

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 01/02/19 **DATE OF COMPLETION:** 03/07/19 **PAGE#** 1 of 2

SUMMARY OF ALLEGATION #1: The officer behaved inappropriately.

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

FINDINGS OF FACT: The complainant stated the named officer was unprofessional as he made fun of the complainant's speech impediment and spoke over him.

The named officer denied knowledge of the complainant's speech impediment but stated that both he and the complainant spoke over each other as the named officer attempted to obtain the complainant's information for the citation.

Body-worn camera showed that the named officer repeated some statements when the complainant attempted to engage in debate. The named officer was neither discourteous nor disrespectful.

No witnesses were identified.

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

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

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

FINDINGS OF FACT: The complainant stated the named officer issued him a citation for vending without a permit which the complainant felt was unwarranted. The complainant acknowledged he did not possess a San Francisco vending permit; however, he stated that he should not have been issued a citation due to the new California State law decriminalizing sidewalk vending.

Senate Bill 946 (the “Safe Sidewalk Vending Act”) took effect two days after the incident. Under the law, sidewalk vendors may not be prohibited, although local authorities will be able to establish regulations on sidewalk vendors to protect valid health, safety and welfare concerns.

San Francisco Municipal Police Code section 869 requires sidewalk vendors to first obtain a permit from the Chief of Police before peddling goods, wares or merchandise, or any article, material or substance, of whatsoever kind.

The named officer stated that the complainant did not have a permit and he issued a citation only after asking and allowing time for the complainant to pack up his wares and move along.

No witnesses were identified.

The named officer appropriately cited the complainant for sidewalk vending without a local permit, as the new law was not yet in effect.

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 behaved inappropriately.

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

FINDINGS OF FACT: The complainant stated the named officer was rude, hostile, aggressive and failed to explain his actions with the complainant during a traffic stop. He said further that the named officer told the complainant he would break his window if he did not get out of the car. The complainant failed to provide a video he recorded of the incident and declined to provide contact information for a witness.

Department records, including body worn camera footage from four officers at the scene, showed that the named officer did not engage in the alleged behavior.

The complainant's credibility was compromised as he made material statements to the DPA that were directly contradicted by reliable evidence from SFPD records and records gathered from reliable sources independent of SFPD.

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

SUMMARY OF ALLEGATION #2: The officer detained the complainant without justification.

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

FINDINGS OF FACT: The complainant stated the named officer conducted a traffic stop of the complainant's vehicle for a tail light being broken. The complainant failed to provide a video he recorded of the incident and declined to provide contact information for a witness.

Department records, including body worn camera footage from four officers at the scene, showed that the named officer told the complainant that he had stopped his car due to a brake light being out.

The complainant's credibility was compromised as he made material statements to the DPA that were directly contradicted by reliable evidence from SFPD records and records gathered from reliable sources independent of SFPD.

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 used unnecessary force.

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

FINDINGS OF FACT: The complainant stated that the named officer used excessive force in removing him from his car because he had asked why his car would be towed. The complainant further asserted that the officer reached as though he were going to pull his firearm, threatening and scaring the complainant. The complainant failed to provide a video he recorded of the incident and declined to provide contact information for a witness.

Department records, including body worn camera (BWC) footage from four officers at the scene, showed that the named officer told the complainant that he would be towing the car and thus needed the keys. The BWC video showed the complainant failed to comply with the officer's request for the car keys eight times, and the officer told the complainant that he would open the door and put him in handcuffs if he did not comply. He did so, using no excessive force. There was no indication on the video that the complainant complained of pain, injury or force. As to the allegation regarding the officer's firearm, the video showed that, at the point during the incident the complainant identified, both the officer's hands were resting on the complainant's car door.

The complainant's credibility was compromised as he made material statements to the DPA that were directly and specifically contradicted by reliable evidence from SFPD records and records gathered from reliable sources independent of SFPD.

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

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SUMMARY OF ALLEGATION #4: The officer handcuffed the complainant without justification.

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

FINDINGS OF FACT: The complainant stated that the named officer handcuffed him without justification. The complainant failed to provide a video he recorded of the incident and declined to provide contact information for a witness.

Department records, including body worn camera footage from four officers at the scene, showed that the named officer told the complainant to give him the car keys and the complainant refused eight times. The officer said that if he did not comply, he would remove him from the car and handcuff him.

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 #5: The officer searched the complainant without justification.

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

FINDINGS OF FACT: The complainant stated that the named officer searched him without justification. The complainant failed to provide contact information for a witness.

Department records, including body worn camera footage from four officers at the scene, showed that the named officer searched the complainant while he was being detained for refusing to comply with lawful orders by another officer. The officer informed the complainant that he was being searched for the officers' safety.

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 #6: The officer searched a vehicle without cause.

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

FINDINGS OF FACT: The complainant stated that the named officer searched his car without cause. The complainant failed to provide contact information for a witness.

Department records, including body worn camera footage from four officers at the scene, showed that the named officer searched the complainant's car in preparation for towing the vehicle. Officers are required to conduct a vehicle inventory prior to towing a vehicle.

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 #7: The officer towed the complainant's vehicle without cause.

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

FINDINGS OF FACT: The complainant stated that the named officer towed his car without cause. He complained that he did not know his driver's license was suspended. The complainant failed to provide a video he recorded of the incident and declined to provide contact information for a witness.

Department records, including body worn camera footage from four officers at the scene, showed that the named officer told the complainant he was towing the vehicle because SFPD policy required him to do so when a motorist is found to have a suspended license, for which he had been previously cited.

Department of Motor Vehicles records showed that the complainant had been cited previously for having a suspended license and had been notified several times of that fact.

The complainant's credibility was compromised as he made material statements to the DPA that were directly contradicted by reliable evidence from SFPD records and records gathered from reliable sources independent of SFPD.

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 #8: The officer issued a citation without cause.

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

FINDINGS OF FACT: The complainant stated the named officer issued a citation without cause. The complainant said further that the officer issued him a fix-it ticket for tail lights, when his tail lights were operable. The complainant failed to provide a video he recorded of the incident and declined to provide contact information for a witness.

Department records, including body worn camera footage from four officers at the scene, showed that the named officer told the complainant he would be issuing him a citation for his brake light being broken and for driving on a suspended license and with expired registration. Records from the Department of Motor Vehicles confirmed that the complainant's driver's license had been suspended for several years.

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 #9: The officer failed to provide his name and star on request.

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

FINDINGS OF FACT: The complainant stated that the named officer failed to give him his name and star number on request. The complainant failed to provide a video he recorded of the incident and declined to provide contact information for a witness.

Department records, including body worn camera footage from four officers at the scene, showed that the complainant asked the named officer for his name and the officer provided it immediately.

The complainant's credibility was compromised as he made material statements to the DPA that were directly contradicted by reliable evidence from SFPD records and records gathered from reliable sources independent of SFPD.

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

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

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

FINDINGS OF FACT: The complainant stated he called police to report a man yelling and attempting to assault a woman. The complainant stated the police arrived and detained the man. The complainant stated that when he tried to tell the officers what happened, the named officer told him to get out of there and to stop instigating.

Body Worn Camera (BWC) footage capture the incident. The footage shows the complainant approaching the officers and attempting to speak to the agitated suspect, further agitating the suspect. The named officer raised his open hand and told the complainant that they were dealing with it and did not need the complainant to instigate anything more.

The evidence showed that the named officer established necessary boundaries with the complainant as the officers attempted to de-escalate an agitated subject. Clear video evidence proved that the acts that provided the basis for the allegations occurred; however, such acts were justified, lawful, and proper.

SUMMARY OF ALLEGATION #2: The officer used profanity.

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

FINDINGS OF FACT: The complainant stated that the officer used profanity.

BWC video captured the named officer interacting with the complainant. The named officer did not use profanity.

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

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DATE OF COMPLAINT: 01/11/19 **DATE OF COMPLETION:** 03/07/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The officer issued a citation without cause.

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

FINDINGS OF FACT: The complainant stated he temporarily pulled into an open space in order to make a phone call, and without a warning the named officer issued him a parking ticket for being parked in a red zone.

The named officer stated he issued the complainant a parking citation because the complainant was parked in a red zone.

Photos of the incident provided by the complainant show that the complainant was parked in a clearly marked red zone.

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 made an inappropriate comment.

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

FINDINGS OF FACT: The complainant stated the named officer was disrespectful to him and told him to, “go ahead and contest this ticket as well.”

The named officer stated he told the complainant he was in a red zone and blocking a handicap ramp, so he was issuing him ticket. He stated he told the complainant he could protest the ticket.

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: 01/18/19 **DATE OF COMPLETION:** 03/12/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATIONS #1 - 2: The officers towed a vehicle without justification.

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

FINDINGS OF FACT: The complainant stated he parked his vehicle on the street and left to pay for his registration. When he returned, he found that his car had been towed. The complainant believed officers were targeting him and his vehicle.

The named officers stated that they checked the unoccupied vehicle against DMV databases and found that the registration had expired over fourteen months prior. The officers then towed the car pursuant to California Vehicle Code Section 22651 (o)(1)(A).

DMV records provided by the complainant indicate that the complainant first registered his automobile on the day of the tow, but prior to that point it had been unregistered for fourteen months.

Section 22551(o)(1)(A) of the California Vehicle Code provides that a peace officer “may remove a vehicle within the territorial limits which the officer may act... if the vehicle is found or operated upon a highway, public land, or an off-street parking facility...with a registration expiration date in excess of six months.”

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 #3: The officer misused police authority.

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

FINDINGS OF FACT: The complainant alleged he was being targeted by an SFPD officer who organized the towing of his vehicle by multiple agencies. The complainant failed to provide further details.

The officers who towed the complainant’s car denied any knowledge of retaliatory conduct.

No other witnesses were identified. The identity of the officer could not be established.

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DATE OF COMPLAINT: 02/15/19 **DATE OF COMPLETION:** 03/27/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The 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.

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COMPLAINT SUMMARY REPORT**

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

SUMMARY OF ALLEGATION #1: This complaint raises matters outside 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 partially referred to:

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

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 02/21/19 **DATE OF COMPLETION:** 03/05/19 **PAGE#** 1 of 1

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

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

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

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

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DATE OF COMPLAINT: 02/21/19 **DATE OF COMPLETION:** 03/11/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #: 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 Transportation Agency
MUNI security, Investigations & Enforcement
1 South Van Ness Ave., 8th Floor
San Francisco, CA, 94117

**DEPARTMENT OF POLICE ACCOUNTABILITY
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DATE OF COMPLAINT: 02/22/19 **DATE OF COMPLETION:** 03/07/19 **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.

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

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

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

**San Francisco Municipal Transportation Agency
Department of Parking & Traffic
11 South Van Ness Avenue
San Francisco, CA 94103**

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 03/05/19 **DATE OF COMPLETION:** 03/11/19 **PAGE#** 1 of 1

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

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

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

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

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

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

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

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

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

San Francisco Municipal Transit Agency
Muni Security, Investigations and Enforcement
1 South Van Ness Ave., 8th Floor
San Francisco, Ca 94103

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 03/07/19 **DATE OF COMPLETION:** 03/14/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The officer drove improperly.

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

FINDINGS OF FACT: The anonymous complainant stated that she observed a civilian SUV being operated improperly on a city street. When the complainant confronted the driver through open vehicle windows, the operator of the SUV showed her a star and identified herself as “a cop.” The complainant provided no contact information.

The license plate identified by the complainant was not associated with a member of the SFPD. Nobody associated with the household of the registered owner of the vehicle could be identified as an SFPD officer.

The identity of the alleged officer could not be established.

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DATE OF COMPLAINT: 04/02/18 **DATE OF COMPLETION:** 03/05/18 **PAGE#** 1 of 2

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

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

FINDINGS OF FACT: The complainant stated he was riding his bicycle when he was struck by a vehicle. The complainant stated he asked the investigating officer to get statements from the witnesses. When the complainant received a copy of the incident report, he noticed that no witnesses were interviewed, prompting the complainant to respond to the station. The complainant stated he spoke with the named officer who agreed to contact the people who called 911. The complainant believed the witnesses were not contacted.

The named officer stated he told the investigating officer to contact and interview the parties who called 911. The named officer stated he told the investigating officer to update the police report with a supplemental report if the witnesses provided any additional, relevant information.

The investigating officer confirmed that he was ordered to contact the people who called 911.

A preponderance of the evidence established that the named officer's actions were justified, lawful, and proper.

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SUMMARY OF ALLEGATION #2: The officer failed to properly investigate.

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

FINDINGS OF FACT: The complainant stated alleged that the named officer failed to obtain statements from witnesses.

The named officer stated he did not see any witnesses at the scene. He stated he did speak to an eyewitness after investigating the scene. The eyewitness stated he could not assign fault with either of the parties involved in the collision. The named officer documented the eyewitness' statement in the incident report. The named officer stated he did call and text the people who called 911 as instructed but none of the parties responded.

The Traffic Collision Report, prepared by the named officer, showed that the named officer interviewed one witness, including the witness' statement in the report.

One witness told the DPA that he was never contacted. Another witness stated she either received a text or a phone call from an officer for a follow up interview, but she did not respond.

One witness told the DPA he was never contacted, while another witness said she received either a text or a phone. There was insufficient evidence to either prove or disprove the allegation.

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DATE OF COMPLAINT: 03/19/19 **DATE OF COMPLETION:** 03/22/19 **PAGE#** 1 of 1

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

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

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

State of California
Department of Alcoholic Beverage Control
1800 Sutter St., Suite 400
Concord, CA 94520

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SUMMARY OF ALLEGATIONS #1-2: The officer behaved inappropriately and made inappropriate comments.

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

FINDINGS OF FACT: The complainant stated that, while he was held at the police station after his arrest, officers took pictures of him with their cellphones, commented to another prisoner about his criminal history, and made derogatory gestures and comments towards him. He also stated an officer during his transport to county jail made inappropriate comments insinuating that he could beat the officer in a fight.

The named officers denied the allegations. The first named officer stated that the complainant made numerous derogatory statements directed at him and other officers prior to his arrest and throughout his stay at the police station. He stated that he did not respond to the complainant in any manner other than acting as a professional. The second named officer stated that he, along with his partner, transported the complainant to county jail. He denied making any inappropriate statements. He stated that he had minimal conversation throughout the short trip from the police station to county jail.

The DPA interviewed several other officers, who said they did not observe any officers acting inappropriately nor making any inappropriate statements to the complainant during the arrest, detention or transport to the county jail.

Body Worn Camera (BWC) recordings showed the named officers acted professionally throughout the arrest, and then during transport to the county jail. Video of the booking area lacked audio; however, officers were not shown to be engaging the complainant while he was spending time in the booking area. Lastly, the complainant provided cellphone video that depicted the interaction of the first named officer and himself prior to his arrest. The video showed the complainant using expletives towards the named officer, while the named officer remained calm and professional.

The available video evidence contradicted the allegations made by the complainant.

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

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SUMMARY OF ALLEGATION #3: The officer failed to properly process property.

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

FINDINGS OF FACT: The complainant stated that during his arrest, his cell phone was taken and damaged by officers, then inaccurately described as “damaged” on the property receipt.

The named officer denied the allegation. The named officer stated that the cellphone was damaged prior to the arrest. As the station-keeper, he appropriately noted the condition on the property receipt, which the complainant refused to sign.

DPA interviewed several officers who stated they recalled observing the complainant with a cellphone during the arrest; however, they did not recall the condition.

BWC recordings showed the named officer, along with other officers, placing the complainant under arrest, while the complainant is holding a mobile phone. The recordings did not clearly show the condition of the phone, but they also did not show anyone damaging the phone.

DPA photos of the complainant’s cellphone at the time of the complainant’s interview showed the phone had a cracked screen.

Some of the complainant’s allegations were contradicted by the video evidence, damaging his credibility. As a result, the weight of the evidence suggests the named officer neither damaged the phone nor incorrectly documented the complainant’s property.

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

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SUMMARY OF ALLEGATION #4: The officer made an arrest without cause.

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

FINDINGS OF FACT: The complainant stated he was waiting on a public sidewalk when officers inexplicably arrested him for loitering. He stated the officer should have cited and released him instead of placing him under arrest.

The named officer stated he observed the complainant yelling at somebody inside of a store. He said he spoke with the person inside and learned that the complainant frequently enters the store and harasses people. The named officer said he warned the complainant about trespassing and violating San Francisco

Municipal Police Code section 25. He said the store clerk also signed a citizen's arrest form. The named officer stated he chose not to cite and release the complainant because of the likelihood that the offense would continue.

BWC recordings show the complainant in front of a corner store when the named officer approached him, explained the violation, and arrested him. The complainant's cellphone video showed the earlier interaction between the named officer, the store employee, and the complainant. It showed the named officer warned the complainant about loitering in the area.

The incident report, written by the named officer, indicated that the complainant was cursing at somebody inside a store. It further documented that the named officer spoke with the store operator, who told him that the complainant frequently enters her store, curses at her, and harasses her. It documented that the named officer gave the complainant a warning, but eventually had the store operator sign a citizen's arrest form. The named officer wrote in the report that he received approval for booking the complainant from a sergeant. The report was also reviewed by the officer in charge at the time.

A statement from the store operator, attached to the report, documents that the complainant would refuse to leave, and was yelling at her and her customers.

A signed citizen's arrest form shows that the complainant violated Municipal Police Code section 25, and it was designated as a "continued offense."

The Notice to Appear was a Sheriff's Department citation, and it documented that the complainant was cited for a violation of 25 MPC. The "I" for "INFRACTION" was circled.

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San Francisco Municipal Police Code 25 states:

(a) No person shall wilfully remain upon any private property or business premises after being notified by the owner, lessee, or other person in charge thereof to leave.

(b) No person, without permission, expressed or implied, of the owner, lessee, or other person in charge of private property or business premises shall enter upon such private property or business premises after having been notified by the owner, lessee, or other person in charge thereof to keep off or to keep away therefrom.

...

(d) **Penalty.** Any person who shall violate any of the provisions of this Section shall be guilty of an infraction, the penalty for which shall be a fine which shall be not less than \$50 nor more than \$500.

SFPD General Order 5.06, Citation Release, requires officers to cite and release individuals for infractions and misdemeanors at the scene, with limited exceptions. The possibility that the offense would continue is not one of the exceptions to the cite and release policy when a person is arrested solely for an infraction. In this case, the named officer conducted a custodial arrest of the complainant who was taken to the district station, then to jail. He was not cited and released as required by SFPD policy.

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.

SUMMARY OF ALLEGATION #5: The officer placed the complainant in tight handcuffs.

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

FINDINGS OF FACT: The complainant stated he was arrested and placed in handcuffs. He stated an officer tightly handcuffed his wrist to a pole and ignored his request to have them loosened. The complainant stated his wrist was swollen and injured but he was not offered medical treatment by an officer at the police station.

The named officer denied the allegation. He stated he arrested the complainant for loitering and had placed the complainant in handcuffs and walked him to the nearby district station. He stated he later handcuffed the complainant to a bench in a holding area of the station. The named officer said he did not

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observe any injuries on the complainant at the time nor did he recall the complainant stating he was injured, in pain, or requesting medical treatment. He said he could view the complainant through a glass window, and he observed the complainant moving and shifting his body at the police station while awaiting transport to county jail. The named officer stated that he completed the initial medical assessment, but the complainant refused to answer any questions.

DPA interviewed several officers who stated the complainant had not appeared injured nor complained of injury.

Department records show the medical screening form completed by the named officer noted the complainant's refusal to sign and answer the medical status questions.

Body Worn Camera recordings show the named officer placing the complainant in handcuffs without any issues. The footage available shows the named officer, along with assisting officers, walking the complainant a short block to the police station, absent any complaints of wrist pain by the complainant.

Video footage of the booking area shows that the complainant was handcuffed to a bench in the booking area by one wrist for at least four hours. At times he can be seen reaching for his left arm with his right hand and shifting around.

A preponderance of the evidence established that the act alleged did not occur.

SUMMARY OF ALLEGATION #6: The complaint raises matters outside the DPA's jurisdiction.

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

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

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

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

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

FINDINGS OF FACT: The complainants stated that they watched a video online in which an officer detains someone who was only taking pictures. The complainants noted that police cannot legacy detain someone for solely taking pictures.

The named officer stated he received a radio call that there was a suspicious person taking pictures of a secure entrance to the airport. The named officer stated he located the individual and approached him for several reasons: the photographer was in the bushes, not on a walkway or other pedestrian area; the photographer was pointing his camera at a secure area where there have been attempted breaches in the past; some people go to the area to photograph the airplanes or the natural surroundings but this photographer was doing neither; he looked anxious; and once the officer approached the photographer, the photographer was trying to bait the named officer into a confrontation. The named officer stated he had been trained and ordered to specifically watch out for suspicious activities connected to terrorism. The named officer stated he spoke to the photographer and tried to investigate if those suspicions constituted a crime, and he decided they did not, and he let the photographer leave. The named officer stated he never touched the complainant and that he attempted to get a supervisor involved but was unsuccessful at reaching the supervisor in time.

A witness officer stated that he was monitoring a secure airport entrance when he noticed a photographer taking photos of the secure area. When someone came to the gate, the photographer focused his camera on the security transaction that allowed the person to enter through the gate. The witness officer was unable to question the photographer and sent a radio message that there was a suspicious person in the area.

Following the release of the video, a superior officer praised the witness officer and the named officer for their professionalism. The superior officer stated that the two responded appropriately based on their training and experience given the information that was present.

The DPA was unable to locate the person who filmed the incident because the individual who posted the video to the internet used a pseudonym and did not have direct messaging.

The video showed that the named officer did detain the photographer briefly. The named officer asked repeatedly for the photographer's identification and the photographer refused. The named officer stayed

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SUMMARY OF ALLEGATION #1 cont.: with the photographer for about 15 minutes even as the photographer walked away. The named officer never physically touched the photographer.

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 #2: The officer uttered a profanity.

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

FINDINGS OF FACT: The complainants stated that they watched a video online in which an officer detains someone who was only taking pictures. The complainants stated that near the end of the video, the officer refers to the photographer with a profanity.

The named officer denied referring to the photographer with a profanity.

The part in the video referenced by the complainants does not have clear enough audio to hear if a profanity was uttered or not.

No other witnesses were identified.

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

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SUMMARY OF ALLEGATIONS #1-2: The officers acted inappropriately and made inappropriate comments.

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

FINDINGS OF FACT: The complainant stated he requested police assistance for an altercation he was involved in on a city bus. He stated that the officers that investigated made inappropriate comments.

Both named officers denied the allegations. The named officers described the complainant's demeanor as aggressive and belligerent while making incoherent statements. They both stated that they behaved professionally during their contact with the complainant.

The Body Worn Camera (BWC) recordings from the incident did not show any inappropriate conduct or comments from the named officers or any other officers.

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

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 that while riding on a city bus, he attempted to assist another passenger who responded by using profanity in his direction and not leaving his immediate area. He stated he contacted the police for assistance when another passenger attacked him from behind. The complainant stated that several officers arrived on scene and treated him as the aggressor without investigating the parties on the bus.

The named officers denied the allegation. One of the named officers stated he was a Field Training Officer, providing guidance to the other named officer, who was his trainee and the lead investigating officer. The second named officer stated that he was in the Field Training Program, acting as the lead in the investigation. The second named officer said that he spoke with the involved parties and witnesses, and that he conferred with other officers on scene. He said he determined that the complainant had been the aggressor. Both named officers stated that the victim declined to press charges against the complainant. Both named officers stated that, due the complainant's behavior and statements, they decided he should be detained for psychiatric evaluation.

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SUMMARY OF ALLEGATIONS #3-4: (Continued)

Department of Emergency Management records show the named officers were called to the scene for a call described as “Priority A, Muni” and “Priority A, Assault/Battery.” The dispatch records documented that there was a reported “2 party physical” on a city bus.

The incident report, written by the second named officer, documents that he or other officers interviewed involved parties and spoke with witnesses. The report documents that the other party in the dispute told officers that the complainant had been swinging a stick or pole at him inside a bus, and then started chasing him. The report documents that another individual intervened. It also documents that the other party declined to press charges against the complainant. The report also describes the complainant as making paranoid and incoherent statements. Evidence listed on the report includes a property receipt for an extension pole.

The BWC recordings corroborate that the named officers, and other officers on scene, took the steps described in the incident report. The recordings show that the named Field Training Officer provided some direction to the second named officer. The recordings show the named officers getting information from the other officers regarding involved parties and witness statements. The recordings showed that an officer viewed cellphone video of the incident from a witness on the bus. Lastly, the film depicted the complainant acting in an angry and agitated manner often making references to past experiences in the military and with police.

The investigation established that the named officers completed a thorough and detailed investigation.

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

SUMMARY OF ALLEGATIONS #5-6: The officers failed to take required action.

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

FINDINGS OF FACT: This complainant stated that while riding on a city bus, he got into an altercation with another passenger who attacked him from behind. The complainant stated that several officers arrived on scene and treated him as the aggressor, rather than the other party who had attacked him. He complained that the officers should have taken action against the other party. The named officers stated that they spoke with all of the involved parties, witnesses and other officers on scene. The second named officer stated that the complainant was determined as the aggressor based on the evidence, although the victim declined to press charges.

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SUMMARY OF ALLEGATIONS #5-6: (Continued)

The incident report corroborates the investigative steps the named officers said they took.

The BWC recordings show the named officers on scene and speaking with all of the parties and individuals. The recordings show the complainant shouting at officers and insisting that he had been attacked. The recordings show the other party, and a bystander, calmly explaining that the complainant had been the aggressor.

SFPD General Order 5.04, Arrests by Private Persons, states, “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 ...”

Based on the information gathered at the scene, there was not sufficient probable cause to take any action against the other party on the bus.

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

SUMMARY OF ALLEGATIONS #7-8: The officers made a detention without cause.

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

FINDINGS OF FACT: The complainant stated that he was attacked on a bus, but rather than taking action against the aggressor, the named officers detained him for a psychological evaluation instead.

One of the named officers stated the complainant was displaying aggressive and erratic behavior, leading him to conclude that he was a danger to himself and others. Both named officers stated that they took appropriate steps to determine that the complainant should be placed on a 5150 Mental Health Detention Hold.

Department of Emergency Management records show the named officers responded to a call of an assault and battery on a city bus.

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SUMMARY OF ALLEGATIONS #7-8: (Continued)

The incident report, written by the second named officer, documents that the complainant was agitated, screaming, and belligerent. It documents that two individuals on scene said the complainant had attacked one of them with a stick. The report further documents that the complainant told officers he was attacked,

tried to get the other party off the bus, exited the bus, put his stick down, and tried to call police. The report states that the complainant made paranoid statements and acknowledged to officers that he took several medications. Evidence listed on the report includes a property receipt for an extension pole and metal folding fan, as well as the 5150 form.

The BWC recordings show the complainant was shouting at police and had a stick or pole with him. The recordings show that the complainant acted in an angry and confused manner, often making references to past experiences in the military and with police. Both named officers were shown to question the complainant regarding his current mental status and explain to the complainant that he was to be taken for a 5150 detention. The recording also shows the complainant admitting he had been 5150'd before. Lastly, the video showed that the complainant agreed to be taken to the hospital.

Medical records received from the hospital support that the complainant had an emergent need to be evaluated for psychiatric concerns. Among other things, the medical records document that the complainant stated he wanted to harm himself and threatened to injure staff at Psychological Emergency Services.

Welfare and Institutions Code section 5150, Detention or Mentally Disordered Persons for Evaluation and Treatment, states, in part, "When a person, as a result of a mental health disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer...may, upon probable cause, take, or cause to be taken, the person into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a facility designated by the county for evaluation and treatment and approved by the State Department of Health Care Services." Welfare and Institutions Code 5150.05, Detention or Mentally Disordered Persons for Evaluation and Treatment, states, in part, "When determining if probable cause exists to take a person into custody, or cause a person to be taken into custody, pursuant to Section 5150, any person who is authorized to take that person, or cause that person to be taken, into custody pursuant to that section shall consider available relevant information about the historical course of the person's mental disorder if the authorized person determines that the information has a reasonable bearing on the determination as to whether the person is a danger to others, or to himself or herself, or is gravely disabled as a result of the mental disorder."

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SUMMARY OF ALLEGATIONS #7-8: (Continued)

The complainant had just been involved in a fight on a bus, he had a potential weapon with him, and he was shouting at officers, often incoherently. It is unclear whether he was a danger to himself, but he appeared to be a danger to others due to his mental health.

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 #9: The officer engaged in biased policing based on race.

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

FINDINGS OF FACT: The complainant was upset that the named officer detained him rather than a person who, he says, attacked him on a bus. The complainant described the named officer as a “racist dude.”

The named officer stated that he responded for a call described as a fight on a city bus. He denied that the race of any party involved was a factor in how he responded, interacted, or handled the call.

The named officer’s partner was interviewed and stated that he did not observe any officer acting inappropriately. No witnesses were provided by the complainant.

Department of Emergency Management records show the named officer, along with other police units, responded to call for assistance from the complainant as well as the city bus driver.

The BWC recordings show that the named officer assisted the lead officer with interviewing of the complainant, who was African-American. The recordings show that the named officer asked questions primarily related to the 5150 detention of the complainant. The named officer was depicted as patient and professional throughout the call.

The complainant was a party to a fight, either as an aggressor or victim. The named officer, along with other officers, fully investigated the matter and determined the complainant was likely the aggressor, but also that he was a danger to others due to mental illness. There was no other information that would suggest the named officer’s actions were racially motivated.

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

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SUMMARY OF ALLEGATION #10: The officer used unnecessary force.

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

FINDINGS OF FACT: The complainant stated that he was accused of assault, placed in handcuffs, searched, and taken to a hospital for psychological evaluation. He stated that while in handcuffs an officer continued to inexplicably pull at his wrists, causing discomfort.

The named officer stated that she responded with her partner to a call for service for a physical fight on a city bus. She stated that upon arrival she observed other police officers investigating and interviewing the complainant. She stated that the complainant was agitated, loud, and cursing. She said that she asked him several times to calm down; however, he was non-compliant. The complainant was found to have a weapon in the course of the initial investigation, so she stated she performed a cursory pat search for any additional weapons. She stated she placed the complainant in handcuffs due his un-cooperative behavior and because of officer safety concerns. She stated the handcuffs were placed on the complainant's wrists using a technique trained in the SFPD Academy. She stated that although the complainant complained of a "nerve attack" on his wrists, she did not observe any injuries. The named officer denied pulling on the complainant's wrists or arms and said she did not use any type of reportable force.

BWC recordings show that the named officer handcuffed the complainant, and as he pulled away and she adjusted the cuffs, he complained loudly of nerve attacks.

SFPD General Order 5.01, Use of Force, section V, states, in part: "Officers shall strive to use the minimum amount of force necessary to accomplish their lawful purpose."

The complainant resisted when the officer tried to handcuff him. Although he complained of nerve pain while handcuffs were on him, he did not specify any injury caused by the named officer, and there was no evidence in his medical records or elsewhere of injury. Although the handcuffs may have caused him discomfort, the named officer was justified in handcuffing him. Furthermore, it does not appear that she unnecessarily pulled on the handcuffs.

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 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 was present during the detention of the complainant. He stated upon arrival on scene with his partner, he observed the complainant in an agitated state. He stated the complainant began to explain to the officers that he had been involved in an altercation with parties still on the city bus parked in the area. The named officer stated that he was a back-up officer with minimal contact with the complainant. He stated that he did not participate in the investigation in any manner and was not privy to the outcome. The named officer stated he did not recall if he activated his BWC.

Department of Emergency Management records show the named officer was called to the scene of an assault and battery regarded as Priority A. The Incident Report documents that officers investigated a fight, and ultimately detained the complainant for psychiatric evaluation.

Available BWC recordings from other officers on scene show the named officer standing next to the complainant, who is being investigated as a party to a fight on a city bus. The named officer can be heard exchanging a few words with the complainant, who tells him that another party from the bus hit the back of his head. A different officer tells the complainant he is going to be searched, and the complainant becomes hostile, shouting at officers. The named officer can be seen later on the bus, where other individuals are being interviewed. The BWC recordings show the named officer wearing a raincoat and, what appears to be, a BWC on the outside of the coat.

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

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... Consensual encounters where the member suspects that the citizen may have knowledge of criminal activity as a suspect, witness, or victim...5150 evaluations...Conducting any of the following searches on one's person and/or property: ... Cursory ... During any citizen encounter that becomes hostile...and In any situation when the recording would be valuable for evidentiary purposes.

Once the BWC has been activated, members shall continue using the BWC until their involvement in the event has concluded to ensure the integrity of the recording ...

The named officer had responded to a Priority A call which involved a physical altercation on a city bus. When the named officer and his partner arrived on-scene they were the first officers to hear the complainant's account of events. Although the named officer was not the primary investigating officer, he was present and interacting with the complainant, who was explaining why he felt he was the victim. He was clearly present while the complainant was detained and searched, and when the encounter became hostile. The named officer was required, but failed, to activate his BWC and keep it activated until his involvement was complete.

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.

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 the DPA's jurisdiction. This complaint was partially referred to:

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

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SUMMARY OF ALLEGATIONS #1-2: The officers used excessive force during an arrest.

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

FINDINGS OF FACT: The complainant stated the named officers used excessive force to detain a subject.

The named officers said they were dispatched to a cafe regarding a trespasser, where the barista reported that the subject had threatened her and refused to leave. The manager told them to remove the subject.

The named officers said the subject refused multiple commands to leave. The officers said they held the subject's arms and began escorting him out of the cafe. The named officers stated the subject grabbed the door and refused to let go. They stated that when they removed his hand from the door, he used his legs to hold on. The officers stated the subject tried to grab the handcuffs and one of the officers' hands when the officer tried to handcuff him. The officers stated they pushed down on the subject's body, and they all fell to the ground. The officers stated the subject kicked his feet and tried to hide his hands under his torso while on the ground. They said they were finally able to handcuff him. The named officers stated they used the minimum amount of force necessary to overcome the subject's active resistance.

San Francisco Police Department (SFPD) records corroborate the officers' statements. The records indicated that the named officers tried to guide the subject out by his arms when they felt him tense his body and clench his fists. Records indicated the subject grabbed onto the door, first with his hand then his legs. Records indicated that the subject tried to grab the handcuffs when one of the named officers tried to handcuff him. Records indicated that the named officers pushed down on the subject's torso to prevent him from grabbing the handcuffs, and they all fell to the ground. Records indicated that the subject kicked his feet and tried to hide his hands while on the ground. Records indicated that the named officers were eventually able to handcuff the subject.

Body Worn Camera (BWC) video also corroborates the officers' statements. The video showed the subject ignoring the named officers' commands to leave. The video showed the named officers hold the subject's arms and walk him toward the door. The video showed the subject grab onto the rail of the door. The video showed the subject try to grab the handcuffs as the named officer try to handcuff him. The video showed the named officers and the subject fall to the ground. The video showed the subject struggle with the named officers on the ground and ignore commands to stop resisting.

A witness stated that the subject verbally and physically resisted the named officers. The witness stated that the subject started flailing his arms and feet when officers tried to take him outside. The witness

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SUMMARY OF ALLEGATIONS #1-2: (Continued)

The witness stated that it appeared that the subject hit an officer when they got to the door. The witness stated that the named officers had to call for backup, because they could not detain him due to his resistance. SFPD Department General Order (DGO) 5.01, Use of Force, allows officers to use reasonable force to affect a lawful arrest, detention, or search and to overcome resistance.

Evidence established that the subject failed to comply with the officers' commands to leave and actively resisted the officers' attempts to escort him out of the cafe.

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 #3: The officer interfered with the rights of an onlooker.

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

FINDINGS OF FACT: The complainant stated the named officer struck him from behind and walked away as he filmed the incident. The complainant stated he believed the named officer was trying to distract him from filming the incident.

BWC video showed the complainant filming the incident. The video showed the complainant walk into the street as he filmed. The video showed the named officer grab the complainant's sleeve, place his other hand on the complainant's backpack, and guide the complainant onto the sidewalk. The video showed the named officer state, "get on the sidewalk. Thank you."

SFPD DGO 5.07, Rights of Onlookers, states, in relevant part: "It is the policy of this Department that persons not involved in an incident be allowed to remain in the immediate vicinity to witness stops, detentions and arrests of suspects occurring in public areas, except . . . [w]hen persons interfere or violate law." The DGO further states that, "officers may order onlookers to 'move on'; however, the person shall not be ordered to move any farther distance than is necessary to end a violation."

Clear video evidence showed the named officer guide the complainant from the street to the sidewalk and tell him to get on the sidewalk. The named officer's actions did not interfere with the complainant's rights to film. The named officer did not strike the complainant as alleged. Furthermore, the named officer did not order the complainant to move any farther distance than was necessary to get him out of the street and onto the sidewalk. The evidence proved that the acts alleged in the complaint did not occur.

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

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

FINDINGS OF FACT: The complainant attempted to enter City Hall when San Francisco Sheriff's Deputies stopped him for having his dog off leash. The deputies and complainant began arguing and a nearby San Francisco Police Officer - the named officer – approached. The deputies informed the named officer that the complainant had left his dog unattended outside and was refusing to leash it. Deputies also informed the named officer that the complainant could enter city hall with his dog if it were on a leash.

The named officer gave the complainant multiple opportunities to leash the animal, but complainant refused. The complainant responded that voice control was sufficient and cited 28 C.F.R. § 36.302, which states, in relevant part:

“A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (*e.g.*, voice control, signals, or other effective means).”

The named officer did not see the animal perform any service functions for the complainant and the named officer concluded the dog was not under voice control. In addition, the complainant did not articulate how a leash inside City Hall would interfere with the dog's safe, effective performance of work or tasks. The named officer then cited the complainant for violation of 41.12(a) of the Health Code, also known as San Francisco's leash law.

The named officer's body worn camera recorded the incident. The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper. There was no credible evidence that a leash or harness would have interfered with the dog's service function while in City Hall, and the San Francisco Health Code § 41.12(a) forbids animals being off leash.

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SUMMARY OF ALLEGATION #2: The officer made an arrest without cause.

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

FINDINGS OF FACT: The named officer arrested the complainant for refusing to sign a citation for having a dog off leash in violation San Francisco Health Code § 41.12(a).

The named officer's body worn camera recorded the incident. The video shows the complainant refusing to sign the citation multiple times.

Section 853.5(a) of the Penal Code allows an officer to take a subject into custody if the "arrestee refuses to sign a written promise" to appear.

The evidence proved that the act, which provided the basis for the allegation, occurred. However, the act was justified, lawful, and proper. The named officer had the legal right to arrest the complainant for failing to sign a citation under Penal Code § 832.5(a).

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

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

FINDINGS OF FACT: This complaint raises matters outside DPA's jurisdiction. This complaint has been partially referred to the San Francisco Sheriff's Department Internal Affairs Unit.

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

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

FINDINGS OF FACT: The complainant stated in a written complaint that she was walking by a Muni bus and saw two officers dragging a man “quite roughly” off the bus. The man looked disoriented and scared; he was apologetic and respectful while being barely able to walk. The complainant stated that the man was compliant and tried to follow the orders he was given. The complainant overheard one of the officers tell other officers at the scene that the man had pulled back from them. An officer said that he punched the man in the head and pepper sprayed him.

The named officer stated that he received a call of a “sleeper” on a bus. He went onto the bus to remove the man. The man did not respond to the named officer’s requests to wake up. The named officer and his partner officer tried to get the man up by grabbing his wrists. The man pulled away from the officers and the officers disengaged. The named officer struck the man in the face twice with a closed fist. The named officer stated that the man was actively resisting, and he could have had weapons. The named officer then deployed his oleoresin capsicum (OC) spray and the man laid on the ground on his stomach. The officers then handcuffed the man and took him off the bus.

A witness-officer stated he tried to get the sleeping man to wake up by giving him a sternum rub. The witness officer stated he tried to get the man to stand up, but he pulled away when both officers attempted to lift him by his arms. The witness officer then watched the named officer deliver two punches to the man’s face. The witness officer then moved back on the bus as the named officer deployed his OC spray. When the man was out of the bus, the witness officer provided water to flush the man’s eyes out.

The man arrested in the incident did not respond to multiple attempts to reach him.

Body-worn camera (BWC) footage showed the named officer pulling on the man’s arms hard and the man’s head hits a metal handhold. The man reacts by groggily speaking unintelligible words. The named officer then hits the man in the jaw and neck area twice and yells for him to stop resisting. The two officers try to pull the man up and he appears unable to stand. The named officer gets out his OC spray and sprays the man and the man lays face down. The spray fills the bus and the named officer asks someone if the door can open. The officers are coughing, and a witness officer puts handcuffs on the man. The named officer then drags the man along the bus floor as the man is asking for help.

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DGO 5.01, Use of Force, states that the Department is to "accomplish the police mission as effectively as possible with the highest regard for the dignity of all persons and minimal reliance upon the use of physical force." Here, the named officer escalated the situation instead of de-escalating the contact with the sleeping man on the back of the bus. The BWC footage does not show the man resisting or trying to escape. DGO 5.01 also states that when feasible, use tactics to de-escalate a situation. The named officer made no attempt to deescalate the situation. The named officer did not try to talk or reason with the man. Instead, the named officer immediately engaged in physical force. The named officer turned a "Priority B" call into a more serious and dangerous situation for all parties involved.

No other witnesses came forward.

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.

SUMMARY OF ALLEGATION #2: The officer engaged in biased policing due to race.

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

FINDINGS OF FACT: The complainant stated that she witnessed an African-American man being dragged off a bus by two officers. The complainant also heard that the officers used force on the man. The complainant stated that if the man had been a white woman in relatively clean clothes, officers would not have used the same amount of force.

The named officer stated that the race of the man played no part in how he treated the man. The named officer stated he would have treated the situation the same had it been a white woman in nice clothing.

A witness officer stated that he did not observe anything related to biased policing due to race.

The man arrested in the incident did not respond to multiple attempts to reach him.

No other witnesses came forward.

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

SUMMARY OF DPA-ADDED ALLEGATION #1: The officer failed to properly supervise.

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

FINDINGS OF FACT: During the investigation of a use of force complaint, the DPA discovered that the named officer was also a field-training officer who was training a recruit officer. The DPA sustained the use of force against the field-training officer and brought a DPA-added allegation that the named officer's use of force in front of a recruit officer constituted a failure to properly supervise.

The named officer stated that he was trained to be a field-training officer. The named officer was aware that he was the recruit officer's supervisor in the field and that he was to provide an example of exemplary officer behavior to the recruit officer. The named officer stated that he did not discuss a plan or tactics before engaging with the arrestee. The named officer stated that new recruits are often "afraid to go hands-on with people."

Both California POST guidelines and the Department's own academy training emphasize that the field-training officer is considered a supervisor of trainee and is responsible for performance of subordinates. Potential FTOs are also trained when to step in and when to let a trainee perform. The training materials exhort that responsibility truly remains with the supervisor. The named officer is expected to be a role model to his recruit officer. In this case, the named officer did not discuss with his recruit officer how they would approach the sleeping individual on the bus. Nor did they devise a tactical plan or strategy. FTOs should adhere to the Department's rules and regulations. It is the named officer's duty to mentor and guide recruit officers as a member of the San Francisco Police Department. This encounter did not display role model behavior.

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 behaved inappropriately.

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

FINDINGS OF FACT: The complainant stated an officer threatened to arrest her if she did not leave the store, while another officer patronized and ridiculed her by telling her it was okay that she stole the food. She believed she was treated like a thief even though she had a receipt for her purchase.

The named officer was assigned to the store to make sure staff and customers were safe while shopping, as well as, to handle any complaints or situations that the staff encountered. She stated a security guard requested her assistance to contact the complainant. The complainant was suspected of stealing food. The named officer stated the complainant was distraught because the security guard was unnecessarily aggressive, unprofessional, used profanity, and insisted the complainant stole the food. The named officer stated that she attempted to mediate the situation and give the complainant a chance to find her receipt. The named officer asked the complainant to look for the receipt outside. She denied threatening to arrest the complainant. The security guard wanted the complainant out of the store and did not want a citizen's arrest.

The other named officer denied making patronizing statements and treating the complainant like a thief. He stated that before the complainant found a receipt, he offered to pay for the food she allegedly stole because of the minimal amount the food cost. He was more disturbed at how the store security guards spoke to the complainant for stealing a small amount of food.

The store manager stated that a store security guard suspected the complainant was stealing food and requested the complainant's receipt. When it took a long time for the complainant to produce it, the named officer intervened and asked the complainant to step outside the store to look for the receipt. The complainant returned to the store to file a complaint against the security guard for accusing her of stealing. The store manager spoke to the complainant, but when the complainant attempted to record the conversation, he kicked the complainant out of the store.

The store's security footage captured the incident, but there was no audio.

A preponderance of the evidence established that the officers' actions were justified, lawful, and proper.

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SUMMARY OF ALLEGATIONS #3: The officer used unnecessary force.

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

FINDINGS OF FACT: The complainant stated the named officer grabbed her shirt when she refused to leave the store.

The named officer denied grabbing the complainant's shirt.

The store's security video footage shows a brief discussion between the complainant, the named officer, and a security guard before the complainant voluntarily exiting the store. The named officer did not grab the complainant's shirt or touch her.

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

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SUMMARY OF ALLEGATION #1: The SFPD failed to promptly respond to the scene.

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

FINDINGS OF FACT: By mutual agreement of the complainant and a representative from the SFPD, the complaint was mediated and resolved in a non-disciplinary manner on January 16, 2019.

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

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

FINDINGS OF FACT: The complainant stated she was in a crowd surrounding an officer-involved shooting. She stated had been drinking that night. She stated officers at the scene began immediately pushing people as they ordered them to move back. She stated that the named officer pushed a man in front of her. She stated that she attempted to break the man's fall and was injured. She stated she took out her phone to record the officer. The officer purposefully hit her phone from her hand and the phone's screen was cracked as a result.

The named officer stated he did push the complainant. He was part of a skirmish line tasked to clear a crowd away from an active crime scene. A man within the crowd disregarded the named officer's order to clear the street. The named officer pushed the man to overcome his passive resistance. The complainant was standing behind this man. As the man fell, he bumped into the complainant. The complainant then stepped toward the named officer. The named officer believed she intended to slip through the skirmish line. She came within a foot of the officer and the officer pushed her back with his open palm. At the scene, the complainant made no complaint of pain or damage to her phone.

The named officer's body worn camera (BWC) footage shows that the officers did not immediately begin pushing the crowd after ordering them to clear the street. The skirmish line moves forward a few feet and stops to allow the crowd to disperse. This is done several times. A man is standing close to the named officer and is yelling and cursing at the officers. As the skirmish line moves forward and officers are yelling at the crowd to move, the man gets within an arm's distance of the named officer. The named officer pushes him back. The complainant is standing behind the Hispanic male. She has been walking backwards while filming the officers with her cell phone. When the Hispanic male is pushed, he bumps into her. She does not try to break his fall. After being bumped, the complainant takes a step toward the named officer. The named officer pushes her back. The complainant's cell phone falls. She yells at the officers and continues recording them. She does not mention being in pain or her phone being broken.

San Francisco Police DGO 8.03, Crowd Control, states, in part: "When the use of force is justified, the minimum degree of force necessary to accomplish an arrest or dispersal shall be employed. Officers are permitted to use reasonable and necessary force to protect themselves or others from bodily harm, but not more."

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SUMMARY OF ALLEGATION #1: (Continued)

San Francisco Police DGO 5.01, Use of Force, defines the minimal amount of force necessary as, “The lowest level of force within the range of objectively reasonable force that is necessary to effect an arrest or

achieve a lawful objective without increasing the risk to others.”

The POST Basic Course Workbook states in the section titled Preservation of a Crime Scene, “...crime scenes must be carefully protected and secured from any intentional or unintentional forms of contamination.” It describes who officers must establish a perimeter. It states, “A perimeter should be larger than is apparently necessary. One rule to follow is to double the distance from the center of the crime scene to the farthest location of any piece of evidence.” Additionally, it states officers must, “Prevent all unauthorized people from entering the scene (e.g. family members, neighbors, media, etc.)”

Officers gave numerous orders to the crowd to exit the street and move away from an active crime scene. These orders were lawful and appropriate. The crowd was within the confines of an active crime scene. Officers gave them many opportunities to leave the scene. The complainant’s statements are not true. The officer did not push the man on top of her. She did not try and was not injured trying to help break the man’s fall. The named officer did not hit the complainant’s phone from her hand. The complainant was bumped by the man when he refused to comply with a lawful order from several police officers. He bumped into the complainant. The complainant took a step toward the named officer. She came within arm’s reach of him and he pushed her back. This push caused the complainant to drop her phone. The complainant ignored the lawful orders of police officers to move away from an active crime scene. As a result, the named officer used the minimum amount of force necessary to move the complainant away from the scene.

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 DPA ADDED-ALLEGATION #1: The officer used unnecessary force.

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

FINDINGS OF FACT: During the investigation of the complaint, the DPA discovered footage of the complainant being pushed by a second officer who was not named by the complainant. It appeared the complainant was pushed as she was complying with officers' orders. The DPA added the above allegation to investigate the use of force and determine if it was proper.

The named officer stated that he pushed the complainant during a crowd control event. Before the officer encountered the complainant, officers had given multiple orders to clear the scene. The named officer stated that dozens of individuals heard, understood and complied with these orders. The complainant did not. She remained on scene. The named officer joined a skirmish line designed to clear the remaining crowd who refused to comply with earlier orders to clear the scene. When the skirmish line began moving forward, the named officer ordered the remaining crowd to clear the scene. The complainant turned and walked. However, she walked so slowly she was putting her back into the officers. The named officer stated he had seen the complainant walking at the scene and he knew she could walk normally. The named officer stated he believed the complainant understood she was forcing her back into officers. He stated she was engaged in passive noncompliance and the named officer gave the complainant an open-handed push. The named officer stated that, if he had not pushed the complainant, he would have had to stop and would have failed to fulfill the orders given to him by his supervisors.

The named officer's BWC footage shows the named officer push the complainant in the back while she appears to be walking away. The push does not cause the complainant to stumble. The complainant is moving as quickly as individuals who are actively fighting officers within the skirmish line. When the skirmish line halts so the crowd can disperse, the complainant does not disperse. She remains on scene to film and yell at the officers. The complainant provided footage from her cell phone showing she left the scene after being forced to by the skirmish line.

DGO 8.03, Crowd Control, states, in part, "When the use of force is justified, the minimum degree of force necessary to accomplish an arrest or dispersal shall be employed."

DGO 5.01, Use of Force, defines the minimal amount of force necessary as, "The lowest level of force within the range of objectively reasonable force that is necessary to effect an arrest or achieve a lawful objective without increasing the risk to others." DGO 5.01 defines passive non-compliance as, "[A subject] Does not respond to verbal commands but also offers no physical form of resistance."

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

Additionally, 8.03 states, in part, “Crowd control tactics shall not be affected by the content of opinions alone being expressed, nor by the race, sex, sexual orientation, physical disabilities, appearance or affiliations of the participants.”

During the incident, the complainant had numerous opportunities to leave the scene and was ordered to numerous times. These orders were lawful as the officers were attempting to secure an active crime scene. The complainant left after being physically forced outside the scene by the skirmish line. While the BWC shows the complainant has her back to officers, she is moving slowly enough that she is keeping pace with individuals actively fighting the officers. Pushing the complainant was the lowest level of force necessary to clear the crime scene of a hostile crowd. The complainant did not report any injuries from the push.

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 #2: The officer failed to comply with DGO 10.11, Body Worn Cameras.

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

FINDINGS OF FACT: During the investigation of the complaint, the DPA found footage from the named officer’s BWC. It appeared to have been turned on after the named officer began engaging with the hostile crowd.

The named officer stated he turned on his BWC as soon as he was going to use force and engage with hostile members of the public.

The named officer’s BWC activates as the skirmish line he is a part of is moving. Another officer’s BWC footage records more of the incident. By comparing the two recordings, the DPA determined the named officer activated his BWC just as the skirmish line started moving.

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: “Uses of force [and] During any citizen encounter that becomes hostile.” Here, the named officer activated his BWC when he knew he would need to use force or encounter a hostile citizen.

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 displayed threatening behavior.

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

FINDINGS OF FACT: The complainant stated the named officer intimidated her outside of Safeway when he stepped closer to her and prevented her from entering the store and tapping on his BWC.

The named officer stated the security officer advised him outside of Safeway that the complainant was notorious for shoplifting. The named officer stated he did speak to the complainant but does not recall why he stopped her or what was said.

Security footage showed the named officer repeatedly stopping and speaking with the complainant before letting her into the store.

There was insufficient evidence to prove or disprove that the named officer's actions were intended to threaten the complainant.

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

SUMMARY OF ALLEGATION #2: The officer failed to promptly and politely provide his name and star number upon request.

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

FINDINGS OF FACT: The complainant stated she asked the named officer for his name and badge number three times, and each time the officer refused.

The named officer stated he provided his name and badge number to the complainant. He further stated that when the complainant went to Northern Station to complain about him, she had his name and badge number.

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

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SUMMARY OF ALLEGATION #3: The officer failed to take required action.

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

FINDINGS OF FACT: The complainant stated the named officer refused to have an Incident Report written about the incident.

The named officer stated he instructed the officer to complete an Incident Report.

SFPD Incident report showed the officer completed an Incident Report as requested by the named officer.

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

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SUMMARY OF DPA-ADDED ALLEGATION #1: The officer wrote an incomplete and inaccurate incident report.

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

FINDINGS OF FACT: The complainant stated that when she attempted to enter the store the named officer repeatedly stopped her and told her she was not allowed to enter the store because she steals items. The named officer then asked for the complainant's identification card, and she refused to provide it and told him she didn't have to because she had not committed a crime. The named officer then stepped very close the complainant and turned on his Body Worn Camera (BWC) to intimidate her. The complainant was afraid the named officer was going to use brute force on her. The complainant stated when she entered the store she was not allowed to return any more items to the store and that she should contact a 1-800 number to complain about her purchases.

The named officer stated before speaking with the complainant, the security officer told him that the complainant was a known shoplifter and serial returner. The named officer stated he did not include the interaction with the complainant outside of the store because he felt he was only supposed to document the incident in the store and not the entire interaction. The named officer further stated "After refreshing my memory, there are some things that I could have included that were omitted... I could have expounded and been a little more articulate. After receiving a complaint and the allegations that are being made, I wish that I had an opportunity to write a supplemental."

SFPD Incident Report states the named officer was notified by Monument Security Officer that there was an incident at the customer service booth. The Assistant Store Manager notified the named officer that the complainant was at the customer service booth causing a scene because they refused to let her return an item. The Assistant Manager told the named officer that the customer makes fraudulent returns. The named officer was requested by the manager to escort her out of the store for being disruptive. The incident report did not include any interaction outside the store between the named officer or the complainant. Additionally, the report did not include that the security officer notified the named officer that the complainant was a known shoplifter and was trespassing on the property.

Security footage showed the named officer stopping in front of the complainant and speaking to her. The named officer appears to be standing very close to the complainant. The named officer then allows her to move and then stops her approximately three additional times before allowing her to enter the store. Once in the store the complainant walks towards the customer service desk and the named officer stops her to talk to her before walking away. The named officer then walks away and stands near the self-checkout area approximately 5- 8 feet from the customer service desk. The complainant then appears to speak to someone at the customer service desk. After a few moments, the named officer walks back to the

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Customer Service desk and stands to the right of the door by the Security Officer. The complainant then walks towards a register and returns a few minutes later and speaks to the assistant manager at the self-checkout area and then returns to the customer service desk. The complainant then leaves the customer service desk, walks out of Safeway and returns a few minutes later. The complainant then appears to walk directly to the self-checkout area to speak with the named officer. The named officer speaks to the complainant and while he is speaking to her, he takes out his handcuffs and shows them to her. After a few moments, the complainant exits the store.

The post-basic coursework presents the characteristics of an effective investigative report in the title chapter "Investigative Report Writing." It states all investigative reports must be factual, accurate, clear, concise, complete and timely. The workbook states factual reports provide an objective accounting of relevant facts related to the fact or incident under investigation. A clear report should have no doubt or confusion on what the investigating officer is reporting. Clarity is achieved by using the appropriate language in a logical order.

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.

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

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

FINDINGS OF FACT: A review of Body Worn Video footage provided by SFPD legal identified no Body Worn Camera footage of the incident.

The named officer admitted he did not turn on his Body Worn Camera during his interaction with the complainant. He further stated before contacting the complainant he was advised by the security officer that she was a notorious shoplifter and that she was trespassing.

SFPD DGO 10.11, "All on scene members equipped with a BWC shall activate their BWC equipment to record in the following circumstances: Detentions and arrests and during any citizen encounter that becomes hostile."

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 failed to properly investigate.

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

FINDINGS OF FACT: The complainant stated he was attacked by two males outside his residential hotel, and one of them stabbed him in the neck with a screwdriver. After he reviewed the incident report, he was upset that officers were unable to view surveillance footage from the hotel, and that they failed to notice a large pool of blood on the sidewalk which was later washed away by the hotel desk clerk the following morning. He was also upset that, after reading in the report, two males were arrested that same night, both individuals were released. Finally, he was upset that no SFPD investigator ever contacted him regarding this incident.

One of the named officers said he responded to the scene of the stabbing outside of the complainant's residential hotel. He stated that the investigative measures he took upon arriving consisted of searching for a crime scene and canvassing the area for potential witnesses and surveillance cameras. He stated he was aware of a security camera in front of a nearby building, but an employee of that building was unable to play the surveillance footage. The named officer requested that the footage be preserved for later retrieval by an inspector. The named officer also said there was no large pool of blood when police units responded to the scene of the incident. He said that the puddle of blood may have been from a later incident.

The other named officer said that she responded to SFGH, where the complainant was transported following the stabbing. She stated that, although she did not detain any suspects for this incident, officers from another district detained three subjects for an unrelated incident and a search of one of the subject's backpacks revealed a screwdriver. That subject was transported to SFGH to be medically evaluated and treated for his injuries. The named officer then conducted a cold show with the complainant and that subject. The named officer's body-worn camera footage shows the complainant unable to identify the subject as the person who assaulted him. He stated, "It's not him."

A preponderance of the evidence established that the named officers' actions were justified, lawful, and proper.

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SUMMARY OF ALLEGATIONS #3: The officer failed to properly investigate.

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

FINDINGS OF FACT: The officer resigned and is no longer subject to discipline.

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

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

FINDINGS OF FACT: The complainant stated he was at the library when an individual came up to him and threatened to stab him in the eye and the neck with a pencil. He first approached a sheriff's deputy, who just continued sitting in his chair and did not respond. He then approached the named officer, but the officer was engaged in conversation and showed no interest.

The named officer stated that on the day of the incident he was working overtime at the library. He responded to assist a sheriff's deputy who was investigating a complaint regarding a fight on the first floor, where an unknown white male was yelling inside the library. The male appeared angry, but he quickly left the library without providing a clear statement. The named officer stated that he was not the initial officer on the scene and did not get the details firsthand regarding the incident. He is unsure whether the man said anything about a pencil to the neck or if the incident involved a pencil because he never got a statement from the subject.

The named officer stated that he searched the first floor for any witnesses or suspects but found none. He did advise dispatch that a subject very briefly walked up shouting angrily about being threatened, but the subject then walked away from units on scene without providing further information such as a suspect description.

Department records indicate that a subject briefly walked up to the officer with a complaint regarding threats, but then refused to provide any further information and walked away.

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

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SUMMARY OF DPA-ADDED ALLEGATION #1: The officer failed to activate his body worn camera in violation of DGO 10.11.

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

FINDINGS OF FACT: DPA requested body worn camera footage of this incident, but none exists.

The named officer stated that he did activate his BWC during the incident, but it has since been deleted. He said that the footage was tagged as an uncooperative citizen requesting police contact.

Department records indicate that the officer did activate his BWC at the time stated, and the footage was tagged as the officer had represented.

The evidence proved that the act alleged did not occur.

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

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

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

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

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SUMMARY OF ALLEGATIONS #1-2: The officers detained a person without justification.

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

FINDINGS OF FACT: The complainant stated that he went to a show with his brother at a local concert venue. The two became separated and his brother later told him that SFPD officers attacked, beat and tortured him. His brother told him the officers claimed he was inebriated; they detained him, placed him in handcuffs, and took him to jail. The complainant said he believed his brother had two beers and a shot of tequila.

One of the named officers stated he was working an overtime assignment at the venue when he either heard a commotion or was summoned by security guards. He said the security guards informed him and the other named officer that the complainant's brother was causing a disturbance, and they wanted him removed. The named officer said the complainant's brother appeared intoxicated, would not be able to drive, and would likely cause other problems because of his level of intoxication.

Despite repeated attempts, the complainant's brother never responded to DPA's requests for an interview.

No other witnesses were identified.

Body Worn Camera (BWC) recordings from the incident show the security guards reporting that the complainant's brother was threatening and yelling at other patrons in the venue. The recordings show the complainant's brother in handcuffs, using pejoratives to describe officers, pulling away from officers, and making statements to officers such as, "do it mother f***er," and "am I being searched a**hole?" The complainant's brother's speech is slurred, his face is sweaty, and he is swaying back and forth.

A Public Intoxication Report, signed by one of the named officers, documents that the complainant's brother had a sweaty face, was mumbling, and had a strong odor of alcoholic beverage on his breath. It also documents that he was taken to the county jail.

CA Penal Code 647 states:

"...every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor: ... An individual ... (f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, in a

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condition that he or she is unable to exercise care for his or her own safety or the
safety of others ..." (Pen. Code §647.)

The SFPD Booking and Detentions Manual, DM-12 (July 2008), states, "It is the policy of the San Francisco Police Department to hold persons who appear under the influence of alcohol solely, for detoxification only ... Persons who appear to be under the influence of drugs or chemical substances, or a combination of alcohol and drugs or chemical substances shall be transported to the County Jail as soon as practical ..."

The BWC recordings confirm that the complainant exhibited signs of intoxication and was engaged in threatening behavior. The named officers determined that he was too intoxicated to release, so he was taken to jail for detoxification.

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 process property.

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

FINDINGS OF FACT: The complainant stated that his brother informed him that, while in the custody of SFPD, officers took his prescription glasses from him, and did not return them.

BWC recordings show that one of the named officers removed the complainant's brother's glasses when at the county jail and puts them with his other property.

Many of the claims made by the complainant were directly contradicted by video. In this case, although it is not clear what happened to his glasses after they were removed, it was likely the named officers were gathering his property to transfer him to the county jail. Because the complainant lacks credibility, and because the named officers were justified in removing the glasses, a preponderance of evidence suggests that the act alleged in the complaint did not occur.

SUMMARY OF ALLEGATIONS #5-7: The officers used unnecessary force during a detention.

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

FINDINGS OF FACT: The complainant stated that his brother told him that SFPD officers attacked, beat and tortured him during a detention. He said that his brother was taken to the ground, injuring his leg, and had handcuffs on so tight, that they left red marks on his wrists. The complainant said that his brother had to go to the doctor and, due to his injuries, had to use crutches.

One of the named officers denied that any force was used during the detention.

Despite repeated attempts, the complainant's brother never responded to DPA's requests for an interview.

No other witnesses were identified.

BWC recordings show that security guards inform officers that the complainant's brother had been yelling and threatening other patrons of a music venue. The recordings do not show any uses of force that were unwarranted or would cause injury. The recordings show the complainant's brother in handcuffs outside the venue, and then his transport and arrival at county jail. He seems to indicate some pain when exiting the police car, but otherwise does not complain of pain. The recordings also showed that the complainant's brother was able to stand and walk without a limp or the use of mobility devices.

The evidence proved that the acts alleged in the complaint did not occur, or that the named officers were not involved in the acts alleged.

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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: During the investigation, the DPA was unable to find any BWC recordings for the named officer.

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The named officer stated that he thought he activated his BWC but realized later that he had not. He said he had been off the street for a while, and the BWC policies were a new concept for him, though he acknowledged he had received training on their use. The named officer acknowledged that he did not comply with Department General Order 10.11. He said, “it was kind of a new thing for me. I just ... I didn’t turn it on, I should have.”

BWC recordings from other officers present at the scene show that the named officer was involved in the detention of a suspect. The recordings show that the suspect began to direct foul language towards the officers. Responses to requests for BWC recordings from the SFPD Legal Division do not include any found recordings from the named officer.

SFPD General Order 10.11, Body Worn Cameras, states, “All on-scene members equipped with a BWC shall activate their BWC equipment to record in the following circumstances ... Detentions and arrests ... During any citizen encounter that becomes hostile ...”

The named officer had detained a person, and that person became hostile during the detention. He was required to activate his BWC under the circumstances but 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 ALLEGATION #1: The officer made racially derogatory comments.

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

FINDINGS OF FACT: The complainant stated an officer called her and her daughter racial slurs while she was detained and then cited for riding a bicycle on a city sidewalk.

The named officer denied the allegation. The named officer stated that he detained and cited the complainant for violating 7.2.12 of the San Francisco Traffic Code. He stated that during their interaction the complainant used profanity and behaved aggressively, impeding his investigation. He stated that despite the complainant's behavior, he was polite and respectful. The named officer stated that he would never speak to anybody using racial slurs.

A number of witness officers were interviewed, and all of them stated they did not observe the named officer act inappropriately.

SFPD Body Worn Camera (BWC) recordings did not contain any evidence that the named officer used racial slurs or made racially derogatory comments. The recordings document that the named officer acted professionally.

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

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

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

FINDINGS OF FACT: The complainant stated that her daughter was riding a bicycle on a city sidewalk and accidentally struck a pedestrian. The pedestrian was upset and called for police assistance. The complainant stated that the officer that arrived was dismissive when she attempted to explain her side of the situation, and she was issued a citation for riding a bicycle on the sidewalk.

The named officer denied the allegation. He stated that, while on patrol, an unidentified female contacted him and explained that she and her child had been struck by a woman on a bicycle. The named officer stated he had not been present when the initial interaction occurred between the complainant and the reporting party. The named officer stated that the reporting party identified the complainant as the suspect, whom he observed riding her bicycle on the sidewalk towards him in violation of 7.2.12 of the San Francisco Transportation Code. He stated that the victim declined any further action and left the scene. The named officer stated that the complainant told him, in an aggressive manner, that her young daughter had accidentally struck the unidentified woman. He stated that the complainant was non-compliant after repeated requests to put her bicycle down and provide identification during his investigation. The named officer stated that he informed the complainant that he was placing her under custodial arrest, because he was issuing her a citation and she did not have proper identification. She eventually found her identification, and the named officer said he cited her for the violation.

BWC recordings show that the complainant was belligerent and aggressive toward the named officer. The recordings show the named officer requested the complainant's identification several times, and repeatedly asked for her compliance while handling the citation. The named officer explained his actions during their contact in a professional manner.

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

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SUMMARY OF ALLEGATION #3: The officer intentionally damaged property.

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

FINDINGS OF FACT: The complainant stated that she lost property from her wallet when an officer abruptly grabbed it from her.

The named officer stated that the complainant was asked several times for identification and she refused to comply, impeding his investigation. He admitted seizing her wallet to obtain her identification, and that items fell out when he did so. He stated that he told the complainant he would retrieve the items; however, ultimately chose not to, due to officer safety reasons.

Several witness officers were questioned, but all stated they had not arrived at this point in the interaction.

BWC recordings show that the complainant repeatedly refused to provide proper identification. The recordings show that, as the complainant is moving cards through her wallet, a California ID becomes visible. The named officer sees this, points it out, and requests it again. The complainant refused. The recordings show that the named officer then grabbed the wallet, and some of the contents fell to the ground. The complainant's male acquaintance then stepped towards the named officer and challenged him. The named officer then called on his radio for back-up officers.

The named officer had a right to seize the wallet to obtain identification during the issuance of a citation. The dropping of items was accidental, and the named officer, alone at the time, was forced to deal with two aggressive parties immediately after taking the wallet.

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

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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 discovered the named officer had not activated her BWC during a detention.

The named officer stated she was on scene as a back-up officer during the complainant's detention. She said she was about 25 to 30 feet away from the complainant and the officer detaining her. The named officer stated she could not hear what the detaining officer and complainant were saying, and she was not "involved" in the detention. She stated she spoke with the child she assumed was the complainant's daughter while present. She said she was consoling the girl, who was crying. The named officer stated she was wearing her camera during the call but did not activate it because it was not required by Department policy.

Department of Emergency Management records show the named officer was responding to a call that was labeled "Suspicious Person," and a request by a lieutenant for back-up.

BWC recordings from other officers on scene shows the complainant surrounded by a number of officers, including the named officer. The recordings show that the named officer does turn towards the complainant's daughter, starts speaking with her, and generally focuses on her during her presence at the scene.

The SFPD Legal Department provided all the BWC recordings related to the CAD, and there were no recordings made by the named officer.

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... Detentions and arrests.

When the named officer arrived, the complainant was detained and not free to leave, and the detention ended when the complainant received a citation. The named officer was aware of these facts. Even though she described herself as a backup officer, she was on scene and in the immediate vicinity of the detention. She may not have been directly involved in the detention, but she was assisting the detaining officer with

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the incident. DGO 10.11 does not make a distinction between backup and primary units. The named officer was on-scene of a detention and eventual arrest (citation) and was required to activate her BWC, regardless of her view that she was not directly involved.

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

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

FINDINGS OF FACT: The complainant stated she went to a building for an evening salon appointment. She stated there was no answer when she tried to buzz her aesthetician from the call box outside. She stated the named officer approached and used the key pad. She stated he opened the door, and they both walked in the lobby. The complainant stated the officer questioned where she was going. She stated she told him the suite number and time of her appointment. She stated the named officer did not question another woman who entered the building while they were talking. The complainant stated the named officer said, "I don't like the attitude you're giving," or something to that effect. She stated the officer said she should go outside, but she refused. She stated the named officer told her he could cite her for trespassing. She stated she told the named officer that she was going to call her friend who was an attorney. At some point, the officer told her that she "needed to watch her mouth." She stated that she entered the elevator and rode up to her appointment.

The named officer stated he went to the building to return a radio from his overtime assignment and had to quickly get to another assignment to cover for a colleague who had to tend to an emergency. He stated he called the person he had to meet from the outside call box and was buzzed into the building. He denied opening the door for the complainant. He stated the complainant entered the building through the open door right after him "on his buzz." The named officer stated he questioned the complainant's business in the building. He stated that, while he was talking to the complainant, another woman was buzzed into the lobby and entered the elevator. He stated he did not question the woman since she had been buzzed in to enter. The named officer stated he may have asked the complainant why she was giving him attitude but does not recall exactly what he said. He stated he wanted the complainant to go outside to be buzzed in properly. He stated he had no way of verifying her appointment. He stated there are a lot of burglaries that happen when someone follows someone else in an otherwise secure entry. He denied stating that the complainant "needed to watch her mouth."

A witness tenant of the building stated that, after the regular security guard leaves the lobby, all guests must be buzzed in by calling the box outside the door.

The evidence shows that the officer acted properly by questioning a person who entered a locked building without proper authorization. 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 engaged in inappropriate behavior and made inappropriate comments.

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

FINDINGS OF FACT: The complainant stated that she was pepper sprayed by a transient. She stated she was completely immobilized by the attack. She could not stand, walk or see. An unknown bystander called the police for the complainant. She was screaming in pain. She stated that two officers were very rude to her when they arrived on scene. She stated that the officers laughed at her. She stated that the officers did not interview her about the incident. The complainant stated the officers only called her an ambulance after she specified a hospital she wished to be taken to.

The named officer denied laughing at the complainant or making any inappropriate comments. He stated he tried to find out what had happened to the complainant. However, the complainant kept screaming and would not answer his questions.

No witnesses came forward. There was insufficient evidence to either prove or disprove the allegation.

SUMMARY OF ALLEGATION #2: The officer engaged in inappropriate behavior and made inappropriate comments.

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

FINDINGS OF FACT: The complainant stated that two officers made rude comments, teased her about her injuries, and laughed at her as she suffered from pepper spray poisoning. Due to the pepper spray in her eyes, she was unable to see at the time of the incident.

The named officer stated he did not interact with the complainant and was approximately forty feet from her for the entire incident. He stated that he did not assist the complainant because he had seen another individual at the scene who appeared to be undergoing a mental health crisis. The officer stated that he spent his time on scene speaking with this individual.

A witness officer confirmed he was the only officer who interacted with the complainant.

The evidence proved that the named officer was not involved in the act alleged.

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SUMMARY OF ALLEGATIONS #3 - 4: The officers failed to take required action.

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

FINDINGS OF FACT: The complainant stated that she was kicked in the face during an earlier incident. She stated that she called the SFPD to report the crime. She stated that the officers who arrived claimed they believed the other party and refused to investigate.

One of the named officers stated the complainant was intoxicated when he and his partner arrived on scene. He stated he could smell the alcohol on the complainant. He stated there was a crowd at the scene and the crowd was yelling that the complainant had not been attacked. The complainant had no apparent injuries. He stated that stated when he attempted to speak with the complainant about the incident, she became frustrated and left the scene. The other named officer did not recall the incident.

The CAD shows the complainant called dispatch to report being kicked in the face. Three minutes later, her alleged assailant called dispatch stating an intoxicated woman was claiming he had kicked her. The CAD shows the named officers were on scene for approximately four minutes. The CAD shows the parties were separated. Approximately two minutes later, the call was closed as no merit.

No witnesses came forward.

The CAD shows the complainant's alleged assailant stated an intoxicated woman was claiming he had kicked her in the face. One of the named officers' description of the complainant is supported by statements documented in the CAD.

A preponderance of the evidence established that the act alleged did not occur.

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

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

FINDINGS OF FACT: While investigating this complaint, the DPA found that the named officer had not activated his body-worn camera (BWC) when interviewing the complainant.

The named officer stated that the call to service was listed as an aggravated assault and an assault with a deadly weapon. When he met with the complainant, she had her eyes closed and kept screaming she wanted to go to the hospital. The complainant continued screaming as the named officer attempted to interview her. She did not answer his questions. Instead, she only insisted on going to the hospital. It was named officer's opinion the complainant did not show signs of being pepper sprayed. The named officer explained he did not activate his BWC because he could not determine if a crime had occurred.

The CAD shows named officer responded to an aggravated assault and an assault with a deadly weapon. It was an "A" Priority call, which is the highest priority call SFPD officers can respond to. The CAD indicated the complainant had been sprayed with mace. The complainant's hospital records from the night of the attack diagnose her as suffering from pepper spray poisoning.

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."

Here, the named officer responded to the scene where the CAD detailed a pepper spray attack. When he interviewed the complainant, she could not open her eyes and was screaming to be taken to the hospital. The complainant was the victim of a crime. Additionally, the BWC footage would have held evidentiary value. It would have documented the complainant's injuries, her state of mind, her responses to named officer's questions, potential witnesses, and the state of the scene.

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 DPA-ADDED ALLEGATION #2: The officer failed to comply with DGO 10.11, Body Worn Camera.

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

FINDINGS OF FACT: While investigating this complaint, the DPA found that the named officer did not activate his BWC while on scene.

The named officer stated that he activated his BWC. However, he did not take part in the complainant's incident. He was speaking with another individual who appeared to be having a mental health crisis.

A witness officer confirmed he was the only officer to investigate the complainant's incident.

The CAD shows the individual's information had been searched while the officers were on scene.

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...5150 evaluations...In any situation when the recording would be valuable for evidentiary purposes."

The named officer stated he was attempting to calm an individual who was screaming across the street from the complainant's location. The CAD and the named officer lend credibility to these statements.

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

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SUMMARY OF DPA-ADDED ALLEGATION #3: The officer failed to write an incident report.

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

FINDINGS OF FACT: While investigating this complainant, the DPA found an incident report had not been prepared to document this event.

The named officer stated he attempted to interview the complainant; however, the complainant would not stop screaming and demanding transport to the hospital. He stated he was unable to determine if a crime had occurred because the complainant did not answer his questions. He stated he did not write an incident report, because he could not determine if a crime had occurred.

No witnesses came forward.

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

SUMMARY OF DPA-ADDED ALLEGATION #4: The officer failed to write an incident report.

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

FINDINGS OF FACT: While investigating this complainant, the DPA found an incident report had not been prepared to document this event.

The named officer stated he had no interactions with the complainant while he was on scene. He was speaking with another individual at the scene.

A witness officer confirmed he was the only officer to speak with the complainant.

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

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SUMMARY OF DPA-ADDED ALLEGATION #5: The officer failed to comply with DB 17-221, Marsy's Rights Card – Victim Rights Notification.

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

FINDINGS OF FACT: While investigating this complainant, the DPA found that a Marsy's Rights card was not provided to the complainant.

The named officer stated he did not provide a Marsy's Rights card to the complainant, because he could not determine if a crime had occurred. When he tried to interview the complainant, she only kept screaming and demanding to go to the hospital.

No witnesses came forward.

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

SUMMARY OF DPA-ADDED ALLEGATION #6: Failure to comply with DB 17-221, Marsy's Rights Card – Victim Rights Notification.

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

FINDINGS OF FACT: While investigating this complainant, the DPA found that a Marsy's Rights card was not provided to the complainant.

The named officer and a witness officer stated that the named officer had no interactions with the complainant. He was speaking with another individual at the scene.

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

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

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

FINDINGS OF FACT: The complainant said he observed two unidentified officers ask a female seated on a concrete slab to move and, after she initially refused, the officers left and returned to the area a short time later. The complainant said one officer threw the woman's luggage onto the street. The complainant failed to identify the female victim and did not respond to DPA's request that the complainant review photographs to identify the officers.

DPA identified two units that were in the area around the time specified in the complaint. The four officers who were questioned by the DPA stated they did not recall talking to a woman who met the complainant's description of a female with luggage at the location in question and did not recall throwing luggage into the street. One of the officers noted there are eight other private and local enforcement agencies with uniformed personnel that could have been involved.

No witnesses were identified.

The identity of the alleged officer could not be established.

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SUMMARY OF ALLEGATION #1: The officer engaged in inappropriate comments and behavior.

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

FINDINGS OF FACT: By mutual agreement of the complainant and a representative from the Department, the complaint was mediated and resolved in a non-disciplinary manner on March 26, 2019.

SUMMARY OF ALLEGATION #2: The officer engaged in retaliatory behavior.

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

FINDINGS OF FACT: By mutual agreement of the complainant and a representative from the Department, the complaint was mediated and resolved in a non-disciplinary manner on March 26, 2019.

SUMMARY OF ALLEGATION #3: The officer drove improperly.

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

FINDINGS OF FACT: By mutual agreement of the complainant and a representative from the Department, the complaint was mediated and resolved in a non-disciplinary manner on March 26, 2019.

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

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

FINDINGS OF FACT: The complainant stated that she called police to report sexual harassment that occurred earlier. An officer showed up and did not do anything about it.

The named officer stated that he responded to the complainant's apartment. The named officer checked the complainant's apartment door and noted it was secured. The named officer also responded to the second-floor bathroom to make sure the door was in working order and it was. The named officer spoke with the complainant's case worker who stated that the complainant had a mental health condition and that the complainant often falsely claims there is an issue that turns out to have no merit. The named officer stated that there was no evidence of a crime and no further action was required.

Dispatch documents showed the named officer met with the complainant. It also notes that the named officer spoke with the complainant's case worker.

The DPA could not locate the complainant's case worker.

No other witnesses were identified.

A preponderance of the evidence established that the officer's actions were justified, lawful and proper.

SUMMARY OF ALLEGATION #2: The officer had a rude attitude.

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

FINDINGS OF FACT: The complainant stated that she wanted to report a sexual harassment crime. The complainant spoke with an officer at a station who was rude to her and would not help. The complainant described a couple things about the officer but could provide no further information.

No witnesses were identified.

The identity of the alleged of could not be identified.

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SUMMARY OF ALLEGATION #1: The officer towed a vehicle without cause.

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

FINDINGS OF FACT: The complainant acknowledged that her vehicle registration was expired, but she did not know her vehicle could be towed.

Police records show that the complainant's vehicle registration was expired over 7 months.

California Vehicle Code section 22651(o)(1) states that a peace officer may remove a vehicle when a vehicle is found operated upon a highway with a registration expiration date in excess of six months before the date it is found or operated on the highway.

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 searched a vehicle without cause.

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

FINDINGS OF FACT: The complainant stated that when her vehicle was towed, she believed her vehicle was searched. She stated that she did not give officers permission to search her vehicle.

DGO 9.06, Vehicle Tows, states that 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. When conducting an inventory, officers may search anywhere inside the vehicle including consoles, glove boxes, under the seats, inside the trunk and inside any container of the vehicle.

The named officer stated that she conducted an inventory of the contents of the complainant's vehicle.

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: 08/14/18 **DATE OF COMPLETION:** 03/19/19 **PAGE#** 2 of 4

SUMMARY OF ALLEGATION #3: The officer failed to comply with DGO 9.06, Vehicle Tows.

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

FINDINGS OF FACT: DPA's investigation found that the named officer placed a hold on the complainant's vehicle and an incident report was not written.

Department General Order 9.06, Vehicle Tows, states that whenever a hold is placed on a vehicle, an incident or accident report shall be completed explaining the reasons for the hold.

The named officer stated that she did not write an incident report, because she was not required to write one. She stated that her field training officer reviewed the documents and evaluated her performance. She stated that she was not instructed to write an incident report.

The Field Training Officer (FTO) stated that the named officer was not required to write an incident report.

The evidence proved that the action complained of was a result of inadequate supervision when viewed in light of applicable law, training, and Department policy.

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DATE OF COMPLAINT: 08/14/18 **DATE OF COMPLETION:** 03/19/19 **PAGE#** 3 of 4

SUMMARY OF DPA-ADDED ALLEGATION #1: The officer failed to supervise.

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

FINDINGS OF FACT: DPA's investigation found that the complainant's vehicle was towed and that a hold was placed on the vehicle, requiring that an incident report be generated. An incident report was not prepared. The towing officer was in her 2nd phase of the Field Training Program and was supervised by the named officer.

Field Training Manual states that it is the responsibility of the FTO to thoroughly review the training guide materials with the new officer and to demonstrate proper patrol procedures. Additionally, new officers are required to perform various law enforcement duties under the guidance and supervision of his/her assigned FTO.

Department General Order 9.06, Vehicle Tows, states that whenever a hold is placed on a vehicle, an incident or accident report shall be completed explaining the reasons for the hold.

The towing officer stated that her FTO reviewed the tow documents and evaluated her performance. She stated that she was not instructed to write an incident report.

The named officer stated that the towing officer complied with DGO 9.06 and an incident was not required.

Tow records show that a hold was placed on the complainant's vehicle for S.T.O.P. and an incident report number was missing.

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: 08/14/18 **DATE OF COMPLETION:** 03/29/19 **PAGE#** 4 of 4

SUMMARY OF DPA-ADDED ALLEGATION #2: The officer failed to comply with DB 18-105, Stop Data Collection System Implementation.

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

FINDINGS OF FACT: DPA's investigation found that the named officer failed to complete the stop data collection information for the traffic stop.

DB 18-105 requires officers to enter all stop data into the Stop Data Collection System prior to end of their shift, unless exigent circumstances prevent entry, in which case officers shall enter data by the end of their next shift.

The named officer denied the allegation, stating that she returned to the station and completed the stop data collection on the station computer prior to the end of her shift.

DOJ has no record of the complainant's traffic stop.

There was insufficient evidence to prove or disprove the allegation.

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DATE OF COMPLAINT: 08/24/19 **DATE OF COMPLETION:** 03/20/19 **PAGE#** 1 of 4

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

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

FINDINGS OF FACT: The complainant said that the named officers failed to identify him as the victim.

The named officers said the complainant was detained and arrested based on victim and witness statements, identifying complainant as the attacker. The named officers said they interviewed victims and witnesses, viewed video footage, and collected physical evidence from the scene.

The SFPD Incident Report corroborates the officers' statements. Named officer # 1 stated that she arrested complainant based on the victims' statements and injuries, as well as witness statements. The named officers stated that they viewed surveillance footage showing complainant leaving the club, walking toward an SUV, and stopping next to it. The officers located a switchblade behind the SUV.

SFPD Body Worn Camera footage also corroborates the officers' statements. The video shows two victims and two witnesses pointing to and identifying the complainant as the attacker. The BWC also shows the named officers interviewing witnesses, as well as collecting video footage and physical evidence at the scene.

No other witnesses were identified.

The evidence proved that the officers' actions were justified, lawful and proper.

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DATE OF COMPLAINT: 08/24/19 **DATE OF COMPLETION:** 03/20/19 **PAGE#** 2 of 4

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

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

FINDINGS OF FACT: The complainant stated he was singled out and arrested because he is African American.

Named officer #1 stated she detained and arrested the complainant based on witness and victim statements that identified the complainant as the attacker. The officer denied arresting the suspect based on his race.

Named officer #2 stated he arrested the complainant based on the results of his preliminary investigation and with permission of the sergeant on the scene. Named officer #2 denied arresting the complainant based on his race.

The SFPD Incident Report corroborates the officers' statements. Named officer # 1 stated that she arrested complainant based on the victims' statements and injuries, as well as witness statements. The named officers stated that they viewed surveillance footage showing complainant leaving the club, walking toward an SUV, and stopping next to it. The officers located a switchblade behind the SUV.

SFPD Body Worn Camera footage also corroborates the officers' statements. The video shows two victims and two witnesses pointing to and identifying the complainant as the attacker. The BWC also shows the named officers interviewing witnesses, as well as collecting video footage and physical evidence at the scene.

The evidence proved that the acts alleged did not occur.

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DATE OF COMPLAINT: 08/24/19 **DATE OF COMPLETION:** 03/20/19 **PAGE#** 3 of 4

SUMMARY OF ALLEGATIONS #5 - 6: The officers used profanity.

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

FINDINGS OF FACT: The complainant stated an officer used profanity when telling the complainant to sit down.

The named officers acknowledged telling the complainant to sit down during an investigation at the scene of a stabbing, but both denied using profanity or hearing another officer do so.

SFPD Body Worn Camera footage showed the named officers asking the complainant to sit down without using profanity.

The evidence proved that the acts alleged did not occur.

SUMMARY OF ALLEGATION 7: The officer engaged in retaliatory conduct.

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

FINDINGS OF FACT: The complainant stated the named officer, who had been the subject of an earlier DPA complaint by the complainant, harassed him because of the previous complaint.

The named officer said while he was working as station keeper, the complainant approached him and brought up a previous complaint he had made against the officer. The named officer said he did not converse about the complaint. The named officer said he conducted a medical screening as part of the booking procedure and summoned a medic.

Several witness officers stated they did not hear or see the complainant speaking to the named officer.

No additional witnesses were identified.

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

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DATE OF COMPLAINT: 08/24/19 **DATE OF COMPLETION:** 03/20/19 **PAGE#** 4 of 4

SUMMARY OF ALLEGATIONS #8 - 9: The officers made inappropriate comments.

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

FINDINGS OF FACT: The complainant stated that the officers who transferred him to the county jail made inappropriate comments about his criminal record.

Named officer #1 denied making any comments about the complainant or his criminal record. The named officer stated he did not know the complainant had a criminal record. The named officer stated he did not harass or making any disparaging comments to the complainant.

Named officer #2 denied making any comments about the complainant or his criminal record. The named officer stated he did not know the complainant had a criminal record. The named officer stated he did not harass or making any disparaging comments to the complainant.

There were no other witnesses.

SFPD Body Worn Camera footage showed the named officers transporting the complainant to the station. During the entirety of the drive, the officers do not swear or say anything derogatory to the complainant. The complainant asks the officers some general questions about his arrests and then informs the officers that he needs to use the restroom.

The evidence proved that the acts alleged did not occur.

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DATE OF COMPLAINT: 08/27/18 **DATE OF COMPLETION:** 03/22/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATIONS #1 - 2: The officers failed to promptly respond to the scene.

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

FINDINGS OF FACT: The complainant stated that he called the SFPD to report a burglary. It took twelve to eighteen hours for officers to arrive.

The CAD shows the named officers were dispatched to the complainant's address to investigate a burglary. It was listed as a priority "C" call. The officers were preempted twice while attempting to respond to the scene. The first call preempting the officers' arrival was a priority "A" call. It concerned a stabbing. The second call preempting the officers' arrival was also a priority "A" call. It concerned a burglary where the suspect was within the residence. When the officers were not preempted, they arrived at the complainant's scene within minutes.

Department General Order 1.03, Duties of Patrol Officers, states, in part, "Respond promptly to assigned calls, regardless of the area of assignment. Acknowledge assigned calls by radio, not by telephone. When in the immediate vicinity of a serious incident, respond and render assistance to the unit assigned. When out of service on a lower priority incident, and directed by Communications Division to take a more urgent assignment, acknowledge and respond to the more urgent assignment."

The complainant's incident was a priority C call. According to the CADs, the named officers were preempted by two priority A calls, a stabbing and a burglary where the suspect was on scene.

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: 09/04/18 **DATE OF COMPLETION:** 03/04/19 **PAGE#** 1 of 1

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

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

FINDINGS OF FACT: The complainant stated she was choked by a person subletting her brother's apartment. She said she reported the crime and was told that a detective would contact her, and she should consider whether or not to press charges. The complainant stated that no one contacted her, and when she followed up to press charges, she was never able to get in contact with anyone investigating the case.

The named officer was assigned to investigate the case. He said he was able to speak with the complainant on the phone and take a statement, but she never responded to his request to her that she email him information about the suspect and a witness. The named officer also stated that the name the complainant provided to him was different from the name she originally provided a year earlier. He said he conducted a computer query on the possible suspect, with negative results. The named officer followed up with the complainant by email and phone, but she would not respond, and the case remains open but inactive.

The sergeant of the Special Investigations Team indicated that not all cases are assigned and assignment is based on criteria. This specific incident was not initially assigned because the complainant was adamant that she did not want to press charges. The case was later assigned, once the complainant decided she wanted the complainant arrested; however, this was over a year after the alleged crime had occurred.

The incident report documents that the complainant went into a district station and reported the alleged crime two days after it occurred. The report documents that the complainant "was adamant that she didn't want [the suspect] arrested and that she only wanted the above listed incident documented. [The complainant] said that although [the suspect's] hands were around her neck when he shook her, he didn't strangle her ...". The reporting officer added, "I did not see any visible injuries to [the complainant's] neck." The report further documents that the complainant was not injured and was not in a dating relationship with the suspect. The Chronological of Investigation documents that the named officer was able to interview the complainant but did not get additional requested information from her.

The named officer adequately investigated the incident with limited cooperation from the complainant and scant facts, over a year after the alleged crime occurred.

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

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DATE OF COMPLAINT: 09/12/18 **DATE OF COMPLETION:** 03/07/19 **PAGE#** 1 of 1

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

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

FINDINGS OF FACT: Complainant stated that the named officer used an electrical device to shock him on his left calf two times while he was being transported by ambulance to the hospital.

The named officer stated he rode in the back of the ambulance with the complainant. The named officer denied using force, denied using an electrical device, and denied possessing any electrical device. The named officer also stated that he observed the co-complainant scream in pain while the paramedic administered medical care to the complainant's leg.

The witness paramedic stated that he treated the complainant in the back of the ambulance and administered an intraosseous infusion in the complainant's left tibia below the knee. During this procedure, an adult-sized needle is inserted into the patient's bone marrow to administer medicine and fluids. The paramedic stated that he did not see an officer harm the complainant in anyway. The paramedic also stated that an officer would not have been able to harm the complainant without his knowledge as he was beside the complainant for the duration of the ambulance ride.

A preponderance of the evidence proved that the acts alleged in the complaint did not occur or that the named member was not involved in the acts alleged.

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DATE OF COMPLAINT: 09/17/18 **DATE OF COMPLETION:** 03/26/19 **PAGE#** 1 of 1

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

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

FINDINGS OF FACT: The complainant stated he initially contacted SF 311 Customer Service Center about a homeless encampment on a sidewalk. The complainant stated he did not wait for the officers to arrive on scene after he reported the situation. The complainant stated that the next day, he saw the same encampment in the same area, leading him to believe the police did not remove the camp. The complainant stated he called 311 a second time and complained again.

The officer acknowledged that he saw the homeless encampment and advised the individuals to remove their illegal encampment from the public sidewalk and they complied. The officer also requested DPW to the scene for debris pick-up and to clean the area. The officer also stated that the homeless individuals were compliant and moved at his request. The officer stated the 311 call was closed out when the homeless encampment was taken down. The officer stated that homeless individuals tend to come back later and frequent the same area from which they have been ousted.

SF 311 provided records of the complainant's two contacts regarding the involved encampment, and confirmed the encampment was removed and cleared by SFPD. Department records indicated that the officer contacted DPW for debris clean-up.

The station's homeless liaison representative stated he reviews and responds to 311 calls for service. The witness officer stated the police cannot stop homeless people from moving back to a given area.

No other witnesses were identified.

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: 10/05/18 **DATE OF COMPLETION:** 03/13/19 **PAGE#** 1 of 3

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

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

FINDINGS OF FACT: The complainant stated that the named officer approached her and told her to move because she was smoking near a BART station entrance. The complainant stated that she moved, but the named officer grabbed her wrist and arm, twisted her to the ground, and handcuffed her.

SFPD records indicated that the named officer observed the complainant smoking a cigarette in an enclosed breezeway in violation of San Francisco Health Code 1099.22(a). Records indicated that the named officer told the complainant to extinguish her cigarette or move, but she refused and continued to smoke. Records indicated that the named officer asked the complainant for identification and that the complainant refused and turned away. The records indicated that the named officer then grabbed the complainant's arm, and she immediately tensed up, pulled away, and began yelling. Records indicated that the complainant refused to comply with commands to get on the ground. Records indicated that the named officer initiated an arm bar takedown with leg sweep to place the complainant on the ground and then handcuffed her.

SFPD Body Worn Camera ("BWC") video showed the complainant smoking a cigarette in the BART entrance breezeway when the named officer approached her. BWC video showed the named officer asking her for identification. BWC showed the complainant turn her body away and verbally resist when he told her to stop. The video further showed the named officer tell the complainant several times that she was detained and ordered her to get on the ground. The video showed the complainant physically and verbally refusing to comply with the named officer's commands. BWC video showed the named officer use an arm bar takedown technique to get the complainant on the ground. The video showed that the complainant was handcuffed without further incident.

Department General Order (DGO) 5.01 states, in pertinent part:

III.A. Officers may use reasonable force options in the performance of their duties, in the following circumstances:

1. To effect a lawful arrest, detention, or search.
2. To overcome resistance or to prevent escape.

BWC video evidence showed that the named officer attempted to detain the complainant for violating SF Health Code 1099.22(a). Video evidence showed the complainant actively resist the detention by verbally and physically refusing to comply with commands. A preponderance of the evidence established that the officer's actions were justified, lawful, and proper.

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SUMMARY OF ALLEGATIONS #2-3: The officers failed to provide medical treatment.

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

FINDINGS OF FACT: The complainant stated that she told the named officers that she was in pain, but they told her they didn't care and failed to offer medical treatment.

SFPD records indicated that the complainant complained of pain. Records indicated that the named officers requested an ambulance to respond to the scene, but the complainant refused to wait for paramedics and left prior to their arrival.

BWC video showed the complainant telling the named officers that she was in pain; however, when they asked if she wanted an ambulance, she stated she could take herself to the hospital. BWC video showed one of the named officers call for an ambulance to respond to the scene. BWC video showed the same named officer telling the complainant that an ambulance was called. The video showed the complainant state that she did not want an ambulance. The video further showed the complainant walk away from the scene before the ambulance arrived. At no time did the BWC video show the named officers telling the complainant that they did not care that she was in pain.

DGO 5.01 states, in pertinent part:

VI.B.4. Any subject who has been injured, complains of an injury in the presence of officers, or complains of pain that persists beyond the use of the physical control hold shall be medically assessed by emergency medical personnel.

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

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SUMMARY OF ALLEGATION #4: The officer failed to take required action.

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

FINDINGS OF FACT: The complainant stated that she requested a female officer to search her, but the male named officer ignored her request and searched her.

BWC video showed the named officer, who was working alone, pat search the complainant immediately after handcuffing her. The video showed other units arrive. The video showed the complainant stating after the pat search that the female officer, who came on scene later, needed to stay because she felt violated. At no time did the BWC video show that the complainant requested a female officer to search her.

The allegation of failure to take required action is unfounded because the male officer conducted a minimally intrusive pat down search and the complainant did not request a female officer.

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DATE OF COMPLAINT: 10/29/18 **DATE OF COMPLETION:** 03/01/19 **PAGE#** 1 of 7

SUMMARY OF ALLEGATION #1: The officer seized property without justification.

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

FINDINGS OF FACT: The complainant stated that she came outside of a building to find her car surrounded by officers. The complainant said the named officer seized her mobile phone.

The named officer said he stopped to investigate the complainant's car because it matched the description and photos of a car used in recent burglaries. The named officer stated that he called a sergeant in the burglary unit, who directed him to seize the phones and tow the car.

A sergeant from the burglary unit confirmed that he directed the named officer to seize the phones.

The Body Worn Camera (BWC) recordings show the named officer contacted an investigator by phone. The recordings show that the named officer completed his phone call, then informed other officers on scene that they were going to take the cell phones from the complainant and her companions and tow the car.

The named officer was not involved in the burglary investigation, but he was aware that the complainant's car may have been involved. He was also aware that the complainant owned the car, and, along with her companions, had been in the car. The named officer followed an order to seize the phones from a superior officer who was far more familiar with the facts of the burglary investigation. He would have had reason to believe that such order was lawful, and no indication that it was unlawful. Therefore, 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 #2: The officer towed a vehicle without justification.

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

FINDINGS OF FACT: The complainant stated that she came outside of a building to find her car surrounded by officers. She said the named officer towed her car.

The named officer said a sergeant from the burglary unit directed him to tow the complainant's vehicle.

The sergeant confirmed he directed the named officer to tow the complainant's car.

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 #3: The officer misrepresented the truth.

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

FINDINGS OF FACT: The complainant stated she came outside of a building to find her car surrounded by officers. She said the named officer asked to "see" her phone, so she handed it over willingly; and then rather than return it, the named officer seized it.

The named officer said he used a ruse in order to avoid confrontation. He said there is nothing that forbids him from doing so.

The BWC recordings show the named officer asked the complainant where her cell phone was. She replied it was in her pocket. The recording shows that the named officer then asked, "can I see it please?" The complainant took out her cell phone and handed it to a backup officer, who in turn gave it to the named officer.

Because the named officer was justified in seizing the phone, his use of a ruse to obtain it was permissible. This is particularly true since he had a legitimate law enforcement purpose in doing so, namely, to ensure obtaining the evidence was non-confrontational and did not require the use of force. Because the named officer was not misrepresenting the truth to obtain something that he was not

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otherwise justified in obtaining; and because he did so in a professional manner to avoid escalating the situation; his actions did not reflect discredit upon the Department.

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 #4: The officer used unnecessary force.

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

FINDINGS OF FACT: The complainant stated the named officer used force against her companions during an incident in which their phones were confiscated, and her car towed.

The BWC recording does not show any use of force.

The named officer denied using any reportable force.

A witness officer denied that any force was used during the incident.

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

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SUMMARY OF ALLEGATION #5: The officer failed to take required action.

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

FINDINGS OF FACT: The complainant said her car was towed and cell phone seized. She said she made multiple attempts to contact the named sergeant so he could return her property, but he avoided her.

The named officer stated he “was the main investigator” in the case. He said the cell phones were seized because they had probable cause to believe a felony was committed, and in his experience, “...cell phones are used to contact other people in order to comprise of a burglary or robbery...” The named officer said he returned a call from the complainant within two days, and explained to her that, “her phone would not be released because it was still under criminal investigation.”

A BWC recording shows the complainant at a district station five days after the incident. The recording shows she asked to retrieve her phone. Officers tell her the named sergeant is the only person who can return her property to her, and he is on vacation.

The complainant sent DPA multiple emails indicating she could not get a hold of the named sergeant. She insists he never contacted her directly.

The named officer was responsible for the complainant’s cell phone at some point after it was seized. He also acknowledged that that the complainant asked him to return her phone, and he refused. The named officer should have known that there was not sufficient probable cause to seize the phone in the first place, and he should have released it to the complainant, as he had no justification for keeping it.

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.

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

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

FINDINGS OF FACT: During the investigation, the DPA watched BWC recordings from each officer and discovered potential violations of Department policy.

One named officer stated he muted his BWC to engage in a conversation with a lead investigator about how to proceed with the stop of a car possibly involved in recent burglaries. The other named officer said she did not active her BWC once on scene because she was only standing in the background.

One of the named officer's BWC recording shows that, at one point, he stated he was muting his camera while he called an investigator. The recording remained muted after he completed the phone call and remained muted through the time that he seized the phones from the complainant and her companions. The other named officer's BWC recording shows that she activated her camera while she was filling out documentation regarding the seized phones on the trunk of the seized vehicle. The 30 seconds of buffering before she activated her camera shows that she had already been handling the phones and had placed them in evidence envelopes. Other BWC recordings show that the phones were seized by the other named officer ten minutes before this named officer activated her camera, at least six minutes after she was standing at the rear of the car, and approximately three minutes after the complainant and her companions became hostile.

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:

1. Detentions and arrests
2. Consensual encounters where the member suspects that the citizen may have knowledge of criminal activity as a suspect, witness, or victim
- ...
11. During any citizen encounter that becomes hostile

contact moves into an area restricted by this policy. Members shall deactivate the BWC in the following circumstances:

1. When discussing sensitive tactical or law enforcement information away from the citizen

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...

12. In any situation when the recording would be valuable for evidentiary purposes

...

Once the BWC has been activated, members shall continue using the BWC until their involvement in the event has concluded to ensure the integrity of the recording, unless the SFPD Bulletin 17-156, Body Worn Camera Mute Function, states in part: "Utilizing the mute feature is considered a termination of the recording as outlined by Department General Order 10.11 ..."

The first named officer appropriately activated his BWC when he initiated the detention. He also appropriately muted the BWC when he called an investigator, away from the subjects, to discuss law enforcement tactics. However, the named officer did not unmute his BWC after his conversation concluded, and he once again began to speak with the subjects. His BWC remained muted as he seized the phones. There was no justification for this continued muting.

The second officer should have activated her BWC when she arrived on scene to a detention. It should have been clear that the complainant and her companions were not free to leave while their car was stopped, and their phones were being taken from them. If there was any ambiguity regarding a detention of persons, once the second named officer moved to the rear of the car, and saw the phones being seized, her recording would have been valuable for evidentiary purposes; and soon after, her recording would have captured a citizen encounter that became hostile.

Both named officers violated Department policy regarding BWC's.

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.

FINDINGS OF FACT: The complainant stated cell phones were seized from her and her companions.

The named officer acknowledged that he was contacted by another officer, who had stopped a car that matched the description of one used in recent burglaries. The named officer stated he ordered that officer

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COMPLAINT SUMMARY REPORT**

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SUMMARY OF DPA-ADDED ALLEGATION #3: The officer ordered the seizure of property without justification.

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

to seize the complainant's cell phone. He said his justification was the 4th Amendment's "plain view" rule. The named officer stated the vehicle matched the description perfectly and he had enough probable cause because the phones were associated with the car.

The complainant's cell phone was not in the car at any point during the detention, and therefore, not in plain view of any of the officers. Additionally, the officers on scene did not believe the complainant was involved in the burglaries. A cell phone in a person's pocket, not related to the actual crime being investigated, cannot be seized without a warrant for the person being searched.

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: 11/16/18 **DATE OF COMPLETION:** 03/18/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The officer issued a citation without cause.

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

FINDINGS OF FACT: By mutual agreement of the complainant and the named officer, the complaint was mediated and resolved in a non-disciplinary manner on January 23, 2018.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 11/28/18 **DATE OF COMPLETION:** 03/19/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATIONS #1-2: The officers behaved inappropriately.

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

FINDINGS OF FACT: By mutual agreement of the complainant and the named officers, the complaint was mediated and resolved in a non-disciplinary manner on 03/01/2019.

SUMMARY OF ALLEGATIONS #3-4: The officers failed to take the required action.

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

FINDINGS OF FACT: By mutual agreement of the complainant and the named officers, the complaint was mediated and resolved in a non-disciplinary manner on 03/01/2019.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 12/07/18 **DATE OF COMPLETION:** 03/07/19 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The officer seized property without justification.

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

FINDINGS OF FACT: The complainant indicated SFPD officers seized \$7,000 or more from him in a case that resulted in a dismissal. The money was not returned to him and he never received “documentation of refusal.”

The named officer stated that he provided the complainant a Non-Judicial Forfeiture Proceeding form and a Proof of Service form on the date of his arrest. He also provided the complainant a claim form to use if he wanted to make a claim for the money. The named officer explained that he presented the case to the District Attorney for a decision on asset forfeiture, and the money was ordered forfeited.

The Proof of Service form is signed by the complainant, and acknowledges he received notice of Non-Judicial Forfeiture Proceedings and claim form. The claim form states that a person has 30 days from the date they are notified their property may be forfeited, to make a claim.

SFPD Legal verified that per the District Attorney’s Office, complainant was served with Notice of Seizure, failed to file a claim opposing forfeiture, and was then served with a Declaration of Non-Judicial Forfeiture.

Bank records shows \$8,215 from the complainant’s case was deposited.

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: 12/21/18 **DATE OF COMPLETION:** 03/14/19 **PAGE#** 1 of 1

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

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

FINDINGS OF FACT: The complainant stated the named officer who took a sexual assault report from her nine years ago failed to include key details in the incident report.

The named officer stated that due to having completed the incident report almost nine years ago, he was unable to recall any information other than what was in the report. He stated that the reported information only included what the complainant told him. He stated he likely classified the report as suspicious occurrence because, according to the report, no crime or sexual assault was reported to him.

The incident report documented a sexual encounter between the complainant and the suspect. The facts in the report did not contain elements of sexual assault.

No witnesses were identified.

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

SUMMARY OF ALLEGATION #2: The officer failed to properly investigate.

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

FINDINGS OF FACT: The officer retired and is no longer subject to Department discipline.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 12/21/18 **DATE OF COMPLETION:** 03/27/19 **PAGE#** 1 of 1

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

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

FINDINGS OF FACT: The complainant stated that an officer who questioned why his new car lacked license plates slammed a flashlight on the driver's window, demanded he opened the door, and then slammed his hand to stop him when he reached for his driver's license, which the officer had not requested. The complainant also stated the officer put his hand on his firearm. The complainant stated that he would provide the vehicle registration, photos of the vehicle as it looked, and the name and star number of the officer. He failed to respond to numerous requests for the items.

A station identification poll failed to identify an officer involved in the incident.

The complainant failed to disclose additional requested evidence, and the identity of the alleged officer could not be established.

SUMMARY OF ALLEGATION #2: The officer failed to provide name and star number.

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

FINDINGS OF FACT: The complainant stated he asked the named officer for his name and badge number. At first the officer refused to provide it saying he did nothing wrong, but then gave the complainant the information, which he recorded in his cell phone. The complainant failed to provide the requested evidence.

A station identification poll failed to identify an officer involved in the incident.

The complainant failed to disclose additional requested evidence, and the identity of the alleged officer could not be established.