that the decedent was going to give up, but then he changed and started kicking the officer from a sitting position. She stated he still had the gun in his hand. Witness #1 stated the decedent pointed the gun in the direction of the officer. She stated he began to pull back something on top of the gun, and the officer shot him. She stated that the room did not have open space and so the officer and the decedent were almost on top of each other. She stated that one officer shot the decedent, and the gun fell out of his hand, onto the bed or floor. She stated that officers pulled her and the children out of the room. She stated that, once outside the room, she believed she heard more gunshots. She stated she was later told by officers that these sounds were more “grenades.”

Witness #1 stated that, during the ordeal, she suffered cuts and bruises and had a lump on the side of her head where the decedent pistol-whipped her. She also had a bloody lip from his punch to her mouth.

Witness #2 stated she is the adult daughter of Witness #1. She stated the decedent is the father of her half-siblings. She stated that on the date of the incident she received a frantic video call from her mother while she was at work. She stated her mother said something about a gun and the decedent wanting to kill them, but she could not understand her. She stated she hung up and tried to make a voice call to her mother. She stated her mother did not answer her phone. Witness #2 stated she left work to go home to her mother’s apartment. She stated she called the decedent and he answered crying. She stated the decedent said, “I’m so sorry...” over and over. She stated he told her that her mother was a whore. Witness #2 hung up the phone and called police.

She arrived at her block, and officers stopped her just outside the apartment building. She heard one or two loud pops she thought were firecrackers. Officers rushed her away from the apartment building. Witness #2 stated the decedent had had episodes like this in the past where he would take methamphetamine, stay up for six or seven days, and “go absolutely crazy.” She stated he believed her mother had secret families because she worked so much. She stated he was “really, really, really mentally ill.”

Witness #2 stated she tried to help officers find an alternative entrance. She also provided a hand-drawn map of the apartment. After a couple hours, her grandparents, aunt, and boyfriend showed up. They all waited with a police officer for hours. At one point, she stated that they heard radio talk that seemed to indicate her mother had been shot. Shortly after, she heard several bombs explode. Thereafter, she saw

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officers running towards the apartment stating that the area was a crime scene. She stated she saw an ambulance head in the direction of the apartment building. She and her family members were extremely frightened until someone told her that her mother and half-siblings were okay.

Witness #2 and the other family members went to the nearest police station to reunite with her mother and half-siblings, who then went to another station to eventually be interviewed.

Witness #3 stated that the decedent took her sister and her niece and nephew hostage that night. She stated that the relationship between the decedent and her sister was marked by domestic violence with the decedent as the aggressor. She stated the decedent had an extensive history of drug use and arrests. Witness #3 stated that on the date of the incident, her sister called their mother to say goodbye. She stated that she and her parents arrived on the scene and waited hours. She stated that she heard several repeated shots and a few bangs before she and her family members were moved to another location.

Rules

California Penal Code §835(a) states:

Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance.

A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

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SFPD Department General Order 5.01 VI. G. states, in pertinent part:

2. DISCHARGE OF FIREARMS OR OTHER USE OF DEADLY FORCE.

a. **PERMISSIBLE CIRCUMSTANCES.** Except as limited by Sections VI.G.2.d and e., an officer may discharge a firearm or use other deadly force in any of the following circumstances. The circumstances below (2.a.i-iv) apply to a discharge of a firearm or application of deadly force:

i. In self-defense when the officer has reasonable cause to believe that he or she is in immediate danger of death or serious bodily injury; or

ii. In defense of another person when the officer has reasonable cause to believe that the person is in immediate danger of death or serious bodily injury. However, an officer may not discharge a firearm at, or use deadly force against, a person who presents a danger only to him or herself, and there is no reasonable cause to believe that the person poses an immediate danger of death or serious bodily injury to the officer or any other person...

Conclusion

The preponderance of the evidence proved that, on the night of the incident, the decedent had taken his ex-girlfriend and two young children hostage and held them for hours while armed with a gun. The evidence proved that he had methamphetamine, among other substances, in his blood. The evidence proved that the decedent had fired gunshots from within the apartment to the outside where officers were present and threatened to shoot anyone who entered the apartment.

The evidence proved that the HNT negotiated with the decedent for the safe surrender of the hostages for several hours with negative results. The evidence proved that, after shooting another bullet from within the apartment, the decedent told officers that the gunshot was for them and that he had shot his ex-girlfriend.

The evidence proved that the apartment entrance was barricaded with debris and furniture. The evidence proved that Tactical Company officers climbed the debris-filled stairs and entered the bedroom where the hostages were being held by the decedent. The evidence proved that the decedent actively resisted the officers who entered the apartment by slamming the bedroom door in their face multiple times and kicking one of the officer's rifles, knocking him off balance. The preponderance of the evidence proved that the decedent had a gun in his hand and pointed the gun at the officers.

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A preponderance of the evidence established that the officers in the bedroom reasonably believed that the decedent posed an immediate threat to their lives and as well as those of the hostages. The evidence proved that the use of lethal force was reasonable to eliminate the threat.

The evidence proved that the acts, which provided the basis for the allegations, occurred. However, the acts were justified, lawful, and proper.

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SUMMARY OF ALLEGATION #1: The officer failed to write an incident report.

CATEGORY OF CONDUCT: **ND** **FINDING:** **PC** **DEPT. ACTION:**

FINDINGS OF FACT: The complainant said he was struck by a city bus two years ago. He was injured and the bus drove away from the scene. The complainant stated he attempted to report the incident and was provided with a CAD number by a Police Services Aid. Two years later, the complainant filed suit against the City and County of San Francisco. He wants a police report to document his accident. He has gone to a district station numerous times to create the report, though the station is not in the district in which the incident occurred. The complainant alleged the named officer made copies of accident photos and other information during one of his visits to the station. He said that the information included the phone number of a city attorney, and he believed the named officer called that attorney. The complainant said that the named officer would not create a report for the incident.

The named officer confirmed he told the complainant he would not provide him with a police report. However, he did not say the SFPD would not provide him with a report. The named officer said, since the complainant's incident required substantial investigation and the completion of a Traffic Collision Report, the appropriate units to draft the report are either a Traffic Unit or a Patrol Unit with the appropriate training from the district where the incident occurred. The named officer stated he offered to set up an appointment for the complainant to meet with a supervisor at the appropriate district station. However, when the named officer informed the complainant that neither he nor the PSA would complete the report, the complainant became frustrated and left. The named officer said he would have sent units from his district to secure the scene if there were any urgency. However, the complainant had waited two years before filing an incident report.

No witnesses were identified.

Records from the Department of Emergency Management show that there was a call that seemed to correspond with the incident described by the complainant. The call lasted less than a minute. No officers arrive on scene. The complainant provided a video from the bus on the day and time the complainant was struck. The footage is very grainy and does not clearly show a collision.

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SUMMARY OF ALLEGATION #1 (Continued)

SFPD General Order 9.02, Traffic Accidents, states, in part:

It is the policy of the San Francisco Police Department to investigate and report the following types of vehicle accidents: ... Vehicle accidents resulting in death or injury ... All hit and run vehicle accidents resulting in death, injury or property damage ... All vehicle accidents involving a city-owned vehicle...

The assignment priority for accidents requiring an investigation and the completion of a Traffic Collision Report is: a. Primary - Traffic Unit b. Secondary - Patrol Unit.

...

When investigating an accident involving injuries, always complete an entire Traffic Collision Report, including a diagram of the accident scene.

The accident reported by the complainant required a Traffic Collision Report, but such a report would be completed by the Traffic Unit or, secondarily, the appropriate patrol unit. Such a report would require investigation and diagram of the scene. Under these circumstances, and two years after the accident occurred, it was appropriate for the named officer to refer the complainant to either the Traffic Division or the district station that patrols the location where the accident occurred.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

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SUMMARY OF ALLEGATION #1: The officer detained the complainant without justification.

CATEGORY OF CONDUCT: UA **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated the named officer detained her because she matched the description of the suspect in a theft that occurred at the library the week before. The officer later told her that she was mistakenly identified and released her.

The named officer stated that a library security guard had identified the complainant as the suspect of a robbery that had occurred at the library three days prior, prompting the named officer to detain the complainant.

Department General Order 5.03, Investigative Detentions, section I.B. allows an officer to detain a person for questioning or request identification only if the officer has a reasonable suspicion that the person's behavior is related to criminal activity.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

SUMMARY OF ALLEGATION #: This complaint raises matters outside DPA's jurisdiction.

CATEGORY OF CONDUCT: **FINDING:** IO-1/SFSD **DEPT. ACTION:**

FINDINGS OF FACT: This complaint raises matters outside DPA's jurisdiction. This complaint has been partially referred to:

San Francisco Sheriff's Department
Investigative Services Unit
25 Van Ness Avenue, Room 350
San Francisco, CA 94102

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SUMMARY OF ALLEGATIONS #1-4: The officers failed to take required action.

CATEGORY OF CONDUCT: ND **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated she called police to standby while she picked up a child, of whom she had guardianship. She said the child was with the father at the time and had his own paperwork regarding custody. She said her paperwork superseded his and should have been enforced. The complainant stated police came but did not facilitate the exchange of the child and did not prepare a report for threats made at the scene. She also complained officers did not assist in serving a civil restraining order.

The named officers stated that both the complainant and the child's father had valid, but conflicting orders from an outside county. They also stated the exchange of the child would not have been possible anyway, because the child was not present. The named officers stated there were no criminal threats made at the incident. The named officers stated they did not serve the civil order for the complainant's friend because it was not a criminal order and, in San Francisco, the Sheriff's Department serves civil orders. The named officers stated that the complainant never asked for a report.

Body Worn Camera (BWC) recordings documented that there was no child at the scene. They also did not show the complainant requesting an incident report. The recordings did document that an individual said, "I'm going to come after you."

There was no dispute that the custody orders were valid, only that the complainant believed her order trumped the father's order. With no indication that the child was in danger, it was justified for the named officers to allow the parties to sort out the issue with the court in the outside county. Furthermore, the "threat" captured by BWC was ambiguous and did not rise to the level of a criminal threat. Finally, there was no request for a report at the scene, and there is no other requirement that a report be made in this circumstance. The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

SUMMARY OF ALLEGATION: This complaint raises matters outside DPA jurisdiction.

CATEGORY OF CONDUCT: N/A **FINDING:** IO-1 **DEPT. ACTION:**

FINDINGS OF FACT: This complaint was partially referred to the San Francisco Internal Affairs Division.

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SUMMARY OF ALLEGATION #1: The officer failed to take required action.

CATEGORY OF CONDUCT: ND **FINDING:** NS **DEPT. ACTION:**

FINDINGS OF FACT: The anonymous complainant stated that when the named officer responded to his anonymous calls of a suspected bicycle “chop-shop” involving four people in a nearby alley, the officer said something to the suspects, some of whom initially walked away and after the named officer exited her car, spoke with two other suspects, who were then allowed to walk away. The complainant stated further that the officer left, the suspects returned to the location, and nothing was done to abate the illegal activity.

The named officer said the only detail included in the transmission from dispatchers was a request to move subjects along. The named officer denied seeing any evidence of criminal activity or sales of bicycle parts as the complainant alleged. The named officer said that when she arrived at the reported location, there were two homeless individuals on a sidewalk, repairing a bicycle tire, whom she asked not to block the sidewalk and to voluntarily relocate. She stated further that with no further information from the unidentified reportee, she had no further information regarding the alleged “chop shop.”

No witnesses were identified. There was insufficient evidence to either prove or disprove the allegation.

SUMMARY OF ALLEGATION #2: The SFPD failed to take required action.

CATEGORY OF CONDUCT: ND **FINDING:** NS **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated that based on his anonymous report of a suspected bicycle “chop-shop,” SFPD personnel in the District either do not have enough resources or do not care.

The District commanding officer stated he was unaware of an illegal bicycle parts operation in the District. He also stated that patrol officers responding to anonymous calls can rely only on CAD details to identify the location, suspects, and persons involved, and without additional details from the complainant, they might be hampered to take any further action. He stated further that, without evidence of criminal activity related to stolen bicycles or parts, officers have nothing that can be checked against stored data.

No witnesses were identified.

There was insufficient evidence to either prove or disprove the allegation.

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SUMMARY OF ALLEGATION #1: The officer failed to take required action.

CATEGORY OF CONDUCT: ND **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant said he repeatedly contacted the named officer regarding the status of his case, after his dog was quarantined; however, the officer failed to provide him any information or return his calls.

The named officer stated he was contacted daily by the complainant, and he spoke to him almost daily to give him updates regarding the status of his case. He also noted the Animal Care and Control Department was responsible for providing the complainant any paperwork. The named officer said that due to an incident out of state that needed to be investigated first, the hearing was delayed.

The incident report states the complainant was informed on the date of the incident that his dog needed to be quarantined for 10 days.

The Body Worn Camera (BWC) recordings show an officer on scene informing the complainant that his dog would be quarantined for 10 days and all of the information would be forwarded to the Animal Care and Control Department, as well as the dog unit for SFPD.

Records from the Animal Care and Control Department indicate the complainant was sent a letter stating how long his dog would be held.

The named officer provided the complainant with the information he had regarding the hearing and Animal Care and Control provided him the written materials.

The evidence proved that the acts alleged in the complaint did not occur.

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COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 10/29/18 **DATE OF COMPLETION:** 02/13/19 **PAGE#** 2 of 2

SUMMARY OF DPA-ADDED ALLEGATION #1: The officer spoke inappropriately.

CATEGORY OF CONDUCT: CRD **FINDING:** S **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated his dog was quarantined after biting someone. During the investigation, the DPA viewed BWC recordings that showed the named officer appearing to speak inappropriately.

The named officer said his behavior was appropriate, given the chaotic nature of the incident and his need to gain control over the situation. He noted that he was called to a fight and did not know that a dog was involved. He also highlighted the fact that when he arrived, the dog was still off leash. The named officer stated that an elderly man in the house was described as intoxicated and appeared to be so when he spoke to him. He said he was “frustrated,” because of the dog bite causing a serious injury to a female and described it as “kind of a curve ball.”

A witness officer, the named officer’s partner during the incident, viewed the BWC recording and stated he would not have handled the situation the way the named officer did. He also said the named officer could have spoken in a different manner.

The BWC recordings show the named officer shouting at the dog-bite victim as he enters the complainant’s home. The recording shows the named officer twice telling the occupants to “shut up.” The named officer is also seen accusing an elderly occupant of the home of being drunk and telling him his “story sucks.”

SFPD General Order 2.01, General Rules of Conduct, states in part, “When acting in the performance of their duties, while on or off duty, members shall treat the public with courtesy and respect and not use harsh, profane or uncivil language.”

The situation was chaotic and unexpected, and a dangerous dog was present and still posing a risk to the named officer and others. However, the named officer continued a dismissive and rude attitude, even after the dog was safely secured. He did so while engaging with a woman in distress, and the relatively calm, and polite complainant. The named officer also acted unprofessionally when speaking with the elderly man, who was soft-spoken, even if incoherent. The named officer should have been able to be firm with the parties, even in a chaotic, frustrating situation, without acting unprofessionally and rude. A preponderance of the evidence proved that the conduct complained of did occur, and that, using as a standard the applicable regulations of the Department, the conduct was improper.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 11/14/18 **DATE OF COMPLETION:** 02/07/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The officer failed to take required action.

CATEGORY OF CONDUCT: ND **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant went to a police station to file a report and spoke with a Police Service Assistant (PSA). The complainant stated that the PSA refused to take his report and called the named officer to the front desk. The complainant stated the named officer refused to give him a DPA complaint form when asked.

The named officer stated that he could not recall the complainant asking for a DPA complaint form.

The video footage from the named officer's body worn camera did not show the complainant asking for a DPA form.

The evidence proved that the act alleged in the complaint did not occur.

SUMMARY OF ALLEGATION #: This complaint raises matters outside DPA's jurisdiction. .

CATEGORY OF CONDUCT: N/A **FINDING:** IO-1/SFPD IAD **DEPT. ACTION:**

FINDINGS OF FACT: This complaint was partially referred to the San Francisco Police Department Internal Affairs Division.

**San Francisco Police Department
Internal Affairs Division
1245 Third Street
San Francisco, CA 94158**

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 11/14/18 **DATE OF COMPLETION:** 02/07/19 **PAGE#** 1 of 3

SUMMARY OF ALLEGATION #1: The officer failed to take required action.

CATEGORY OF CONDUCT: ND **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated he was illegally pulled over by an officer for speeding on a highway. He noted he contacted a sergeant in order to obtain the officer's information; however, she refused to provide him any details.

The named officer stated she spoke to the complainant, who told her he was speeding and was being issued a ticket by an officer. The complainant asked for the names of the officers who pulled him over, and said he felt unsafe and wanted another unit to respond. The named officer said the complainant was upset when she explained she could not tell him who the officers were, because they were not in vehicles assigned to her district station. She stated that she informed the complainant that if he was receiving a citation, it would have the name of the officer on it. The named officer said she offered to contact CHP to assist the complainant, but he said he had already done so; he then cursed at her and hung up.

Department records show that the officer who cited the complainant was assigned to the Traffic Enforcement Division on the day of the incident.

The named officer could not have provided the complainant the information he sought while on a brief phone call. The named officer stated that the complainant hung up on her after offering to contact CHP.

A preponderance of the evidence established that the named officer did not fail to take required action as alleged.

The evidence proved that the acts alleged in the complaint did not occur.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 11/14/18 **DATE OF COMPLETION:** 02/07/19 **PAGE#** 2 of 3

SUMMARY OF ALLEGATION #2: The officer behaved inappropriately.

CATEGORY OF CONDUCT: CRD **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated he was illegally pulled over on a highway by an SFPD officer. He said the named officer was not trained to pull him over and put him in danger by doing so. He also said the named officer threw his license, registration and the ticket in his face.

The named officer said there is no protocol regarding traffic stops on highways and there is no difference between the authority of CHP and SFPD with regard to issuing citations. The named officer indicated the complainant “cut over 4-5 lanes” after he activated lights and sirens. The named officer further explained that the complainant chose to stop where he did. He was not directed to do so.

The body-worn camera (BWC) recording shows the named officer attempted to get the complainant’s address. The complainant called the named officer a “dumbass” and asked for a supervisor. The recording shows that the named officer called to request a supervisor and said the complainant would not give him any information. The complainant refused to sign the citation and called CHP and told them the officers were untrained and put his life in danger by pulling him over on a highway. The recording shows that the CHP officer who arrived on scene told the complainant that SFPD are peace officers as well and have the right to stop him. The BWC recording does not show the named officer throwing anything at the complainant.

The named officer was generally calm and professional. The evidence proved that the acts alleged in the complaint did not occur.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 11/14/18 **DATE OF COMPLETION:** 02/07/19 **PAGE#** 2 of 3

SUMMARY OF ALLEGATION #3: The officer issued a citation without cause.

CATEGORY OF CONDUCT: UA **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant said he was illegally pulled over on a highway by an SFPD officer. He stated he was driving “about 65 or 75” miles per hour when he was pulled over by the named officer. He stated that SFPD officers are not trained to conduct traffic stops on highways.

The named officer stated he was driving between 65 and 75 miles per hour when the complainant “blew past” his patrol car at over 85 miles per hour.

A sergeant, who was contacted by the complainant by phone during the traffic stop, stated that the complainant told her he was speeding.

The BWC recording shows the named officer explained to the complainant that he was being cited for “speeding...85 in a 65.”

The evidence established that the named officer had cause to issue the complainant a citation.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 11/16/18 **DATE OF COMPLETION:** 02/25/19 **PAGE#** 1 of 5

SUMMARY OF ALLEGATION #1: The officer made inappropriate comments.

CATEGORY OF CONDUCT: CRD **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated he entered a clothing store. As he entered, an officer told him to stop. The officer told the complainant the store would be declining his business. The complainant asked why. The officer stated he did not need to give him a reason and he was not going to allow the complainant to shop at the store. The complainant decided to leave. As he was leaving, the officer grabbed the complainant and began physically escorting him out of the store. The complainant accused him of harassment. The officer replied, “Don’t worry I’ll be harassing your mother tomorrow as well.” The complainant has had two pervious interactions with the officer where the officer was disrespectful. One of these interactions occurred when the complainant’s car was towed.

The named officer did not recall what he said to the complainant. However, he did recall that when he approached the complainant, the complainant stated, “Fuck this, I’m out of here.” The officer walked the complainant towards the store exit. As they walked, the complainant continuously insulted the named officer.

The security camera footage was received and reviewed in this case. There was no audio. The footage shows the complainant dumping a pile of clothes in the entryway of the clothing store. He takes each item of clothing and swings it through the entrance’s security sensors. He picks up his clothes and walks onto an escalator. The named officer approaches him, and they begin talking while on the escalator. The complainant begins walking toward the store’s exit and the named officer walks behind him. The footage shows the complainant talking to the named officer. The named officer does not grab the complainant. The named officer and the complainant walk together until the complainant leaves the store.

Several managers and employees from the clothing store were questioned. None of them had requested the complainant be escorted out. One of the managers explained someone is escorted from the store approximately every thirty minutes to an hour.

Department General Order (DGO) 2.01 § 14, Public Courtesy, states, in part, “When acting in the performance of their duties, while on or off duty, members shall treat the public with courtesy and respect and not use harsh, profane or uncivil language.”

Here, there is no audio of the recorded interaction between the complainant and the named officer. Therefore, the DPA cannot determine exactly what was said between the complainant and the named officer.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 11/16/18 **DATE OF COMPLETION:** 02/25/19 **PAGE#** 2 of 5

The complainant gave false information to the DPA. The security footage shows the named officer did not use any force against the complainant. The named officer did not speak to the complainant as he entered the store, but after the complainant had dropped a pile of clothes in the store's entryway. The complainant provided a false address. Also, it appears another incident where the complainant claimed to have contact with the named officer did not occur.

The complainant lacks credibility. A preponderance of the evidence established that the act alleged did not occur.

SUMMARY OF ALLEGATION #2: The officer harassed the complainant.

CATEGORY OF CONDUCT: CRD **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated he's had two previous interactions with the named officer. Once, when the complainant's car was towed, the named officer was at the scene and was allegedly disrespectful to the complainant. Another incident, the complainant was leaving his work and the named officer insulted him.

The named officer stated he had no recollection of either of these incidents. He stated he has seen the complainant during general calls for service. During these calls for service, the complainant was a part of a group of individuals. The named officer does not recall the specific incidents. He does recall the complainant was verbally aggressive towards SFPD officers.

The DPA searched the complainant's history of interactions with the police and found an incident involving a towed vehicle. The named officer was not at the incident.

No other witnesses were identified.

The complainant lacks credibility. A preponderance of the evidence established that the act alleged did not occur.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 11/16/18 **DATE OF COMPLETION:** 02/25/19 **PAGE#** 3 of 5

SUMMARY OF ALLEGATION #3: The officer used profanity

CATEGORY OF CONDUCT: D **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated the named officer escorted him from a clothing store. The complainant alleges that when he spoke with the officer, the officer used a profanity.

The named officer did not recall what he said to the complainant. He recalled approaching the complainant and the complainant deciding to leave the store of his own accord. He recalled the complainant cussing at him as he escorted the complainant to the exit.

The complainant lacks credibility. A preponderance of the evidence established that the act alleged did not occur.

SUMMARY OF ALLEGATION #4: The officer used unnecessary force.

CATEGORY OF CONDUCT: UF **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant alleges the named officer grabbed him and physically escorted him out of a store.

The officer did not recall using force against the complainant.

Security camera footage of the incident showed the officer did not use force against the complainant.

The complainant lacks credibility. A preponderance of the evidence established that the act alleged did not occur.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 11/16/18 **DATE OF COMPLETION:** 02/25/19 **PAGE#** 4 of 5

SUMMARY OF ALLEGATION #5: The officer issued an invalid order.

CATEGORY OF CONDUCT: UA **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant states the named officer ordered him to leave the store. When the complainant did not immediately comply, the named officer physically forced the complainant to leave. The complainant states he did nothing to warrant being removed from the store.

The named officer stated that when he approached the complainant, the complainant decided to leave the store of his own accord. The named officer explained his presence as security within this clothing store will often cause people to leave.

The security camera footage shows the named officer approach the complainant. The named officer and the complainant are seen speaking with each other. The complainant then walks toward the store's exit with the named officer behind him.

The complainant made multiple statements to the DPA that were directly contradictory to the available evidence.

The complainant lacks credibility. A preponderance of the evidence established that the act alleged did not occur.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 11/16/18 **DATE OF COMPLETION:** 02/25/19 **PAGE#** 5 of 5

SUMMARY OF DPA-ADDED ALLEGATION #1: The officer failed to comply with DGO 10.11, Body Worn Cameras.

CATEGORY OF CONDUCT: ND **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: While investigating this complaint, the DPA found the named officer did not activate his body-worn camera (BWC) during his interaction with the complainant.

The named officer stated he did not activate his BWC because he had not detained the complainant. The complainant had decided to leave the store of his own accord. Additionally, the named officer did not suspect the complainant had committed a crime. The named officer approached the complainant to speak with him, not investigate his actions. The named officer acknowledged the footage would have had evidentiary value, but only as it pertained to the complainant's allegations against him. He did not know a complaint would be filed against him at the time of the incident.

The SFPD Legal division was unable to locate any BWC from the named officer at the time of the incident. The security camera footage shows the officer escorting the complainant from the store.

No witnesses were identified.

DGO 10.11, Body Worn Cameras, states, in part, "All on-scene members equipped with a BWC shall activate their BWC equipment to record in the following circumstances: Detentions and arrests, Consensual encounters where the member suspects that the citizen may have knowledge of criminal activity as a suspect, witness, or victim."

Security camera footage of the incident shows the named officer's interaction with the complainant was not a detention. The named officer was escorting the complainant from the store, not holding him within the officer's presence. Additionally, no crime had been committed and the complainant had not been accused of trespassing.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 11/16/18 **DATE OF COMPLETION:** 02/22/19 **PAGE#** 1 of 3

SUMMARY OF ALLEGATIONS #1-2: The officers failed to properly investigate.

CATEGORY OF CONDUCT: ND **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant alleged he was attacked by a security guard after refusing to leave a store. He reported the attack to the SFPD. It took approximately 16 hours for the named officers to meet with the complainant. The complainant stated that the named officers were short with him and did not allow him to detail the attack. The named officers took pictures of his injuries and provided him a Reportee Follow-Up Form with a case number written on it.

The named officers stated they did listen to the complainant's account. They documented the account by drafting an incident report and activating their body worn cameras. When asked why they did not return to the scene of the attack to investigate, the officers explained the business where the attack had occurred was closed for the night when they interviewed the complainant. They documented the location of the attack and the potential evidence that may be there in the incident report. The incident report would be forwarded to their station's investigative team.

The named officers drafted an incident report to document the complainant's allegations. The incident report documents the complainant's injuries, the time of the alleged attack, the attack's location, and the complainant's description of his attacker. The named officers' body-worn camera footage shows the officers interviewing the complainant and taking notes on his statement.

No witnesses were identified.

The named officers completed an incident report for the complainant's allegation. This incident report documented the complainant's statements to the officers and his injuries.

A preponderance of the evidence established that the officers' actions were proper.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 11/16/18 **DATE OF COMPLETION:** 02/22/19 **PAGE#** 2 of 3

SUMMARY OF ALLEGATIONS #3-4: The officers made inappropriate comments.

CATEGORY OF CONDUCT: CRD **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated the named officers told him there was nothing they could do to investigate his incident. The complainant stated the named officers said a security guard was within his rights to beat up the complainant if he refused to leave the business.

The named officers stated they did not tell the complainant the security guard was right to attack him. The named officers explained they did not know the complainant had been attacked during their initial interactions with the complainant. The CAD for the incident noted that the complainant had been “accosted” by a security guard. When the complainant told the named officers he had an altercation with a security guard after refusing to leave the business, the named officers believed it had been a verbal altercation. The named officers stated that they explained to the complainant that he needs to leave a business if he is asked to leave. Neither named officer realized the complainant had been attacked until he showed them his abrasions. After seeing the complainant’s injuries, the named officers activated their body-worn cameras and investigated the complainant’s allegation. They stated they conducted an appropriate investigation in response to the complainant’s allegation.

The initial comment on the CAD for this incident states the complainant wanted SFPD officers to make a report “for being accosted by security.”

No witnesses were identified.

The named officers admit to telling the complainant a security guard can ask him to leave a business. However, the named officers believed at the time the complainant had only been accosted by the security guard, not attacked. When they realized he had been attacked, the named officers activated their BWCs and investigated the allegations.

A preponderance of the evidence established that the officers did not make inappropriate comments.

The evidence proved that the act alleged in the complaint did not occur.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 11/16/18 **DATE OF COMPLETION:** 02/22/19 **PAGE#** 3 of 3

SUMMARY OF DPA-ADDED ALLEGATIONS #1-2: The officers failed to comply with DGO 10.11, Body Worn Cameras.

CATEGORY OF CONDUCT: ND **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: During the investigation into this complaint, the DPA discovered the officers' body-worn cameras did not capture the entirety of the incident.

The named officers stated they did not immediately activate their BWCs because they initially misunderstood the complainant's allegation. The initial comment on the CAD mischaracterized the allegation. It stated the complainant had been accosted by a security guard. While the CAD was labeled as a 240, a battery, the officers contend the initial comment provides greater detail into a reporting party's allegations. When the complainant stated he'd been attacked, the named officers activated their BWC.

The named officers' BWC footage shows them returning to the complainant's apartment door. The named officers and the complainant speak. The complainant is angry and asks what they want. The named officers state they want to continue the interview. The complainant yells about being beaten up and swears at the named officers. The named officers interview the complainant. The CAD lists the incident as a battery; however, its initial comment states the complainant's allegation is he was accosted by a security guard.

DGO 10.11, Body Worn Cameras, states, in part: "All on-scene members equipped with a BWC shall activate their BWC equipment to record in the following circumstances... Consensual encounters where the member suspects that the citizen may have knowledge of criminal activity as a suspect, witness, or victim... In any situation when the recording would be valuable for evidentiary purposes."

The named officers contend they were unaware the complainant had been attacked because the CAD stated the complainant said he'd been accosted. Since the named officers believed there was no criminal activity, they thought their initial conversation with the complainant held no evidentiary value. The named officers stated they learned the complainant had been attacked within five minutes of speaking with him. When they learned he'd been attacked, they activated their BWCs.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 11/21/18 **DATE OF COMPLETION:** 02/05/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The officer detained a person without justification.

CATEGORY OF CONDUCT: UA **FINDING:** NF **DEPT. ACTION:**

FINDINGS OF FACT: The anonymous complainant stated in an online complaint that an officer misused emergency devices in a police vehicle, causing the complainant to pull over. The complainant did not respond to several contacts requesting additional evidence necessary to identify the officer and establish the facts surrounding the alleged incident.

The identity of the alleged officer could not be established.

The complainant failed to provide additional requested evidence.

**OFFICE OF CITIZEN COMPLAINTS
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 12/7/18 **DATE OF COMPLETION:** 02/26/19 **PAGE #** 1 of 1

SUMMARY OF ALLEGATION #1: The officer cited the complainant without cause

CATEGORY OF CONDUCT: UA **FINDING:** NF/W **DEPT. ACTION:**

FINDINGS OF FACT: The complainant requested a withdrawal of the complaint.

SUMMARY OF ALLEGATION #2: The officer behaved inappropriately.

CATEGORY OF CONDUCT: UA **FINDING:** NF/W **DEPT. ACTION:**

FINDINGS OF FACT: The complainant requested a withdrawal of the complaint.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 12/08/18 **DATE OF COMPLETION:** 02/05/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: This complaint raises matters not rationally within DPA jurisdiction.

CATEGORY OF CONDUCT: **FINDING:** IO-2 **DEPT. ACTION:**

FINDINGS OF FACT: This complaint raises matters not rationally within DPA jurisdiction.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 12/10/18 **DATE OF COMPLETION:** 02/08/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The officer detained a person without justification.

CATEGORY OF CONDUCT: UA **FINDING:** NF **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated that an officer erroneously stopped him while riding his bicycle.

An officer identification poll was sent to the district station where the incident occurred. The poll came back with negative results.

The identity of the alleged officer could not be established.

The complainant did not provide DPA with an interview.

SUMMARY OF ALLEGATION #2: The officer behaved inappropriately.

CATEGORY OF CONDUCT: CRD **FINDING:** NF **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated an officer wrongly accused him of running a stop sign while riding his bicycle and threatened to issue him a citation.

An officer identification poll was sent to the district station where the incident occurred. The poll came back with negative results.

The identity of the alleged officer could not be established.

The complainant did not provide DPA with an interview.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 12/17/18 **DATE OF COMPLETION:** 02/01/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The officer behaved inappropriately.

CATEGORY OF CONDUCT: CRD **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated that an officer in a patrol car passed him and greeted him over a loudspeaker, singling him out inappropriately.

The named officer stated that the complainant had called the police a few hours earlier that evening regarding an incident where someone was maced with pepper spray. The complainant left before the officer arrived on scene. The officer stated that when he saw the complainant later that evening, he wanted to check on his well-being and greeted him over the patrol car's loudspeaker.

A witness officer who was sitting in the front seat of the patrol car confirmed that the complainant had earlier reported a pepper spray attack but was gone when they arrived. The witness officer confirmed that officers wanted to see how the complainant was faring after that incident, and they were not trying to harass him.

Department documents show that the complainant did call for police assistance approximately two hours before this incident. Body-worn camera footage of an officer who responded to the pepper spray incident indicates the complainant was initially at that scene, but the named officer's body worn camera footage does not show the complainant as being present when he got there.

No witnesses came forward.

A preponderance of the evidence shows that, although the named officer did single out the complainant over the loudspeaker of his patrol vehicle, he did so for the purpose of ascertaining the complainant's safety and well-being.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 12/18/18 **DATE OF COMPLETION:** 02/01/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The officer failed to take required action.

CATEGORY OF CONDUCT: ND **FINDING:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated she was involved in a vehicle collision with another moving vehicle. She stated no one was injured and there was only property damage. The complainant stated the named officer assisted with the exchange of information between her and the other driver. She stated the named officer provided her with the other driver's information. She stated the insurance information that the named officer provided her turned out to be invalid. The complainant stated the named officer should have confirmed the other driver's insurance policy information was valid before giving it to her and releasing the other driver from the scene.

The named officer stated the driver of the other vehicle provided him with his insurance information. The named officer stated that the driver confirmed that the information was valid.

The named officer's BWC footage shows the other driver providing the named officer with a piece of paper containing his insurance information. The named officer confirms the information with the other driver. The named officer writes the other driver's insurance information on a Collision Information Form. The named officer hands the form to the complainant and tells the complainant that the information is valid as the other driver called his insurance company to get the information.

DGO 9.02B (PROPERTY DAMAGE ONLY) states, "Members need not investigate or report noninjury (property damage) vehicle accidents . . ."

DGO 9.02.H. (NON-INJURY VEHICLE ACCIDENTS) states, "[I]t is the policy of the Department not to investigate vehicle accidents involving only property damage. If a citizen insists on a report, follow these procedures:

1. EXCHANGE OF INFORMATION. Assure proper exchange of the Collision Information Form (SFPD 19) and, if necessary, assist each party in completing them. Ensure that any witness information is provided to the parties involved."

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 12/18/18 **DATE OF COMPLETION:** 02/15/18 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The officer failed to take required action.

CATEGORY OF CONDUCT: ND **FINDING:** NF/W **DEPT. ACTION:**

FINDINGS OF FACT: The complainant requested a withdrawal of the complaint.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 12/21/18 **DATE OF COMPLETION:** 02/20/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATIONS #1-2: The officers failed to properly investigate.

CATEGORY OF CONDUCT: ND **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant requested police assistance after he was abused sexually and physically by his landlord. He stated the officers failed to consider all the additional information he had provided them in order to complete the investigation.

The named officers denied the allegation, stating they took the initial report and forwarded the report to Special Victims Unit (SVU) for further investigation.

Department of Emergency Management records reflect that the complainant requested to meet with officers because he “was abused by his previous landlord for the past 6 years.”

The incident report shows that the named officers took reasonable investigative steps to investigate the complainant’s case.

The Body Worn Camera footage corroborates the investigative steps documented in the incident report. It also shows that the complainant made inconsistent statements regarding his relationship with his landlord.

The evidence proved that the acts alleged in the complaint did not occur.

SUMMARY OF ALLEGATION #3: The officer wrote an incomplete incident report.

CATEGORY OF CONDUCT: ND **FINDING:** U **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated the incident report was inaccurate.

The named officer denied the allegation, stating she included all the information provided by the complainant.

The incident report accurately memorializes everything captured by the body worn camera footage.

The evidence proved that the acts alleged in the complaint did not occur.

**OFFICE OF CITIZEN COMPLAINTS
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 12/22/18 **DATE OF COMPLETION:** 02/05/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The officer arrested someone without cause.

CATEGORY OF CONDUCT: UA **FINDING:** NF/W **DEPT. ACTION:**

FINDINGS OF FACT: The complainant requested a withdrawal of the complaint.

SUMMARY OF ALLEGATION #2: The officer behaved inappropriately and made inappropriate comments.

CATEGORY OF CONDUCT: CRD **FINDING:** NF/W **DEPT. ACTION:**

FINDINGS OF FACT: The complainant requested a withdrawal of the complaint.