

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT** 01/04/18 **DATE OF COMPLETION:** 04/11/18 **PAGE#** 1 of 2

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

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

**FINDINGS OF FACT:** The complainant stated she was driving and asked an SFMTA employee stationed at an intersection why there was so much traffic. She said the employee was rude and told her that she would be the last to go. She felt she was being detained unlawfully and called 911. She said that the named officer responded, and she asked him for a police report, but he refused.

The named officer stated that no crime had occurred. The named officer stated that it was merely a verbal dispute between the complainant and the SFMTA employee. The named officer's partner and another officer were also on scene. Both officers stated that no discernable crime had been committed.

Body Worn Camera (BWC) footage showed a large amount of traffic surrounding the scene. The footage showed the complainant stopped in her vehicle, explaining to the officers that an SFMTA employee who was directing traffic had told her he was going to let others go through the intersection before her. The footage showed SFMTA employees telling officers that they had directed her through the intersection when it was possible, but at that point she refused to move.

The SFPD Report Writing Manual states that officers should, "prepare incident reports to document completed, incomplete, or attempted offenses, and suspicious occurrences both of a criminal and non-criminal nature." SFPD General Order 2.01, rule 25, states, "While on duty, members shall make all required written reports of crimes or incidents requiring police attention."

The named officer was not required to write a report in this case because no crime had occurred and there had been no suspicious occurrence.

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** 01/04/18 **DATE OF COMPLETION:** 04/11/18 **PAGE#** 2 of 2

**SUMMARY OF ALLEGATION #:** Part of the complainant's complaint raises matters outside DPA's jurisdiction.

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

**FINDINGS OF FACT:** The complainant's complaint about the SFMTA employee has been referred to SFMTA.

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:** 01/11/18 **DATE OF COMPLETION:** 04/09/18 **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant stated he was in a vehicle accident and the named officers responded. The complainant said he asked the named officers for the other driver's license and insurance information, and he was repeatedly told they would provide him with this information. The complainant said that the named officers never provided him with the information and it caused a delay in his filing a claim and getting his car fixed.

The named officers stated they explained to the complainant that they would prepare a Traffic Collision Report because the complainant was injured. The named officers stated that the complainant was free to exchange information with the other party on his own. The named officers stated that they wrote and submitted the Traffic Collision Report before the end of their shift.

The complainant's personal cell phone video shows one of the named officers telling the complainant they can facilitate the exchange of information and offered to do so at the scene. The video also shows the named officer indicating that the complainant would be evaluated by medics and then they would determine whether they would write a report.

A Reportee Follow-Up Form, provided to the complainant, included a case number and a phone number for the district station. The Traffic Collision Report was prepared by one of the named officers and includes the names, addresses, insurance companies, policy numbers, and license numbers for the complainant and the other party involved in the collision.

SFPD General Order 9.02, Vehicle Accidents, states, "When investigating an accident involving injuries, always complete an entire Traffic Collision Report, including a diagram of the accident scene." Although DGO 9.02 requires officers facilitate the exchange of information between parties for a non-injury accident, the named officers acted properly in this case because the complainant was injured, requiring the officers to prepare a Traffic Collision Report.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 01/23/18 **DATE OF COMPLETION:** 04/12/18 **PAGE#** 1 of 1

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

**CATEGORY OF CONDUCT:** CRD **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 March 28, 2018.

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**DATE OF COMPLAINT:** 01/29/18 **DATE OF COMPLETION:** 04/12/18 **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant stated that, following her car being towed while she was not in it, she called SFPD and was told her car was towed due to its being used in a crime. She stated that she made multiple calls to the SFPD Robbery Division over a three-day period in an attempt to get a case number and investigator's name to get her vehicle released. She was advised that someone would contact her, but nobody did.

Records showed that on the last of the three days identified by the complainant, someone identifying herself as the complainant's aunt called SFPD dispatch regarding the complainant's vehicle. Dispatch told the caller that the complainant's vehicle had been towed by SFPD, but said she could receive no information over the phone and the car's owner would be contacted once the vehicle was ready to be released.

Department records also showed that the complainant was the subject of an active investigation and was named in an arrest warrant obtained by the Robbery Division when her car was towed and while she was attempting to reclaim it. The Department records showed no evidence of a phone call by the complainant during the time she identified in her complaint. Records showed that, a week after the complainant filed her DPA complaint, she phoned the Robbery Division and appeared in person there at the request of the named officer. The complainant was arrested and booked for a robbery she allegedly committed in the car.

Tow agency records showed that the car was released to its lienholder, which repossessed it from the complainant for breach of contract, due to the vehicle's use in a crime.

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

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

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

**FINDINGS OF FACT:** The complainant stated she saw an officer throw a child onto the ground unprovoked on social media, and the child had to be taken to the hospital.

A search for related calls to this complaint resulted in negative results. The incident in question could not be located.

No witnesses were identified.

The complainant provided insufficient information for the DPA to proceed with its investigation.

**SUMMARY OF ALLEGATION #2:** The officer handcuffed an individual without justification.

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

**FINDINGS OF FACT:** The complainant stated an officer handcuffed a child and accused him of attempted robbery.

A search for related calls to this complaint resulted in negative results. The incident in question could not be located.

No witnesses were identified.

The complainant provided insufficient information for the DPA to proceed with its investigation.

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COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 03/14/18    **DATE OF COMPLETION:** 04/26/18    **PAGE#** 1 of 3

**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 that the named officer made inappropriate comments when he raised his voice and threatened to arrest the complainant for not signing a citation.

The named officer stated that he made a factual statement that was meant to explain to the complainant that he could be taken to jail for a refusal to sign the citation. The named officer stated he did not raise his voice. He spoke to the complainant using a professional, authoritative voice which is consistent with how he speaks on all his traffic stops. The named officer stated he followed Department procedures.

The named officer's partner stated the named officer explained to the complainant what the procedures are when a driver refuses to sign a citation. The officer stated the named officer spoke to the complainant using the same firm and professional voice he uses during all traffic enforcement stops.

Body-worn camera footage showed the named officer interrupting the complainant while he was speaking to the named officer's partner and, in a stern, authoritative voice, telling the complainant that he needed to sign the citation, or he would be arrested. At no time did the named officer raise his voice.

DGO 5.60 - Citation Release - states that when, "he/she refuses to sign a citation, follow these procedures: remind the person that signing the citation does not constitute an admission of guilt; give the person one more chance to sign the citation before booking him/her."

No other witnesses were identified.

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

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**DATE OF COMPLAINT:** 03/14/18    **DATE OF COMPLETION:** 04/26/18    **PAGE#** 2 of 3

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

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

**FINDINGS OF FACT:** The complainant stated he was trying to collect information to contest the citation from named officer's partner, when the named officer interrupted him and told the complainant he needed to sign the citation or be arrested. The complainant stated that, because the officer's interruption and threat intimidated him, he was not able to gather specific law enforcement information that he felt was essential for him to receive due process, and did not feel he was free to take photos of the scene. He conceded during his DPA interview that he was not sure he wanted to take photos.

The named officer denied preventing the complainant from collecting information at the scene. He stated he intended to release the complainant from the traffic stop in a reasonable amount of time, so the complainant could gather any information he needed.

The named officer's partner stated the complainant was not prevented from taking pictures or collecting information at the scene.

Body-worn camera footage showed the complainant speaking to the officer who was giving him a citation when the named officer interrupted the complainant and told him in a stern, authoritative voice to either sign the citation, or he was going to be arrested. After the complainant signed the citation, the officers left the area.

No other witnesses were identified.

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



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**DATE OF COMPLAINT:** 03/14/18    **DATE OF COMPLETION:** 04/26/18    **PAGE#** 3 of 3

**SUMMARY OF ALLEGATIONS #3-4:** The officers issued a citation without cause.

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

**FINDINGS OF FACT:** The complainant stated that he should not have received a citation because the named officers walked in front of him as he was proceeding through an intersection after making a complete stop. The complainant acknowledged his attention was diverted from the road before him by a significant police event occurring near the intersection.

The first named officer stated he entered the marked crosswalk and was almost halfway through when the complainant's vehicle almost ran him over. He stated as he was crossing the street, he noticed that the complainant was not looking where he was going and not paying attention to the roadway in front of him.

The second named officer stated he observed his partner walking toward the middle of the marked crosswalk when the complainant's vehicle entered the marked crosswalk and almost contacted him. The second named officer stated the complainant told him he was distracted when he proceeded through the intersection and did not notice the first named officer until his vehicle almost contacted him.

Body-worn camera footage showed the first named officer stepping into the crosswalk toward the traffic lane, simultaneously with the approach of the complainant's vehicle into the crosswalk. The complainant's vehicle, while approaching slowly, does not appear to stop as it approaches the crosswalk, and was about halfway across the crosswalk when he stopped, just as the first named officer meets it.

Records showed that the complainant was issued a citation for 21950(a) CVC. 21950(a) states in part, "the driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection, except as otherwise provided in this chapter."

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:** 02/21/18 **DATE OF COMPLETION:** 04/09/18 **PAGE#** 1 of 1

**SUMMARY OF ALLEGATION #1:** The officer sent the complainant to the hospital without cause.

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

**FINDINGS OF FACT:** The complainant stated that he was intoxicated and was found passed out on the floor in a gate area at the airport. The complainant stated the named officer sent him to the hospital via ambulance without cause. The complainant stated the officer should have arrested him for 647(f) PC, and placed him in a holding area until he was coherent enough to make his own decisions.

The named officer stated he responded to a call of an intoxicated person who was disturbing other passengers and yelling. The named officer stated he found the complainant seated in the gate area and identified himself to the complainant. The named officer described the complainant as an elderly person who had mixed alcohol with his prescription medications and needed medical attention. The named officer stated the complainant would not have been accepted at the jail due to his condition. The named officer called for paramedics to evaluate the complainant.

Dispatcher communications records from the airport indicate the incident was coded as a medical incident. The records indicate the complainant was denied boarding because he was too intoxicated to fly.

Patient medical records indicate ambulance personnel found the complainant sitting in a chair with Fire and Police personnel attending to him. He was noted to have alcohol related symptoms. The airline required the patient to obtain medical clearance before he could board a flight. Emergency room medical records stated the complainant was intoxicated.

The actions of the named officer were reasonable and appropriate under the circumstances.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 02/22/18 **DATE OF COMPLETION:** 04/26/18 **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant stated the named officer had a demeaning attitude and told her that he was tired of her attitude.

The named officer denied the allegation, stating that he was polite and professional toward the complainant.

The Body Worn Camera (BWC) shows that the named officer was patient, polite and professional toward the complainant.

The evidence proved that the act alleged in the complaint did not occur or that the named officer was not involved in the act alleged.

**SUMMARY OF ALLEGATION #2:** The officer failed to take a report.

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

**FINDINGS OF FACT:** The complainant stated that her neighbor illegally works on cars on the street, prompting her to call the police.

The named officer stated he responded to the complainant's address regarding a neighbor dispute, involving one party repairing vehicles in front of her house. The named officer stated that no report was generated because no crime had occurred.

The named officer's BWC corroborates his statement. No vehicles were seen in front of the complainant's house.

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

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**DATE OF COMPLAINT:** 02/14/18 **DATE OF COMPLETION:** 04/26/18 **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant stated that, while riding in an Uber, she witnessed the two named officers violently slam a homeless man to the ground. The complainant stated that the man must have been injured because the force was so severe.

The incident report indicated that the named officers were meeting with DPW for removal of homeless encampments. The incident report stated that the named officers contacted two subjects at the encampment; one of the subjects became aggressive, repeatedly shouted expletives at the officers, and refused to obey commands to sit down. The named officers detained that subject and placed him in handcuffs.

Body worn camera footage shows the two named officers standing near a subject who was seated on the sidewalk. The subject was screaming and cursing at the officers, throwing things and spitting. The subject stood and tried to walk towards the other subject, and the named officers attempted to stop him by holding on to his t-shirt and placing a hand on his shoulder. The subject squatted and fell forward onto his hands and knees and then lay down on his stomach. The footage demonstrates that the named officers did not slam the subject to the ground or cause him to fall to the ground. Rather, the named officers handcuffed the subject without force and placed him in a sitting position against the wall.

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

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**DATE OF COMPLAINT:** 02/28/18    **DATE OF COMPLETION:** 04/26/18    **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant stated that he was waiting for service in a bank and grew impatient with the wait. He stated that when he asked how much longer it would be, the named officer approached him, used profanity, threatened to arrest him and then kicked him out of the bank.

The named officer stated that he was assigned to stand post at the bank and ensure the safety of bank employees, customers and property. The named officer stated that the complainant was yelling and becoming aggressive with bank employees because of the wait for service. The named officer stated he asked the complainant to stop yelling and advised the complainant that he could smell alcohol on him and could, therefore, detain him for public intoxication. The named officer denied using profanity and stated that he remained calm, though the complainant was aggressive and verbally abusive. The named officer stated he followed the complainant out of the bank as the complainant continued yelling and using profanity.

Bank security footage shows the complainant waiting in a chair, standing and approaching the bank teller window, and then speaking to the named officer for about one minute before exiting the bank. The named officer is seen following behind the complainant as he calmly exits the bank.

A witness stated that the complainant was visibly drunk, smelled of alcohol, and was yelling and scaring customers in the lobby. The witness stated that the named officer asked the complainant to stop yelling, and the complainant got in the named officer's face and was belligerent. The witness said that the complainant walked out of the lobby and the named officer followed behind him.

The witness account is consistent with the named officer's statement and indicates that the named officer did not behave inappropriately or make inappropriate comments.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 03/01/18   **DATE OF COMPLETION:** 04/03/18   **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The anonymous complainant stated in an online complaint that they were in contact with police numerous times over a period of 18 months, but that nobody had written a police report. The complainant did not respond to communication to the only address submitted to the DPA.

No witnesses were identified.

The identity of the alleged officer could not be established.

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**DATE OF COMPLAINT:** 03/07/18 **DATE OF COMPLETION:** 04/17/18 **PAGE#** 1 of 1

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

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

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

San Francisco 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:** 02/07/18 **DATE OF COMPLETION:** 04/18/18 **PAGE#** 1 of 2

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

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

**FINDINGS OF FACT:** The complainant stated that she was the victim of a battery. She stated that the two named officers witnessed the crime but did not attempt to apprehend the suspect or conduct an investigation.

The named officers denied witnessing the cause of the complainant's injuries and denied witnessing the complainant fall. The named officers stated that they asked the complainant questions regarding the incident, interviewed and searched for potential witnesses and/or suspects, searched for cameras, summoned an ambulance, provided the complainant with victim resources forms and explained them, took photos of the complainant's injuries and notified a sergeant.

Department records and body worn camera footage are consistent with the named officers' statements and indicate that the named officers conducted a complete investigation.

A witness stated she saw the complainant trip and fall. She stated that she did not see anyone push or hit the complainant.

The evidence indicates that the officers complied with the required investigative steps.

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



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

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

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

**FINDINGS OF FACT:** The complainant stated that the named officer documented in the report that the complainant had tripped and fallen and that a crime had not occurred.

The named officer stated that she consulted with a sergeant regarding the case. The sergeant advised the named officer to title the report as a battery even though the named officers were unable to determine

whether a crime had occurred. The named officer stated that she titled the report as such and all statements were included in the report.

The incident report documents that a crime occurred and details the named officer's investigation. The only indication in the report that the complainant might have tripped and fallen was the content of the witness statement.

The named officer prepared a complete and accurate incident report as required.

The evidence proved that the act alleged in the complaint did not occur or that the named officer was not involved in the act alleged.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 03/08/18 **DATE OF COMPLETION:** 04/20/18 **PAGE#** 1 of 1

**SUMMARY OF ALLEGATION #1:** The officers failed to investigate.

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

**FINDINGS OF FACT:** An anonymous complainant stated that he went to several police stations to submit video evidence, but the police will not accept the evidence.

The complainant did not respond to DPA's request for additional information.

The complainant failed to provide additional requested evidence.

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**DATE OF COMPLAINT:** 03/12/18 **DATE OF COMPLETION:** 04/26/18 **PAGE#** 1 of 1

**SUMMARY OF ALLEGATION #1:** The officer behaved inappropriately.

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 03/15/18 **DATE OF COMPLETION:** 04/13/18 **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 has been referred to:

Bart Office of the Independent Police Auditor  
300 Lakeside Drive, 14th Floor  
Oakland, CA 94612

**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 03/21/18 **DATE OF COMPLETION:** 04/20/18 **PAGE#** 1 of 1

**SUMMARY OF ALLEGATION #1:** The officer failed to take a report.

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

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

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**DATE OF COMPLAINT:** 04/02/18      **DATE OF COMPLETION:** 04/02/18      **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.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 04/05/18    **DATE OF COMPLETION:** 04/19/18    **PAGE#** 1 of 1

**SUMMARY OF ALLEGATION #1:** The officer failed to take a report.

**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 failed to comply with Department General Order 5.20, "Language Access Services Limited English Proficient (LEP) persons."

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 04/10/18 **DATE OF COMPLETION:** 04/26/18 **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 DPA's jurisdiction. This complaint was forwarded to:

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



**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 04/13/18    **DATE OF COMPLETION:** 04/16/18    **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 DPA's jurisdiction. The complainant wanted to file a criminal complaint against his neighbor, not a complaint against a SFPD officer. This complaint was not forwarded.

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**DATE OF COMPLAINT:** 04/27/17    **DATE OF COMPLETION:** 04/09/18    **PAGE#** 1 of 4

**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 the named officer made inappropriate comments and engaged in inappropriate behavior by continuously yelling at and berating her over the telephone about her report of a domestic violence restraining order violation.

The named officer denied berating or yelling at the complainant. He said, however, there was conflicting evidence as to whether the restraining order was served, and he asked the complainant to provide supporting evidence and insisted that she bring her daughter, the victim of the violation, to appear in person. The officer explained that his efforts were in compliance with Special Victims Unit (SVU) requirements for assigning an investigator to such a case.

No witnesses were identified.

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

**SUMMARY OF DPA-ADDED ALLEGATION #1:** The officer failed to comply with DGO 5.20, Language Access Services for Limited English Proficient (LEP) Persons.

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

**FINDINGS OF FACT:** The complainant said she called the SVU to follow up on a reported violation of a restraining order and asked the named officer to have someone call her back in Spanish, but the named member communicated twice in English. At no time the complainant reported to DPA that anyone called her back to communicate in Spanish what she was supposed to do. In fact, the advocate agency assisting the complainant had issues with the investigator that was subsequently assigned to the case.

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**DATE OF COMPLAINT:** 04/27/17 **DATE OF COMPLETION:** 04/09/18 **PAGE#** 2 of 4

**SUMMARY OF DPA-ADDED ALLEGATION #1 continued:**

DGO 5.20 requires officers to take every reasonable step to ensure timely and accurate communication and access to all individuals regardless of national origin or primary language. When performing law enforcement functions, members shall provide free language assistance to LEP individuals whenever an LEP person requests language assistance services.

The named officer stated that he had a certified Spanish-speaking officer communicate with the complainant regarding conflicting evidence and that the officer also explained what the complainant would have to do to ensure the case would be assigned to an inspector.

Another officer, who acknowledged she was a certified Spanish-speaker, said she communicated to the complainant the information the named officer asked her to communicate. However, the case chronological report of investigation has no entry of this certified Spanish-speaking officer contacting the complainant.

No other witnesses were identified.

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

**SUMMARY OF DPA-ADDED ALLEGATION #2:** The SFPD failed to take required action.

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

**FINDINGS OF FACT:** The complainant said she reported a violation of a domestic violence restraining order when her daughter received a letter from a third party, asking the daughter to contact the restrained party. The complainant contended that her ex-husband, the restrained party, was responsible for the contact with his daughter, and the complainant said the Department did nothing to investigate it. The complainant also would not allow her daughter to be interviewed by police investigators.

In DPA interviews, members of the Special Victims Unit (SVU), and a subject matter expert in Domestic Violence (DV) investigation, stated that the SFPD had never received proof of service for the restraining order, which would have triggered the investigation. That fact was corroborated by the Department's Identification Bureau, which records such evidence.

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**SUMMARY OF DPA-ADDED ALLEGATION #2:**

Additionally, the officer who reviewed the initial report of the violation and the DV investigation subject matter expert stated that the reported facts did not amount to a violation of the restraining order – due to the lack of evidence that the letter was sent by the restrained party. An SVU investigator stated that he explained to the complainant that, in order to assign the case, she would have to produce a proof of service and allow her minor daughter to appear in person to be interviewed. The investigator said the complainant became uncooperative by not allowing SVU to interview her daughter.

The evidence proved that the act alleged in the complaint did not occur or that members of the SFPD were not involved in the act alleged.

**SUMMARY OF DPA-ADDED ALLEGATION #3:** The officers failed to take required action.

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

**FINDINGS OF FACT:** The DPA investigation revealed that a Police Services Aide (PSA) prepared an initial report of a violation of a domestic violence (DV) restraining order. The PSA, in a DPA interview, acknowledged that she was trained at the Academy that SFPD policy prohibits PSAs from writing domestic violence reports. She acknowledged receiving a written list while she was in training that includes DV cases among those specifically prohibited for PSAs to take. She also acknowledged that she did not receive the domestic violence training that officers receive that qualifies them to take such reports.

The PSA who took this report stated, however, that violations of court orders in domestic violence cases are considered “secondary offenses,” reports of which she is allowed to write, with authorization. The PSA said she did not recall who authorized her to prepare the report. The written list, however, lists “Domestic Violence” among a list of ten type of reports that PSAs cannot write.

In a DPA interview, the sergeant who reviewed the PSA’s report said he also believed that the PSA could write reports such as the one in this case, with approval. He could not recall who authorized the PSA to take the report in this case either.

The report is inaccurate and incomplete. The crime was improperly coded, resulting in it being improperly assigned to a Station Investigation Team instead of the Special Victims Unit (SVU). The proper searches to ascertain whether the restraining order was enforceable were not completed. The supplemental checklist

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**SUMMARY OF DPA-ADDED ALLEGATION #3 continued:**

attached to the report indicated the order had been served on the restrained party, despite there being no evidence in the SFPD system of the proof of service. No data regarding the long domestic violence history that resulted in a permanent restraining order was noted.

The sergeant who reviewed the report and the Department's subject matter expert on domestic violence investigation both stated there was no violation of the restraining order in this case, but their interviews made it clear that PSAs are allowed to prepare domestic violence related reports at numerous stations against Department policy and training. This practice causes the miscoding of reports and affects the proper assignment of cases, causes victim referrals for follow-up to the incorrect units, and increases the potential to weaken prosecutions.

The Department's subject matter expert on domestic violence investigation stated that he frequently sees domestic violence reports prepared by PSAs in his investigation of stalking cases, and noted that several captains allow this practice. The subject matter expert stated the written policy issued to PSAs at the Academy should be enforced. He stated the only reason given that he is aware of is that officers are too busy. The fact pattern in this case exemplifies a practice that warrants intervention.

The DPA recommends SFPD create and disseminate an A-priority Department Bulletin with clear and unambiguous language prohibiting the assignment of and authorization to PSAs, who possess no DV training, to prepare any DV related incident report.

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**DATE OF COMPLAINT:** 05/25/17 **DATE OF COMPLETION:** 04/09/18 **PAGE#** 1 of 1

**SUMMARY OF ALLEGATION #1:** The officer issued an invalid order.

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

**FINDINGS OF FACT:** The complainant stated that a friend told him about a place to stay and the complainant had spent some time there. The complainant had suspicions about illegal behavior happening on the property and he went to the next-door neighbors to investigate. The neighbors were not helpful and soon police had arrived at the house. The officers told the complainant he could not be staying at the property and that he was evicted. Officers returned multiple times to tell him he had to leave the house.

The named officer stated that the complainant was trespassing on a property that was under construction. Officers did not cite him or threaten him with arrest at first. They helped him gather his things and told him to leave the property and not come back because it was somebody else's property. Several days later, the complainant was trespassing again. The named officer called the property owner who confirmed that the complainant had no right to be on the property. The neighbor signed a citizen's arrest form and the complainant cited and released.

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

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**SUMMARY OF ALLEGATIONS #1-2:** The officers entered a residence without cause.

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

**FINDINGS OF FACT:** The complainant stated that police officers barged into his apartment and arrested him for child abuse.

The named officers stated they responded to the complainant's apartment after learning that the complainant had assaulted his eight-year-old son. One of the named officers stated that exigent circumstances existed, while the other named officer told the DPA that the complainant consented to the entry, allowing them to enter the apartment without a warrant.

Body Worn Camera (BWC) footage shows one of the named officers immediately entering the complainant's apartment when the complainant opened the door, followed by the other named officer and two back up officers. There was no request to enter, and no consent was given by the complainant. In fact, the complainant had no opportunity to react to the entry and was immediately placed under arrest.

While the named officers had sufficient probable cause to arrest the complainant, the named officers entered the complainant's apartment without a warrant, without the complainant's consent and absent exigent circumstances.

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

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

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

**FINDINGS OF FACT:** The complainant stated he is disabled and is paralyzed on his left side.

Department Bulletin No. 17-079, Transporting Persons Who Use Mobility Devices, states, in part:

This bulletin provides direction for members making **custodial arrests** of people who use mobility devices. Mobility devices include, but are not limited to, braces, canes, crutches, walkers, wheelchairs, motorized scooters, and electric personal assistive mobility devices such as “Segways.”

*In all cases, members shall transport a person who uses a mobility device with his or her mobility device.*

SFPD General Order 2.01, General Rules of Conduct, section 15 states:

15. EQUAL RANK RESPONSIBILITY. Unless otherwise ordered, when two or more officers of equal rank are on duty together, the senior officer shall be in charge and is responsible for the proper completion of the assignment.

The evidence established that the named officer and his partner transported the complainant to the station without his wheelchair. The named officer, the senior officer between him and his partner, admitted that they failed to comply with DB 17-079.

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



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**SUMMARY OF ALLEGATIONS #4-7:** The officers used unnecessary force.

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

**FINDINGS OF FACT:** The complainant stated that when the officers entered his apartment, they slammed him against the wall and placed him in handcuffs. In addition, the complainant alleged that he was forcefully shoved into the patrol car.

The Body Worn Camera (BWC) shows the complainant being placed against the wall and placed in handcuffs. The complainant was not slammed against the wall as alleged. The BWC also shows that when the complainant refused to enter the patrol car, one of the named officers goes into the back of the vehicle and grabs the complainant by the cuffs and pulls him into the car. The BWC did not support the complainant's claim that he was shoved into the back of the patrol car.

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.

**SUMMARY OF ALLEGATIONS #8-11:** The officers used profanity.

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

**FINDINGS OF FACT:** The complainant alleged that the officers used profanity but could not specifically recall what was said.

The Body Worn Camera recordings failed to support the complainant's allegation against the officers.

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

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**SUMMARY OF ALLEGATIONS #12-13:** The officers behaved inappropriately and made inappropriate comments.

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

**FINDINGS OF FACT:** The complainant stated that when he was being transported to the station, one of the transporting officers asked if he would like a misdemeanor or a felony charge. The complainant responded that he would like a misdemeanor charge. The named officers stated, "We'll make it a felony then."

The Body Worm Camera failed to support the complainant's allegation against the named officer. In fact, there was very little conversation between the complainant and the named officers while they were en route to the station.

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

**SUMMARY OF ALLEGATION #14:** The officer applied tight handcuffs.

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

**FINDINGS OF FACT:** The complainant stated he was placed in tight handcuffs.

The named officer stated that after placing the complainant in handcuffs, he slid his finger into the cuffs to make sure they were not too tight. The named officer stated that the complainant did not complain about any pain or discomfort from the handcuffs.

The Body Worn Camera did not capture the complainant complaining about the handcuffs being too tight.

The evidence proved that the act alleged in the complaint did not occur, or that the named officer was not involved in the act alleged.

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**DATE OF COMPLAINT:** 06/06/17    **DATE OF COMPLETION:** 04/13/18    **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant stated that officers at SFPD Bayview station have repeatedly ignored him and have not done anything to stop crimes reported at a particular address. He said further that when he engaged in mediation in relation to a previous complaint on the matter, he was told that officers would take actions that they have not taken.

The Officer-In-Charge (OIC) of the District Station in which the address is located was not in charge when the complainant made the complaint. The OIC of the District Station currently stated that he has spoken to and met with the complainant on numerous occasions in an effort to resolve the issues the complainant has raised. The OIC stated that he was not the District Station commander when the complainant previously engaged in mediation and did not know what transpired in that mediation.

The OIC stated that since he has been in charge of the station, his officers have taken appropriate police actions based on the information provided by the complainant and anyone else making reports of suspected criminal behavior at the address in question. These actions include evidence collection, complaint documentation and, if applicable, follow-up investigation. The OIC further stated that he has collaborated with the City Attorney's Office to address the concerns of the complainant.

No witnesses came forward.

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

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**DATE OF COMPLAINT:** 06/12/17 **DATE OF COMPLETION:** 04/13/18 **PAGE#** 1 of 1

**SUMMARY OF ALLEGATION #1:** The officer issued an invalid order.

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

**FINDINGS OF FACT:** The complainant stated that he went to get some things out of his storage unit and the property manager told him he was not allowed to go into his unit. The complainant called police. When police arrived, they told the complainant that they would accompany him to the unit to get his belongings, but then he would have to leave, or he would be arrested for trespassing.

The named officer stated that the property manager told him that the complainant was late paying his rent and he was not allowed to access his storage unit. The property manager asked the named officer to get the complainant to leave. The named officer explained to the complainant his options for retrieving his belongings and the complainant refused. The named officer then told the complainant to leave the property or he would be arrested for trespassing. A witness officer stated he did not remember the incident.

The property manager stated that the complainant was late paying rent and was not allowed to access his storage unit. The complainant called police and when they arrived, police tried to help the complainant and then told the complainant to leave the property. The officers did nothing wrong, according to the property manager.

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.

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

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

**FINDINGS OF FACT:** The complainant stated that he was having problems with his storage unit. The complainant believes police told the property manager of the storage unit not to rent to the complainant.

The named officer stated he never told the property manager he should not rent to the complainant. A witness officer stated he never observed an officer tell anyone to not rent to the complainant. The property manager stated that police never told him to not rent to the complainant. A preponderance of the evidence proved that the act alleged in the complaint did not occur or that the named officer was not involved in the act alleged.

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**DATE OF COMPLAINT:** 06/27/17 **DATE OF COMPLETION:** 04/02/18 **PAGE#** 1 of 2

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

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

**FINDINGS OF FACT:** The complainant stated that her son was walking to the bus stop when he was detained by SFPD when he had done nothing wrong.

The named officer stated he detained the complainant's son because he matched the description given by the 911 caller of a possible armed robbery suspect. The complainant's son's age, race, stature and clothing matched the description of a possible suspect. The named officer had no prior knowledge of the robbery or suspect descriptions before he was dispatched to this call.

Department records indicate that a 911 caller reported juvenile suspects who fit the description of robbery suspects. Dispatch broadcast the information and suspect descriptions to responding officers. The named officer responded to the call and detained the complainant's son, who matched the description provided.

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 behaved inappropriately.

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

**FINDINGS OF FACT:** The complainant stated the named officer was combative and defensive over the phone when she inquired about her son's detention.

The named officer and his Field Training Officer stated that the named officer was professional when he spoke with the complainant on the phone.

No independent witnesses were identified.

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

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**SUMMARY OF ALLEGATION #3:** The officer failed to properly supervise his trainee.

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

**FINDINGS OF FACT:** The named officer, a Field Training Officer, failed to supervise his trainee, prompting the complainant's son's detention.

The evidence established that the officer who detained the complainant's son had reasonable suspicion to detain him based on the 911 call. There is no evidence to support that the named officer failed to supervise his trainee.

The evidence proved that the act alleged in the complaint did not occur or that the named officer was not involved in the act alleged.

**SUMMARY OF ALLEGATION #4:** The officer behaved inappropriately.

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

**FINDINGS OF FACT:** The complainant stated that after the incident, she went to the police station to follow out on her request for more information regarding the incident. She stated she spoke to a female supervisor who provided information about the incident but implied that her son was detained because he wore a black hoodie.

A station poll sent to the station with a description of the encounter did not positively identify the officer 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 behaved inappropriately.

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

**FINDINGS OF FACT:** The complainant and her sister stated the named officer seemed annoyed and did not want to be bothered after she flagged officers down to report that her friend was threatened by another person at a restaurant/bar.

The named officer and witness officers denied the allegation.

The available Body Worn Camera (BWC) footage did not capture the initial conversation in which the alleged conduct occurred.

No independent witnesses were identified.

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

**SUMMARY OF ALLEGATION #2:** The officer used profanity.

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

**FINDINGS OF FACT:** The complainant stated that the named officer told her sister to “get the fuck back inside.”

The named officer and witness officers denied the allegation, stating that the complainant was intoxicated.

The complainant’s sister did not hear the use of profanity.

The available BWC footage of other officers does not capture the beginning of the incident, when the profanity was allegedly used by the named officer.

A preponderance of the evidence suggests that the named officer did not use profanity.

The evidence proved that the act alleged in the complaint did not occur or that the named officer was not involved in the act alleged.

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**SUMMARY OF DPA-ADDED ALLEGATION #1:** The officer failed to take required action per DGO 10.11, Body Worn Cameras.

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

**FINDINGS OF FACT:** The named officer stated the complainant approached him and his partners, pointed to an individual, and explained that he was trying to start fights inside a nearby restaurant/bar. The named officer stated that the complainant was “belligerent,” “argumentative,” “confrontational,” and “condescending” towards him. He said he tried to explain to the complainant that he was going to go inside and speak with the staff at the restaurant/bar who might know more. The named officer stated he did speak to the staff, and he said that the complainant was more of an aggressor and instigator in the dispute. The named officer stated he did not detain anybody and, ultimately, he and his partners decided not to charge anybody. The named officer said he was familiar with SFPD General Order 10.11, and even though his partners activated their Body Worn Cameras (BWC), he did not believe he was required to do so, under the circumstances.

The available BWC footage, from witness officers, shows the complainant accusing the named officer of being unprofessional and telling him she is going to report him.

A request to the SFPD Legal Division for BWC footage related to this incident resulted in only footage from the named officer’s two partners. A letter from the Legal Division stated that the SFPD was unable to find any videos for the named officer related to this incident after a comprehensive review of their video evidence database.

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 ... Consensual encounters where the member suspects that the citizen may have knowledge of criminal activity as a suspect, witness, or victim ... During any citizen encounter that becomes hostile ...”

The named officer stated he did not detain anybody, and the complainant did not describe conduct that would amount to a detention. Nobody was arrested. However, the complainant approached the named officer as a witness describing assaultive behavior by another individual. With the information she provided to the named officer, he and his partners continued their investigation by interviewing other parties to determine if a crime had been committed. Although this was a consensual encounter, the complainant was a witness to alleged criminal activity. In addition, the encounter between the named officer and the complainant had become, unambiguously, hostile. In such a case, the named officer is



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**SUMMARY OF DPA-ADDED ALLEGATION #1 continued:**

required to activate his BWC camera.

The named officer's two partners did activate their BWC, and the named officer should have as well.

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

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**DATE OF COMPLAINT:** 07/05/17 **DATE OF COMPLETION:** 04/18/18 **PAGE#** 1 of 3

**SUMMARY OF ALLEGATION #1:** The officer harassed the complainant.

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

**FINDINGS OF FACT:** The complainant stated the named officer stopped, searched and cited him for walking across the street. The complainant stated the named officer repeatedly stops him without reason.

The named officer stated the complainant was on probation and has a search condition. He also stated, regarding the specific citation, the complainant was stopped and cited for an on-view infraction. The named officer acknowledged he was familiar with the complainant before this incident and knew he was on probation.

Witness officers confirmed the complainant was on probation for a weapons violation. Two of the witness officers stated the complainant and his friend walked across the street outside of a crosswalk, violating the California vehicle code.

Department records reflect that the complainant has a search condition as part of his probation. The complainant was on probation with a search condition and could be stopped and searched at any time.

The evidence proved that the act alleged in the complaint did not occur or that the named officer was not involved in the act alleged.

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

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

**FINDINGS OF FACT:** The complainant stated that the named officer cited him without cause.

The named officer did not recall the specific reason for the citation, but stated it was a traffic violation.

Witness officers stated that the complainant and another individual crossed the street outside of a crosswalk in violation of the California vehicle code.

No other witnesses came forward.

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

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**SUMMARY OF ALLEGATION #3 - 6:** The officers detained the complainant without justification.

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

**FINDINGS OF FACT:** The complainant stated the named officers stopped him and his friend to mess with them.

The named officers stated that they knew the complainant from the area and were aware that he was on probation. Some of the named officers also stated that the complainant and his friend were in the roadway outside of a crosswalk.

Department records reflect that the complainant has a search condition as part of his probation. The complainant was on probation with a search condition and could be stopped and searched at any time.

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

**SUMMARY OF ALLEGATIONS #7 - 10:** The officers detained the complainant's friend without justification.

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

**FINDINGS OF FACT:** The complainant stated that the named officers stopped him and his friend to mess with them.

The named officers denied the allegation. Some of the named officers stated that the complainant and his friend were in the roadway outside of a crosswalk.

No other witnesses came forward.

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

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**SUMMARY OF ALLEGATION #11 - 12:** The officers pat searched without justification.

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

**FINDINGS OF FACT:** The complainant stated that the named officers searched him and his friend without justification.

The named officers stated that they observed the complainant and his friend walking outside of a crosswalk when they detained them. The named officers stated they were familiar with the complainant and aware that he was on probation for a weapons offense. One of the named officers stated he conducted a pat search of the complainant's outermost garments for weapons. The other named officer stated that he searched the complainant's friend once, after being notified by dispatch that he was on probation with a search condition.

San Francisco Police Department Records reflected that the complainant had a search condition as part of his probation.

San Francisco Department Body Worn Camera (BWC) footage showed that one of the named officers conducted a pat search of the complainant, while both named officers conducted a pat search of the complainant's friend.

The BWC footage showed that the complainant's friend admitted that he was on probation. One of the named officers then confirmed with dispatch that the friend had a search condition before conducting a more thorough search.

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

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**DATE OF COMPLAINT:** 07/14/17    **DATE OF COMPLETION:** 04/20/18    **PAGE#** 1 of 2

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

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

**FINDINGS OF FACT:** The complainant stated she entered a police station after consuming several alcoholic beverages over the course of an evening. She claimed that officers detained her without justification.

The named officer acknowledged that he and another officer were in contact with the complainant and detained her for being drunk in public. He stated that he determined she was too intoxicated to care for herself because she repeatedly ignored orders to leave the station, knocked pamphlets off the counter, and did not seem to be aware that she was causing a disturbance. The officer stated that he felt the complainant, who was alone, should not be outside in the state she was in.

Department records, specifically the Public Intoxication Report prepared by the named officer, did not include a contemporaneous statement detailing why he felt the complainant could not care for herself.

The second officer who reportedly detained the complainant is no longer employed by the Department and was unavailable for an interview.

Another officer, who Department records indicated transported the complainant to the County Jail, did not recall having contact with the complainant.

No other witnesses were identified.

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

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

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

**FINDINGS OF FACT:** The complainant stated that the named officer came into the lobby of a police station and detained her without justification.

The officer no longer works for SFPD.

**SUMMARY OF ALLEGATION #3:** The officer used excessive force during an arrest.

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

**FINDINGS OF FACT:** The complainant stated that the named officer used unnecessary force when he took her into custody in a police station lobby.

The officer no longer works for SFPD.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 08/07/17 **DATE OF COMPLETION:** 04/11/18 **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant stated that he called police regarding a noise complaint, and the police never responded.

Records from the Department of Emergency Management show that when the complainant called 911, his call was initially placed on "HOLD." When the call was finally broadcast, the named officers arrived on scene within approximately two minutes.

The named officers stated that by the time they responded to the call, the subject was gone.

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

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

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

**FINDINGS OF FACT:** The complainant stated she encountered a motorist driving his vehicle the wrong way down a one-way street. The complainant, who was riding a bicycle, stopped the motorist and called 911. The complainant stated that when the named officers arrived, she was told to move her bike to the side, so the motorist could continue travelling the wrong way.

The first named officer stated that the motorist had a reasonable excuse for driving the wrong way. The named officer stated that he and the complainant did not exchange very many words, but the complainant was obviously upset by the motorist's actions. The named officer denied that the complainant requested a citizen's arrest because she did not utter specific words to that effect. He agreed that an incident report would have been required if the incident was a citizen's arrest, but he indicated that a report was not required in this case.

The second named officer denied that this incident was a citizen's arrest because there was no crime committed in his presence. He stated they there was no need to issue a citation and that the officers did not let the driver go. They "escorted him." The officer further claimed that he was not able to ascertain if the incident was a citizen's arrest because he did not speak with both parties, so he could not gather enough information. The officer then stated that a citizen's arrest must involve a misdemeanor. The named officer admitted that DGO 5.04 states, "[i]n all instances involving requests for a private person's arrest, an incident report shall be prepared."

Video evidence showed that the complainant stopped a motorist, who was driving in the wrong direction, and detained him in the middle of the road for approximately 22 minutes until officers responded. The named officers briefly spoke with the parties and then allowed the motorist to continue driving the wrong way toward a garage.

California Penal Code §837(1) allows for a citizen's arrest for any "public offense" committed in the presence of the arresting citizen. Penal Code §15 and §16 define "public offenses" as including infractions and any offenses that could result in a fine.

Department General Order 5.04, Arrests by Private Persons, section II.8 states, "In all instances involving requests for a private person's arrest, an incident report shall be prepared."



**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 07/17/17 **DATE OF COMPLETION:** 04/09/18 **PAGE#** 2 of 2

**SUMMARY OF ALLEGATIONS #1-2 continued:**

The complainant was riding her bike on a one-way street and stopped a motorist driving the wrong way. She called for the police and detained a motorist in the middle of the street, blocking traffic, for approximately 22 minutes until officers arrived. While the complainant may not have specifically used the word "arrest," her actions of stopping the motorist, calling police, and detaining the motorist for over 20 minutes until officers arrived reasonably indicated that she wanted the officers to arrest the motorist and, therefore, her actions constituted a citizen's arrest. Pursuant to DGO 5.04, the named officers were mandated to prepare an incident report.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 07/21/17 **DATE OF COMPLETION:** 04/17/18 **PAGE#** 1 of 2

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

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

**FINDINGS OF FACT:** The complainants stated that the named officer used excessive force on a subject. They stated that they saw the subject sitting on the ground, and when the subject tried to stand up and walk away, the named officer placed two hands on the subject and slammed him to the ground. They stated that the named officer kicked and slammed the subject for no reason.

The named officer stated he detained the subject for a suspected narcotics transaction and ordered him to sit down multiple times. The subject was not compliant and stood up several times, at one point breaking into a run. The named officer stated that when the subject stood up and ran, he gave chase and caught up to him. The named officer stated that when he grabbed the subject by his shirt, the subject turned and took an offensive fighting stance towards him. The named officer stated he feared for his safety and struck the subject once in the face with his right closed fist. The named officer stated the subject fell to the ground and he handcuffed the subject without using force. The named officer stated that he neither kicked nor slammed the subject at any point throughout the encounter.

Department records reflect the named officer's statement that the detained subject attempted to escape and made an offensive move toward him. These records indicate that the named officer punched the subject in the face out of fear for his safety.

In a statement, a witness observed that the named officer told the subject not to get up, but the subject stood up and ran. The witness stated that the named officer grabbed the subject and brought him to the ground but did not use excessive force.

San Francisco Police Department General Order 5.01, Use of Force, allows officers to use reasonable force to affect a lawful arrest, detention, or search.

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**DATE OF COMPLAINT:** 07/21/17 **DATE OF COMPLETION:** 04/17/18 **PAGE#** 2 of 2

**SUMMARY OF ALLEGATION #1** continued:

The officer's body-worn camera, surveillance footage, and a witness' cell phone video show that the subject did not comply with the named officer's orders, ran from the named officer, and turned toward the named officer when the named officer grabbed his jacket.

A preponderance of the evidence established that the level of force used by the named officer was proper and reasonable. 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:** 07/25/17 **DATE OF COMPLETION:** 04/10/18 **PAGE#** 1 of 2

**SUMMARY OF ALLEGATIONS #1-4:** The officers failed to investigate.

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

**FINDINGS OF FACT:** In his written complaint, the complainant stated that several people told him that poison was being sprayed through the air ducts, prompting him to call the police multiple times. The complainant stated that the police failed to investigate his claim.

Department records show that the named officers responded to the complainant's calls for service and investigated the matter. The officers found that the complainant's calls did not merit a police report and that no crime was committed.

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 #5-8:** The officers failed to write an incident report.

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

**FINDINGS OF FACT:** In his written complaint, the complainant stated that several people told him that poison was being sprayed through the air ducts, prompting him to call the police multiple times. The complainant stated that the police failed to investigate his claim and failed to write an incident report.

Department records show that the named officers responded to the complainant's calls for service and investigated the matter. The officers found that the complainant's calls did not merit a police report and that no crime was committed.

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:** 07/25/17 **DATE OF COMPLETION:** 04/10/18 **PAGE#** 2 of 2

**SUMMARY OF ALLEGATIONS #9-12:** The officer behaved inappropriately.

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

**FINDINGS OF FACT:** In his written complaint, the complainant stated that several people told him that poison was being sprayed through the air ducts, prompting him to call the police multiple times. The complainant stated that the police failed to investigate his claim, failed to write an incident report, and appeared to be disinterested in helping him.

Department records show that the named officers responded to the complainant's calls for service and investigated the matter. The officers found that the complainant's calls did not merit a police report and that no crime was committed.

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:** 08/01/17    **DATE OF COMPLETION:** 04/18/18    **PAGE#** 1 of 2

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

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

**FINDINGS OF FACT:** The complainant stated he has an on-going issue with noise, harassment, and threats from a tenant across the alley from his apartment. He said he has made multiple calls to police about this. The named officers responded to one such call. The complainant said he pointed out the tenant on a fire escape, but the named officers did nothing. He said he provided contact information for the property manager from the building across the alley, and one of the named officers told him they would try to make contact. The complainant said he followed up with dispatch the next day, and they informed him that no one had made contact with anyone across the alley.

The named officers indicated they responded to the scene, met with the complainant, and then conducted a follow up investigation at the building across the street. The named officers stated they spoke with two tenants in the building. The named officers said that one of the tenants had no knowledge of the incident, while the other recalled an unknown male tenant yelling, but did not know of any harassment or threats. The named officers determined there was no merit to the incident.

Dispatch records show that the complainant called to report threats and harassment by a neighbor. The records document that the named officers made contact with the complainant and reported that the complainant insisted on making a citizen's arrest of a subject for whom he had no name, location or description. Dispatch records from the next day confirm that the complainant called back upset and requested information about what the named officers had done. The dispatcher informed the complainant there was nothing in the dispatch records indicating that the police talked to anyone.

SFPD General Order 1.03, Duties of Patrol Officers, states "Patrol officers shall...be considered in neglect of duty if they fail to discover serious crimes committed in their areas which could have been discovered through the exercise of reasonable diligence." The named officers spoke to tenants in the building across the street before determining the incident was without merit. They exercised reasonable diligence in their follow-up investigation.

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

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**DATE OF COMPLAINT:** 08/01/17    **DATE OF COMPLETION:** 04/18/18    **PAGE#** 2 of 2

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

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

**FINDINGS OF FACT:** The complainant indicated that he spoke with the named officer, a sergeant, about an incident he felt was handled poorly. The complainant was upset that officers had responded to his location about a problem he was having with a neighbor, and they did not fully investigate. The named officer told him he would check on things himself and then get back to the complainant; however, he did not do so.

The named officer stated he spoke with the complainant about the problem he was having with a neighbor across the alley from him. The named officer said he told the complainant if he had time that evening, he would look into the situation. The named officer stated he was unable to contact anyone that evening. He attempted to inform the complainant, but there was no answer. The named officer said he spoke with the responding officers and determined that the complainant's description of the incident did not appear to be criminal or credible.

A preponderance of the proved that the act alleged in the complaint did not occur or that the named officer was not involved in the act alleged.

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COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 08/03/17    **DATE OF COMPLETION:** 04/02/17    **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant stated he was getting gas when he observed the named officer approach and speak with a young female sitting in a vehicle at the gas station. The complainant stated he could tell from the named officer's body language and the female's facial expression that the named officer behaved inappropriately and made inappropriate comments. The complainant said he asked the woman what happened, and she said, "My god, that was incredibly rude. I can't believe he said that to me. I'm 19 years old. I was just at the beach." The complainant stated the female did not tell him what the named officer said to her nor did he hear what the named officer said to the female.

The complainant stated he took a photo of the named officer's vehicle and got back into his vehicle. The complainant said that the named officer then got into his patrol vehicle and backed up directly into the path of the complainant's vehicle preventing him from leaving. The complainant said that the named officer exited his vehicle and approached the complainant's car window, saying to the complainant in an intimidating tone, "Would you like my badge number?" The named officer provided his name, badge number and the name of his assigned station.

The named officer characterized the encounters with the complainant and the female as consensual. The named officer described the tone he used as, "Normal, even, calm, professional." The named officer stated that he saw a young woman or girl wearing a t-shirt over what appeared to be underwear. He said that he spoke with her to make sure she was ok and to warn her that the area was not as safe as it appeared. The named officer denied blocking the complainant's vehicle. He said that he saw the complainant photographing his vehicle, so he offered his name and badge number because he assumed he was going to file a complaint.

There is no video or audio evidence of the contact and the complainant did not hear the conversation between the female and the named officer. The photo of the patrol vehicle provided by the complainant did not show that the named officer had blocked him from leaving. The unknown female did not come forward to complain or provide a witness statement regarding the incident.

No other witnesses were identified.

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



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COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 07/28/17 **DATE OF COMPLETION:** 04/03/18 **PAGE#** 1 of 2

**SUMMARY OF ALLEGATION #1:** The officer engaged in biased policing due to race.

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

**FINDINGS OF FACT:** The complainant was involved in a traffic collision and cited as the primary cause. The complainant stated that the named officer engaged in biased policing due to race when he issued her a citation for a Vehicle Code violation but did not cite the other driver for texting and driving. The complainant submitted no affirmative evidence of bias by the officer.

The named officer denied race bias played a part in the citation decision. The named officer stated the complainant was issued a citation based only on the results of the investigation and in accordance with Department regulations.

The named officer's partner denied that the named officer exhibited race bias in issuing the citation. He stated the named officer determined the complainant was at fault based on the statements given by the involved parties and passenger. He stated the named officer did not cite the other driver for using his cellphone because he was unable to determine if he was using a hand-held device while driving.

Department Bulletin 14-130 states "POST-certified Basic Collision Investigation course trained officers shall arrest or cite the party at fault in all injury traffic collisions where the party at fault is responsible for the injury of another and non-injury collisions when a collision report is prepared, as appropriate."

Department records, including the Traffic Collision Report, indicated that the complainant was issued a citation based upon the statements of all involved parties.

None of the identified witnesses came forward.

The evidence proved that the act alleged in the complaint did not occur or that the named officer was not involved in the act alleged.

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**DATE OF COMPLAINT:** 07/28/17 **DATE OF COMPLETION:** 04/03/18 **PAGE#** 2 of 2

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

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

**FINDINGS OF FACT:** The complainant admitted to entering a roadway from a parked position directly in front of an oncoming truck.

The named officer, who did not witness the collision, stated he determined who was at fault based on the statements provided by the involved parties, and issued a citation based on the investigation.

A witness officer stated that the named officer determined the complainant was at fault based on the statements given by the involved parties and a passenger.

Records showed the complainant was parked along the road and attempted to enter traffic when she pulled out of the parking space in front of an oncoming truck. The complainant was cited for violating California Vehicle Code section 21804(a), which states: "The driver of any vehicle about to enter or cross a highway from any public or private property, or from an alley, shall yield the right of way to all traffic ... approaching on the highway close enough to constitute an immediate hazard and shall continue to yield the right-of-way to that traffic until he or she can proceed with reasonable 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 ALLEGATIONS #1-3:** The officers failed to comply with San Francisco Police Department (SFPD) Department General Order (DGO) 5.08 and 9.01.

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

**FINDINGS OF FACT:** The complainant stated that three plainclothes officers, driving an unmarked truck, pulled up in front of his parked car. He stated that the truck blocked his car, so he couldn't leave. The complainant stated that he first thought they may be "thugs" when they were driving by. However, when the officers approached his car window, he defended his parking spot by telling them that people park there all the time.

The first named officer stated that he and the other named officers were in plainclothes driving an unmarked truck. They saw the complainant's car illegally parked in an area known for gang activity and stopped to make contact. The unmarked truck was not equipped with lights and siren, and they did not pull the driver over. They exited the truck and identified themselves as police officers. The first named officer's star was visible because he tucked his shirt behind the star, which was attached to his belt, prior to the contact. The first named officer stated that they were conducting a suspicious vehicle stop and not a traffic stop prohibited by DGO 9.01.

The second named officer stated that the unmarked truck was not equipped with lights and siren. He stated that the officers initiated an investigative detention due to a traffic violation and did not initiate a traffic stop. His definition of a traffic stop is when an officer activates lights and siren and pulls a driver over. The second named officer walked to the passenger side window and identified himself as a police officer with his star displayed on his hip.

The third named officer stated that they turned onto a street known for gang activity, shootings, and drug dealing. He stated that the unmarked truck was not equipped with lights and siren. He denied that this was a traffic stop prohibited by DGO 5.08; rather, the stop was for an "ongoing criminal investigation," which is an exception to the prohibition. He further stated that he immediately identified himself as a police officer, and his badge was displayed outside his clothing.

Department of Emergency Management (DEM) Computer Aided Dispatch (CAD) identified the contact as a 916, suspicious vehicle.

A witness stated that he saw the truck pull up in front of the complainant's car. The officers exited the truck and "pulled their badges." He stated their badges were around their necks.

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**SUMMARY OF ALLEGATIONS #1-3 continued:**

SFPD Department General Order 5.08, Non-Uniformed Officers, section I.C. states, in part:

1. **TRAFFIC STOPS/CITATIONS.** Non-uniformed officers shall not initiate traffic stops, issue traffic citations or make minor traffic arrests except:
  - a. When the activity is related to an ongoing criminal investigation or regulated vehicle enforcement, e.g. taxi cabs, shuttle buses, limousines.
  - b. When witnessing an aggravated situation requiring immediate action to protect life or property, e.g. drunk driving.

SFPD Department General Order 9.01, Traffic Enforcement, section I.B. states, in part:

1. **UNIFORMED OFFICERS.** Moving violations shall be enforced only by uniformed officers, except as provided in DGO 5.08, Non-Uniformed Officers.

The evidence established that the named officers did not initiate a traffic stop, and that the complainant's vehicle was illegally parked. All three officers immediately identified themselves as police officers and their stars were outside of their clothing and visible. The named officers stated that the vehicle was illegally parked in an area known for drug dealing, shootings, and gang activity, prompting them to make contact with the occupants.

A preponderance of the evidence established that the named officers did not violate Department General Orders 5.08, Non-Uniformed Officers, and 9.01, Traffic Enforcement.

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

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**SUMMARY OF ALLEGATIONS #4-6** The officers detained the complainant without justification.

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

**FINDINGS OF FACT:** The complainant stated that he was stopped by officers without justification. He admitted that there are “No Stopping” signs on the street where he was parked, but a lot of people park there.

The first named officer stated that he detained the complainant because he was illegally parked in front of an apartment complex that is associated with gang members.

The second named officer stated that the officers were patrolling the area because there had been an uptick in violence. They turned on a street known for gang members to hang out to investigate any criminal activity. After they turned on the street, he saw the complainant’s car parked illegally. He stated that the complainant was primarily detained because he was parked in an area where a “No Stopping Any Time” sign was posted.

The third named officer stated that they stopped in front of the complainant’s car and made contact because the car was stopped in a no parking zone in violation of the San Francisco Municipal Code (SFMC) and in a high crime area known for gang violence, shootings, and drug dealing.

SFPD records indicated that the officers were patrolling the area due to recent gang related shootings. Records further state that officers contacted the occupants of the car because it was double parked in front of an address associated with gang activity.

SFMC §7.2.41 prohibits parking on any street, alley or portion of a street or alley that is subject to a posted parking prohibition.

The officers had reasonable suspicion to believe that the complainant was engaged in criminal activity because they observed him violating SFMC §7.2.41, which prohibits parking on any street subject to posted parking prohibition. A traffic violation alone is sufficient to establish reasonable suspicion.

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 #7:** The officer used unnecessary force.

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

**FINDINGS OF FACT:** The complainant stated the named officer told him to step out of the car two times. The complainant admitted he refused to get out of the car. He stated the named officer opened the car door, grabbed him by the arm, yanked him out of the car, and shoved him against the back of the car. The complainant stated he twisted his hand, then swung him around, and slammed him to the ground. The complainant admitted that, prior to the use of force, he stated to the officers that: he did not do anything wrong; people parked there all the time; he did not have to provide his identification because he didn't do anything wrong; he was not on probation or parole; and, he was not getting out of the car. The complainant suffered abrasions to his face, forearm, and knees and had a sore back and wrist.

The named officer stated the complainant yelled profanities as soon as they made contact. The complainant stated that he was going to "fucking sue" them. He replied to all of the other officer's questions with, "fuck you." The complainant asked them, "What the fuck you doing?" Once the complainant provided his identification, one of the other officers contacted dispatch for a records check.

The dispatcher stated that the complainant was "10-35," meaning that the person must consent to search pursuant to a search condition of parole or probation. Upon hearing that information, one of the other officers told the complainant to get out of the car. The complainant aggressively opened the car door and stated, "I'm not on fucking probation." He stood up in front of the named officer and stated, "This is bullshit." The named officer stated that, though the complainant was upset, he remained calm.

The complainant puffed his chest and "squared" towards the named officer, which he interpreted to be a challenge. The named officer wanted to move the complainant away from the car and guide him to the back to search him. He felt that, because of the way the complainant was acting in the car, how he exited the car, and because he had not yet been searched, he needed to grab a hold of his arm to guide him and keep him under control. He grabbed the complainant's upper left arm with his right hand. He told him to "come here, come here." As soon as the named officer's hand contacted the complainant, he felt the complainant's arm tense, and the complainant started to swing his upper body towards him. The named officer used the complainant's momentum to tackle him to the ground. The named officer denied using any other maneuvers, such as a rear wrist lock. He denied slamming him up against the car. He felt the need to tackle the complainant due to the totality of the circumstances – why and where they stopped him, how he was acting in the car, the other people in the car, the unknowns of weapons, and worrying for his safety

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**SUMMARY OF ALLEGATION #7 continued:**

and the safety of the other officers. Also, he considered the occupants in the car who had not yet been searched. He wanted to get the complainant under control quickly to address the others.

The named officer stated he had some fear and worry based on how the complainant was acting. The complainant was not really listening to commands or cooperating, and the named officer wanted to put himself in a position of advantage. He did not mean to injure the complainant, but he intended to use the force that he did. He does not remember if he fell on top of the complainant. He did not use a technique to take him down. He just used the complainant's momentum to "drag him to the ground." The use of force was used to overcome resistance. The named officer stated that, when they checked the complainant's probation status on a Mobile Data Terminal (MDT) in a marked unit, they found out that the complainant was not on probation.

The first witness officer stated that, when the three officers got out of the truck, his plan was to have a civil conversation with the complainant and ask why he was parked there. If he had a reasonable explanation, the witness officer would have let him go. But that didn't happen. The witness officer went up to the passenger window, identified himself as a police officer, and displayed his star on his hip. He greeted the front passenger and the complainant, who responded with a "harsh greeting." The complainant said something like, "What the fuck do you want? Why are you fucking with me?", and called the witness officer a "punk bitch" approximately six times over the course of the contact. The two passengers were calm, cooperative, and did not say anything during the contact.

The complainant's initial reaction was "overly aggressive." The witness officer explained why he was detaining them and referred to the occupants as "sir." The complainant continued to verbally assault him despite his politeness, and that made him think that "something's not right here", and the hair on the back of his neck started to stand up because he's had experiences where detainees will make a scene to distract the police and draw their attention to other than what is going on in the car. The witness officer started to think that the complainant was intentionally distracting him. The witness officer asked for the complainant's identification, and the complainant responded with, "Fuck you. I'm not giving you shit. Run the car, run my name." The complainant refused to give his ID, so the witness officer told him that he was detained and that he is going to have to give them his ID, so they can figure out what is going on. Another witness officer ran the car and the complainant's name through dispatch.

The witness officer overheard dispatch state that the complainant was "10-35", which meant he had a search condition. The witness officer told the complainant that he was on probation and to get out of the car. The complainant responded with, "Fuck you. I'm not on probation. Fuck you, I'm not on probation.

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**SUMMARY OF ALLEGATION #7 continued:**

I'm not getting out of the car." The witness officer told him that dispatch is saying that he's on probation. The complainant insisted approximately five times that he was not on probation. The witness officer felt that something was not adding up due to the complainant's initial demeanor and discrepancy regarding his probation status. The complainant suddenly swung open his door very aggressively, jumped out, and stood up real fast. The named officer said something like, "turn around and face the car." The witness officer was watching the two passengers in the car when some type of scuffle happened between the named

officer and the complainant. He saw the two men over the top of the car from the chest up and then he could not see them at all. The witness officer did not see the complainant puff up his chest or forcefully pull away from the named officer. He did not see the named officer slam the complainant against the back of the car.

The second witness officer stated that, after they exited the truck, the named officer and first witness officer went towards the front of the car, and he went towards the back. The complainant out of the gate starts cussing, "Fuck you guys. I don't have to fucking do shit. You don't have no reason to stop me." The complainant was belligerent. The officers did not disrespect him. The first witness officer asked the complainant for his identification and told him he could not park there. The second witness officer heard the complainant yelling and cussing for no reason. It seemed out of the ordinary that he would be so upset. He ran the complainant's name through dispatch, who stated he was on probation. He heard the complainant state, "You can't fucking stop me. I'm not on probation. You can't search my car." Once the second witness officer told the other officers that the complainant was on probation, everyone's senses were heightened, even more so because the complainant was belligerent, cussing, yelling, being disrespectful for no reason, and had stated that he was not on probation.

The second witness officer believed that the complainant either had something in the car he did not want them to find or he was trying to create a distraction. The named officer told him to get out of the car. The second witness officer was by the driver's side behind the named officer. The first witness officer was on the other side. The second witness officer heard the complainant state, "Fuck you. I'm not on probation." The second witness officer's eyes were on the two passengers still in the car. The man in the backseat had his hands on the headrest, and the second witness officer told the other one to keep his hands in front. Then he heard a commotion and, by the time he looked over, the named officer was on the ground with the complainant. The two passengers immediately jumped up and the second witness officer told them not to move. The first witness officer ran to the other side. It seemed the named officer had the complainant under control. The second witness officer did not see what happened between the named officer and the complainant before they went down because he was so focused on the passengers. He did not assist for the same reason.



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**SUMMARY OF ALLEGATION #7 continued:**

The audio of the DEM CAD indicated that the dispatcher stated that the complainant was “10-35”, which means the person must consent to search.

San Francisco Fire Department (SFFD) records indicated that the complainant stated that he was taken to the ground by police.

Medical records indicated that the complainant stated he was taken down on concrete by police. Records further indicated that the complainant presented with injuries “after a police officer pushed him forward onto the ground.”

A witness stated that he knows the complainant and the passengers in the car from school and the neighborhood. On the day of the incident, he was sitting outside of the apartment complex. He saw the truck pull over and the officers exit. He stated that the complainant cooperated with the officers. He stated that the officer ran the complainant’s name incorrectly, and it came out that there was a warrant on somebody else other than the complainant. As the complainant was stepping outside of the vehicle to cooperate with the officer, the officer got aggressive and made sudden motion to get him out. The complainant was limping and trying to walk in between the elevated curb and his car. The officer grabbed him, turned him around, and slammed him against the concrete. The witness was approximately 15-20 feet away. The complainant gave the officer his identification when the officer asked for his ID and stepped out of the car when the officer told him to step out of the car. The complainant told the officers that he did not have any warrants. The witness never saw the complainant act aggressively towards the officer or puff up his chest. There was no indication that the complainant was resisting. His body was against the car as he was trying to walk between the car and the curb to the back of his car, where the officers wanted him to go. The officer got aggressive and just pulled him out and dropped him before he could get to the flat landing. After the complainant was slammed, the witness heard the officer say that the complainant gave him a different age, trying to blame the complainant for the mistake in identification. “They tried to reverse the story” on the complainant.

DGO 5.01 states, in pertinent part: “Officers may use reasonable force options in the performance of their duties to effect the lawful arrest, detention, or search or to overcome resistance or to prevent escape.”

There was insufficient evidence to prove or disprove that the level of force used by the named officer was minimally necessary to accomplish the complainant’s detention.

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

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**SUMMARY OF ALLEGATION #8:** The officer arrested the complainant without justification.

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

**FINDINGS OF FACT:** The complainant stated that he was cited for violating Penal Code (PC) §148. The complainant admitted that when the named officer told him to step out of the car, he stated, “that is not fucking me” [with a search condition]. When he asked him again, the complainant stated that he refused. The complainant stated the case was dismissed.

The named officer stated that the complainant was cited for violating PC §148, because he did not follow lawful commands, and he was resisting, as indicated by his actions taken prior to the named officer taking him to the ground.

The first witness officer stated that the complainant was cited for PC §148, resisting arrest, due to what occurred after the complainant got out of the car and before he was handcuffed, but he did not know exactly why he was arrested as he did not affect the arrest.

The second witness officer stated that the complainant was cited for violating PC §148 due to delaying and obstructing a police officer. He witnessed the complainant delaying and obstructing by stating, “Fuck you guys. I’m not doing shit.”

PC 148. (a) (1) states, pertinent part: “Every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician...in the discharge or attempt to discharge any duty of his or her office or employment...shall be punished....”

By his own admission, the complainant resisted getting out of the car upon officers’ demands. He delayed the officers in performing their duties by resisting their demands for his identification and arguing with them about the propriety of their detention.

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:** 08/31/17    **DATE OF COMPLETION:** 04/20/18    **PAGE#** 9 of 14

**SUMMARY OF ALLEGATION #9:** The officer searched the car without cause.

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

**FINDINGS OF FACT:** The complainant denied that he or his friends were smoking marijuana in the car prior to the police contact, but stated an officer photographed his cannabis card. He stated that, at some point, officers “ransacked” his car, including the trunk.

The named officer stated he could smell marijuana emanating from the complainant’s car. He stated they would have searched the car without dispatch stating that the complainant was “10-35” based on the smell of marijuana. The named officer’s first thought was that the complainant was selling marijuana to the passengers and transporting marijuana for sale. He smelled burnt marijuana as opposed to marijuana plants, but stated that drug dealers smoke marijuana too. He did not recall if the occupants appeared high. He did not ask if they had been smoking marijuana. The named officer stated that it would have been illegal for the occupants to be smoking marijuana in public. The only evidence of marijuana use he found was the end of a burnt blunt<sup>1</sup>. He did not take pictures of the evidence. Later, he asked if anyone had a cannabis card, and the complainant said he did. The officer stated that, even with a cannabis card, it would have been illegal for him to smoke marijuana in a parked car in public view.

The named officer briefly searched the complainant’s car based on the complainant’s probation status. After he discovered that the complainant was not on probation, he conducted a thorough search of the car. The named officer could not articulate any facts that made him think that the complainant had a large quantity of marijuana for sale or transport other than the smell of marijuana. He did not state that he saw the complainant smoking the marijuana in a public place. He did not see the complainant driving the car to the parked location, and there was no indication that the complainant had recently parked the car.

The first witness officer stated he smelled burnt marijuana coming from inside the car. He did not observe any smoke in the air, or the occupants trying to hide anything, throw anything out the window, or smoking. The witness officer asked if they had been smoking marijuana and either the front passenger or rear passenger admitted that they had. The witness officer believes it is illegal for a person to smoke marijuana in a car, but would need to do research regarding the specific laws. He did not plan to conduct a search based on the marijuana smell alone.

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<sup>1</sup> A “blunt” is a cigar with the tobacco replaced by marijuana.

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**SUMMARY OF ALLEGATION #9 continued:**

He stated that he and the named officer conducted a probation search of the car before they found out that the complainant was not on probation. He did not see the end of the blunt. Nothing else remarkable was found.

The second witness officer smelled marijuana. The smell was fresh, but he did not see anyone in the car smoking marijuana. He stated it would have been illegal for them to be smoking marijuana in the car. The witness officer did not know the code section on which he relied for the premise that one cannot be in a car smoking marijuana, but it has to do with driving under the influence. He then stated that you could smoke marijuana in a car but cannot be under the influence. The named officer searched the car. Later, when the marked unit arrived, they found out that the complainant was not on probation. The witness officer spontaneously uttered that an officer could still search the car based on the marijuana smell, probation or not. He stated that when an officer smells marijuana, there is probable cause to search that vehicle because there could be marijuana inside.

A witness stated that he saw the complainant and the passengers sitting in the car playing on their phones before officers arrived. The complainant's window was down. He did not see them smoking marijuana, and he did not smell marijuana.

As a general rule, the motor vehicle exception to the Fourth Amendment allows an officer to search a vehicle without a search warrant if he has probable cause to believe that evidence or contraband is in the vehicle. However, on November 9, 2016, approximately ten months before the events of this case, California Health and Safety Code (HSC) §11362.1, which was included in Proposition 64, the Adult Use of Marijuana Act, went into effect.

HSC §11362.1<sup>2</sup> states, in pertinent part:

- (a) Subject to [sections]...it shall be lawful under state and local law, and shall not be a violation of state or local law, for persons 21 years of age or older to: (1) possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than 28.5 grams of cannabis not in the form of concentrated cannabis...(4) Smoke or ingest cannabis or cannabis products...
- (b) ...

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<sup>2</sup> On June 27, 2017, Senate Bill 94 slightly amended HSC §11362.1 by changing all references from "marijuana and marijuana products" to "cannabis and cannabis products." The current text of the law is cited.

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**SUMMARY OF ALLEGATION #9 continued:**

- (c) Cannabis and cannabis products involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure, and **no conduct deemed lawful by this section shall constitute the basis for detention, search, or arrest.** (emphasis added)

In addition, on July 6, 2017, the First Appellate District issued its decision in *In re D.W.*, (2017) \_\_ Cal.App.5<sup>th</sup> \_\_ [2017 WL 3334592], that “[o]fficers may not conduct a search incident to an arrest for possession of an illegal substance unless they reasonably believed the substance was, in fact, illegal to possess. And because small quantities of marijuana are no longer *ipso facto* illegal to possess, a light odor of marijuana will not support a custodial arrest.” The Court went on to say that a probable cause search is still permitted when an officer believes someone possesses illegal drugs in any amount; however, in this case, it would not have been illegal for the complainant to possess marijuana.

Thus, before the events of this case, both a statute and case law in California prohibited a probable cause search of a car simply for possession of marijuana. Here, the first search of the vehicle was permissible because the officers had been informed that the complainant was on probation. Once they realized he was not on probation, their only justification for the search was to search for suspected marijuana, which was no longer a valid reason for such a search.

Clearly, none of these officers were aware of this change in the law. It would be unreasonable for officers to be expected to learn of such changes without assistance from their Department. Here, DPA found no evidence that SFPD had informed the rank and file of these changes at the time of the events.

The evidence proved that the action complained of was the result of inadequate or inappropriate training or an absence of training when viewed in the light of Departmental policy and procedure.

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**SUMMARY OF ALLEGATION #10:** The officer failed to comply with DGO 5.07, Rights of Onlookers.

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

**FINDINGS OF FACT:** The complainant stated that one of the passengers told him that an officer took his phone when he started videotaping.

The witness officers denied seeing either of the occupants pull out their phones to record, but stated that there was a bystander taking video. The witness officers stated that they did not interfere.

The witness stated that he started video recording with his phone after the use of force occurred.

The evidence proved that the acts alleged in the complaint did not occur or that the named officer was not involved in the acts alleged.

**SUMMARY OF ALLEGATIONS #11–12:** The officers engaged in inappropriate behavior.

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

**FINDINGS OF FACT:** The complainant stated that, once he was on the ground, the named officers stated and joked something to the effect of, “See what your mouth got you into?”

Both named officers denied that they made those statements. One of the named officers stated that he said that the complainant’s language was unnecessary.

The witness officer denied hearing either named officer make such statements.

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

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**SUMMARY OF ALLEGATION #13:** The officer engaged in inappropriate behavior.

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

**FINDINGS OF FACT:** The complainant stated that an officer told him that either the ambulance could take him to the hospital and his car would be towed, or he could take himself to the hospital and his car would not be towed. The complainant stated that both passengers could have driven his car from the illegal parking spot if the ambulance took him to the hospital. He stated that the officer told him he had to choose between the options provided. The complainant's friend took him to the hospital.

The named officer stated he told the complainant that if the ambulance drove him to the hospital, then his car would be towed because the car was illegally parked, and they could not just leave it there. "Tow it or park it" are the options in this situation, meaning a licensed driver could park the car or it would be towed. The named officer stated that the complainant stated he did not want to go to the hospital, so it was not necessary to tow his car. The named officer does not recall if the complainant asked if one of his friends could repark the car.

The first witness officer stated that he asked the complainant if he wanted to go to the hospital, but the complainant answered in the negative. He stated that he was not cooperative with the EMTs and told them he did not want to go to the hospital. The witness officer did not say and did not hear another officer say that if the ambulance drove him to the hospital then his car would be towed. The witness officer did hear the complainant tell the EMTs that he did not want to go to the hospital.

The second witness officer did not hear the complainant state he wanted to go to the hospital or an officer tell him that if he did, his car would be towed.

SFFD records stated, "[p]atient refuses further assessment. Patient is offered transport, advised of risks, and still refuses transport."

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

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**SUMMARY OF ALLEGATIONS #14–15:** The officers engaged in inappropriate behavior.

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

**FINDINGS OF FACT:** The complainant stated that his friend told him that an officer from the incident returned to the same street the following day.

The first named officer denied returning to the same street the following day.

The second named officer stated he could have “possibly” driven that same truck down the same street the following day. Later in the interview he stated, “I do recall coming back,” though he does not remember specifically driving the same vehicle. He does not recall seeing anyone from the incident. He denied saying anything to the effect of, “I’m back.”

A DEM records search yielded over a hundred calls for service in the area of and on that street the following day, many of which include suspicious persons and suspicious persons in vehicle.

The witness stated that the following day the officer that had used force on the complainant drove down the street in the same truck. The witness stated that the first named officer appeared to be taunting the people around there. He stated the named officer said, “oh, we’re back.”

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



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COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 09/20/17 **DATE OF COMPLETION:** 04/11/18 **PAGE#** 1 of 1

**SUMMARY OF ALLEGATION #1:** The officer engaged in biased policing due to race.

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

**FINDINGS OF FACT:** The complainant alleged that the officer's traffic stop and decision to cite him for a Vehicle Code violation was due to "racist bias" on the part of the officer. The complainant stated that he had lived in the neighborhood where he was pulled over and his experience there indicated to him that officers have historically pulled over black men as a form of harassment. The complainant, however, acknowledged that he was not wearing a seat belt as he was driving his car, and that he had not registered his vehicle.

The named officer acknowledged that he asked his partner to conduct a traffic stop of the complainant, after observing the complainant driving without a seatbelt. The named officer was interviewed pursuant to DPA's Biased Policing Investigation Protocol. He denied knowing the complainant's race before pulling him over, denied engaging in biased policing, and stated that race was not a factor in his decision to stop the complainant, nor was it a factor in deciding to issue a citation.

The BWC video footage from the named officer revealed the complainant was angry, upset and that he had used profanity toward the officer during the traffic stop. The footage indicated that the named officer's demeanor was calm and professional as he was in contact with the complainant during the traffic stop. The footage and other evidence showed that the officer discovered three Vehicle Code violations by the complainant, but issued a citation for just one – the complainant's failure to wear a seatbelt.

The named officer's partner said he did not observe the violation that his partner saw. The partner said the named officer asked him to conduct a traffic stop and that his role was in running the complainant's car and name on the patrol car's mobile data terminal. He stated he did not observe any biased behavior on the part of the named officer, but acknowledged that he did not observe their contact or hear their conversation.

No other witnesses were identified.

A preponderance of the evidence indicated that there was sufficient, observable cause for the traffic stop and no indication that the officer's actions were based on racial bias, as alleged.

The evidence proved that the act alleged in the complaint did not occur or that the named officer was not involved in the act alleged.

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**DATE OF COMPLAINT:** 09/09/17    **DATE OF COMPLETION:** 04/10/18    **PAGE#** 1 of 1

**SUMMARY OF ALLEGATION #1:** The San Francisco Police Department failed to take required action.

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

**FINDINGS OF FACT:** The complainant stated that his scooter and some other personal property, together valued at around \$500, were stolen. The complainant stated that SFPD should have investigated the theft and recovered his property.

The incident report indicates that officers spoke with the complainant. Through investigation, officers learned that the scooter was parked outside of a local department store when it was stolen. The scooter was designed as a recreational toy and was not registered with the California DMV. The officers gave the complainant a case number and documented their investigation in an incident report. No suspects were identified by the complainant.

No witnesses were identified.

The San Francisco Police Department has wide discretion regarding stolen property investigations. Without any serial or registration numbers, the scooter would have been difficult to identify even if located. Officers prepared an incident report documenting the theft and their initial investigation. Because no suspects were identified, the complainant's case was never assigned to the Station Investigation Team.

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

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COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 09/07/17 **DATE OF COMPLETION:** 04/20/18 **PAGE#** 1 of 2

**SUMMARY OF ALLEGATIONS #1-4:** The officers detained a man without justification.

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

**FINDINGS OF FACT:** The complainant stated that police officers wrongfully harassed a man at a bus stop.

Department of Emergency Management records and San Francisco Police Department (SFPD) Body Worn Camera evidence indicated that officers detained a man at a bus stop after they were flagged down by concerned citizens who witnessed the man running around, yelling at himself and others, and scaring bystanders.

Video evidence showed that the named officers stopped the man, asked probative investigative questions, and released him after concluding their investigation. The officers asked probative investigative questions to determine if the man was a threat to himself or others and released him within a reasonable amount of time upon verification that he was not a threat.

The named officers had reasonable suspicion to detain the man for investigative purposes based on information received by citizens that the man was running around, yelling at himself and others, and scaring bystanders.

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.

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**DATE OF COMPLAINT:** 09/07/17 **DATE OF COMPLETION:** 04/20/18 **PAGE#** 2 of 2

**SUMMARY OF ALLEGATION #5:** The officer searched a man without cause.

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

**FINDINGS OF FACT:** The complainant stated that a female officer patted down the man thoroughly and in an aggressive manner.

SFPD Body Worn Camera evidence indicated that officers detained a man at a bus stop after they were flagged down by concerned citizens who witnessed the man running around, yelling at himself and others, and scaring bystanders. The evidence showed the female officer patting down the outer clothing of the man in areas where weapons could be found. The video evidence did not show the female officer patting the man down in an aggressive manner.

Officers may pat search a detainee if they reasonably believe that a person is armed or otherwise presenting a threat to officers or others.

The man who was searched was acting in a bizarre manner and scaring bystanders. The female officer reasonably checked the outer clothing of the man to determine if he was armed with a weapon for officer and citizen safety.

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:** 09/19/17 **DATE OF COMPLETION:** 04/26/18 **PAGE#** 1 of 3

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

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

**FINDINGS OF FACT:** The complainant stated he was driving and came upon a lighted construction sign directing traffic to the left and right of an obstruction. The complainant said that he went to the right and drove straight through the intersection. The complainant said that the named officers stopped him and cited him for driving straight from a right-turn-only lane. The complainant acknowledged that there was a right-turn arrow painted on the surface of the lane, but stated that the construction sign directed vehicles both left and right around an obstruction and made the rules of the intersection ambiguous, at best.

The named officers stated that they observed the complainant driving into the right-turn-only lane and proceeding straight through the intersection, jumping ahead of vehicles that were proceeding straight from the left lane.

A photograph provided by the complainant shows an electronic sign with arrows pointing left and right just before the intersection. The photograph shows that the lane to the right of the arrow has a right-turn arrow painted on it. The photograph also shows a police car, with a note added that says, "This Cop car is sitting here, engine running, waiting for drivers to be confused."

SFPD General Order 9.01, Traffic Enforcement, states, "Officers shall act on moving violations ... After witnessing a violation." General Order 5.03, Investigative Detentions, states, "A police officer may briefly detain a person for questioning or request identification only if the officer has a reasonable suspicion that the person's behavior is related to criminal activity."

The named officers observed the complainant drive straight through an intersection from a right-turn-only lane. The named officers had reasonable suspicion to conduct a traffic stop.

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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COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 09/19/17    **DATE OF COMPLETION:** 04/26/18    **PAGE#** 2 of 3

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

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

**FINDINGS OF FACT:** The complainant stated he was issued a citation for driving straight in a right turn only lane in violation of CVC 22101(d) disobeying the signal. The complainant stated that a construction sign directed traffic left and right, making the rules of the intersection ambiguous, at best. The complainant also stated that he felt the intersection was a trap and that the named officer was lying in wait for victims.

The named officer stated the complainant violated CVC section 22101(d) by proceeding straight in a right turn only lane. He stated there is a painted sign on the roadway making this clear.

The named officer's partner stated there were approximately seven vehicles in front of the complainant waiting to continue straight through the intersection, and the complainant cut off these vehicles by going into the right-turn-only lane and proceeding ahead of them. The officer added that in addition to the right-turn arrow painted on the roadway, there is also a sign posted on a poll indicating the lane was a right-turn-only lane.

A photograph provided by the complainant showed the construction sign, as well as the right-turn-only arrow painted on the surface of the road. The photograph shows a number of vehicles lined up to the left of the construction sign, and no cars in the right-turn-only lane. The photograph also shows a police car with a note indicating that the officers inside were waiting for others to be confused by the signs. The Unit History for the named officer shows that he and his partner only issued one citation at that intersection during their shift.

The photograph submitted by the complainant shows that most drivers seem to understand that they have to move to the left to proceed straight. The only ambiguity comes from the fact that the construction sign directs traffic, in what would be a lane proceeding straight through the intersection, to both the left and right. However, the right-turn arrows in the right lane have not been covered, and clearly require a right turn from that lane. The construction sign simply indicates that the lane remains open for those who choose to turn right. The complainant may have an argument in court, but the named officer had sufficient probable cause to cite him.

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:** 09/19/17 **DATE OF COMPLETION:** 04/26/18 **PAGE#** 3 of 3

**SUMMARY OF ALLEGATIONS #4:** The officer behaved inappropriately.

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

**FINDINGS OF FACT:** The complainant said the named officer blew him off and was unwilling to listen to his explanation.

The named officer denied the allegation. The named officer stated that he is a reasonable person willing to listen to anyone's argument or opinion, and he allowed the complainant to provide his explanation. The named officer stated that the complainant's explanation was not persuasive enough for him to decline to issue him the traffic citation. He said he did not have time to argue with him about the merit of his citation, but he informed the complainant he could challenge it in traffic court. The named officer said he did not treat the complainant disrespectfully.

The Body Worn Camera footage shows that the complainant was given the opportunity to speak and that the named officer listened and responded. The footage shows that the named officer concluded by informing the complainant that he could challenge the citation in court. The footage shows that the named officer acted professionally.

The evidence proved that the act alleged in the complaint did not occur or that the named officer was not involved in the act alleged.

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COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 11/20/17    **DATE OF COMPLETION:** 04/20/18    **PAGE#** 1 of 2

**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 the named officers towed her vehicle without justification.

The named officers stated the vehicle was towed for a violation of California Vehicle Code (CVC) Section 4462(b) - false evidence of vehicle registration. The named officers said that a vehicle records check revealed that the rear license plate of the complainant's car belonged to a 1991 Nissan 2-door Coupe. The complainant's car was a 1995 Honda Accord 4-door sedan. The named officers stated the complainant was unable to provide proof of registration or DMV paperwork for her vehicle.

CVC Section 4462(b) states: "A person shall not display upon a vehicle, nor present to any peace officer, any registration card, identification card, temporary receipt, license plate, temporary license plate, device issued pursuant to Section 4853, or permit not issued for that vehicle or not otherwise lawfully used thereon under this code."

The named officers' Body Worn Camera recordings corroborate the named officers' statements.

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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COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 11/20/17    **DATE OF COMPLETION:** 04/20/18    **PAGE#** 2 of 2

**SUMMARY OF ALLEGATIONS #3-4:** The officers searched a vehicle without cause.

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

**FINDINGS OF FACT:** The complainant stated the named officers searched her vehicle without cause.

The named officers stated that the complainant gave them permission to search the vehicle for paperwork and that they conducted a tow inventory search prior to the vehicle being towed.

The Body Worn Camera recordings corroborate the officers' accounts of what happened.

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 behaved inappropriately and made inappropriate comments.

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

**FINDINGS OF FACT:** The complainant stated the named officer behaved inappropriately and made inappropriate comments.

The named officer denied the allegation. The named officer described her contact with the complainant as professional.

The named officer's partner stated the named officer was professional with the complainant.

The Body Worn Camera footage shows the named officer acted in a professional manner.

The evidence proved that the act alleged in the complaint did not occur or that the named officer was not involved in the act alleged.

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COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 12/05/17 **DATE OF COMPLETION:** 04/12/18 **PAGE#** 1 of 1

**SUMMARY OF ALLEGATION #1:** The SFPD behaved inappropriately.

**CATEGORY OF CONDUCT:** CRD **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 April 3, 2018.

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COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 12/13/17 **DATE OF COMPLETION:** 04/26/18 **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant stated he confronted the named officer because he saw him smoking a cigarette and throwing his cigarette butt on the ground. The complainant stated the officer behaved inappropriately and made inappropriate comments, among other things, calling him a “fag.”

The named officer denied the allegations. The named officer stated he was smoking a cigarette and threw it on the ground to extinguish it, and was intending to pick it up when the complainant started yelling at him. He believed the complainant had been drinking and it seemed like he wanted to pick a fight. The named officer stated that he did pick up his cigarette and throw it away, and he always does so. The named officer didn’t want to argue with the complainant and decided it was best to let the complainant go on his way. The named officer denied calling the complainant a “fag.”

Two other officers who were assigned to the same squad as the named officer stated they did not recall the incident.

The complainant’s wife stated she turned to her husband and told him the officer just threw his cigarette butt on the ground. Her husband asked the officer if he was going to pick up his butt and put it in the trash. She stated the named officer immediately got aggressive, standing up tall, and began walking toward them like he was trying to intimidate them. The officer said something like, what if I did, what are you going to do about it, but she did not remember exactly what the officer said. The complainant’s wife made no mention of the officer using the word “fag.”

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 used unnecessary force.

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

**FINDINGS OF FACT:** The Department of Police Accountability (DPA) initiated an investigation in which the named officers used deadly force against an individual (“decedent”) armed with a pistol. The decedent had shot and injured an SFPD officer and, after a manhunt, fired upon the two named officers, prompting the named officers to use deadly force, killing the suspect.

**Records from the Department of Emergency Management (DEM)**

Records from the San Francisco Department of Emergency Management (DEM) show that a civilian at a shopping center called 9-1-1 to report that a mentally disturbed individual [the decedent] who was threatening customers in the parking lot and trying to fight them. Shortly thereafter, DEM received another call, this time from an employee of a business at the shopping center. The employee described the individual as mentally disturbed. The employee stated that the individual had no weapons.

Two units arrived on scene within 10 seconds of each other. Within a minute, the primary unit broadcast that there was an “officer down.” Multiple units responded to the scene and established a large perimeter. A command post was established at one of the businesses in the shopping center. The command post received a photograph of the suspect and forwarded it for distribution to officers.

Approximately an hour later, numerous officers reported hearing shots fired near a center. Units on the scene reported that the suspect was lying down with a gun in his hand. The suspect appeared to be unconscious and as if he had been shot in the head. Officers called an ambulance and staged a medic for the suspect, who then began moving his right hand while still holding the gun. Police deployed three flash bang grenades without effect. The suspect continued to move his right hand with the gun at his side. Officers then deployed extended-range impact weapons, but the suspect did not move. Tactical units were instructed to move in. The tactical units eventually took the suspect into custody. He was transported to San Francisco General Hospital, where he died two days later.

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**SUMMARY OF ALLEGATIONS #1-2 continued:**

**Missing Person Report Made by the Decedent's Brother**

Department records indicate that approximately one hour prior to this incident, the decedent's brother had come to a police station to report his brother missing. The reportee stated that his brother suffered from mental problems and did not take any medication for his condition. The reportee stated that the decedent's family wanted him located and treated for his mental illness. The person who took the report asked the reportee if the decedent had any weapons and he said no.

**Civilian Witnesses**

**Witness #1** was in the produce section of a supermarket in the shopping center when he noticed a man [the decedent] pacing around who looked "weird and wired." They made eye contact a few times, and then the man came up, tapped him on the shoulder, looked him in the eye, and said, "Tag, you're it." Witness #1 said, "What the fuck is that, bro?" and the man walked out the back door of the store. Witness #1 then alerted store security, saying, "You better go get this guy. He doesn't seem right." The entire encounter lasted "two minutes, tops," according to the witness.

**Witness #2** is 13 years old. She and her family were in the produce section of a supermarket in the shopping center when she noticed a man with a black eye and a line on his left eye. Witness #2 made eye contact with the man and he raised his eyebrows at her, which she felt was strange. Witness #2 walked away, but when she looked back they again made eye contact. This happened several times until she went up to her father (Witness #1) where she felt safer. The man kept circling the produce aisle where they were. Witness #2 asked her father what was wrong with the man and they concluded he was "crazy." The man eventually approached Witness #2's father, tapped him on the elbow, said something to him, and walked away. The man then lingered by the exit and Witness #2's father went and got the security guard.

**Witness #3** is a security guard for the supermarket in the shopping center. Witness #3 stated that several customers complained to him about a disturbing man in the produce section. As Witness #3 was walking toward the produce section, he saw the man walk out of the store. He was "hopping and antsy" and "flinching" toward people in a hostile manner. Witness #3 stated that it was obvious that the man was on drugs or mentally ill. The man walked out of the supermarket and ran towards a sporting goods store. Witness #3 walked toward the sporting goods store to warn their security guard. Witness #3 saw the security guard at the sporting goods store spray a can of "mace" at the man, and then observed the man wipe the spray from his eyes, apparently unfazed.

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**SUMMARY OF ALLEGATIONS #1-2 continued:**

**Witness #4** works at the center near where the decedent was shot. She was working with two families at the time of the incident. The center has several structures, and she was in the closest building to the shooting location. Another employee informed Witness #4 that the facility was on “lockdown” due to a gunman on the loose nearby. Over the course of about an hour, Witness #4 heard what sounded like gunfire and two bomb explosions. Since they were in a part of the building with a lot of windows. Witness #4 and the families sat and crawled around on the floor until the officers told them it was safe to come outside. Witness #4 heard only the loud punctuated sound of gunfire and the explosions. She did not hear any voices, orders, or shouting. Witness #4 stated that officers entered the facility to search the grounds after the gunfire started.

**Statement of Witness Officer #1**

On the date of the incident, Witness Officer #1 was driving a patrol car with his partner and a cadet. They responded to a call regarding a mentally disturbed person at a shopping center. They knew only that a white male was causing a disturbance and possibly acting violently toward other customers. They were followed by another patrol unit and pulled into the shopping center via the rear entrance. As Witness Officer #1 arrived, he saw a security guard come out, point to a man nearby and say, “That’s him.” At this point the suspect took off running. He cut through the bushes onto a back street. The officers did a U-turn and pursued the suspect in their vehicles. Witness Officer #1 overtook the suspect, who was running on the sidewalk.

Witness Officer #1 pulled up, exited the car, and when he got one or two feet out of the car the suspect ran by and fired three shots. Witness Officer #1 was about 10 feet away and was hit once in the head. Witness Officer #1 stated that he had no knowledge that the suspect was armed. He did not see a gun as they drove past him and only realized it when he saw the muzzle flash. The bullet hit the top rear portion of his head, fracturing his skull and leaving some shrapnel lodged in the skull. This created a brain bleed which started to cause Witness Officer #1’s right side to become paralyzed. When Witness Officer #1 hit the ground, he knew he had been shot. When he said, “I’m hit,” his partner, who had started to pursue the suspect on foot, came back. Witness Officer #1 sat on the ground, took off his shirt and vest, and waited for the medics. He was taken to San Francisco General Hospital for treatment.

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**SUMMARY OF ALLEGATIONS #1-2 continued:**

**Statement of Named Officer #1**

Named Officer #1 stated during his interviews with the Homicide Detail and the DPA that he was working with his regular partner and another officer. Named Officer #1 stated they were back at the station waiting to sign off when he heard the call, "Shots fired, shots fired" on the radio. He did not know which unit or which station was involved. The three officers ran towards their patrol vehicle along with other officers.

They had already returned their body-worn cameras to the armory and there was not enough time to retrieve them.

Once they got to the car, the officers heard a unit broadcast, "Officer Down." Named Officer #1 was in the passenger seat, his partner was in the back seat behind him, and the third officer was driving. They went down their driveway and hit a main road, where they activated "Code 3" lights and sirens. They drove to the area of the incident. They heard a supervisor asking for a perimeter around the shopping plaza where the first part of the incident took place. The three officers exited the vehicle and began searching between homes there. They were looking for the suspect.

Named Officer #1 estimated that they were searching the area for about 5 minutes when he heard a voice on his radio say they saw someone run into a park who possibly matched the description of the suspect. A supervisor then asked for a perimeter around the park. The officers got back into the vehicle and made their way towards the north side of the park. While waiting for the perimeter to be established, Named Officer #1 and his partner decided to quickly search the park for the suspect. The two officers checked the playground, the rest rooms by the tennis courts, and the baseball field before returning to the car.

The three officers remained in that location for about 35 minutes, and then the officer who had been driving the patrol car decided to move the car onto the baseball field in order to light the field better with spotlights. As that officer was parking the car on the field, a unit broadcast that someone was running. Named Officer #1 stated he and his partner heard a crashing noise in one of the backyards at the bottom of the hill and then saw some flashlights, which they assumed were other officers. As they stood looking down, they heard some rustling to their immediate right. Named Officer #1's partner held up his flashlight and illuminated the suspect. Almost simultaneously he heard two to three shots being fired by the suspect. Named Officer #1 only had his head turned and he did not want to return fire because his partner was standing between him and the suspect. Named Officer #1 turned left, ducked around a bush, and came out

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**SUMMARY OF ALLEGATIONS #1-2 continued:**

with his gun. He heard more shots and yelled to his partner, "Where is he? Where is he?" His partner motioned to him and said, "He's down, he's down."

Named Officer #1 turned and looked at his partner, who was reloading his weapon. Named Officer #1 came closer and saw the suspect in a seated position with his legs fully extended in front of him, with a dark object on his lap. Named Officer #1's partner was yelling at the suspect, "Drop the gun! Drop the gun! Show me your hands!" The partner yelled to Named Officer #1, "He's got the gun!" Named Officer #1 said that he could see the dark object in the suspect's lap but could not completely make it out. It looked like the suspect's left hand was on it, and the suspect's right hand was slowly creeping towards the gun. As the Named Officer #1's partner continued to yell, "Show me your hands!" Named Officer #1 thought that the suspect was about to re-grip the gun to fire in the officers' direction with both hands. Named Officer #1 then fired his weapon one or two times. The suspect fell backwards, his left hand still on the gun. Both officers were then taking turns yelling at the suspect, "Show us your hands! Show us your hands!" The suspect was not complying. Named Officer #1 stated that the suspect's right hand was again slowly moving toward the gun, so Named Officer #1 fired his gun one or two more times, at which point the suspect's hands separated again. At this point, other officers began arriving on scene. Someone asked, "Who fired?" and Named Officer #1 and his partner answered, "We did." Named Officer #1 got pulled off the line, and he grabbed his partner and pulled him off the line as well. Named Officer #1 estimated that there were 50 officers around the suspect by that point. A sergeant read them the Police Officer's Bill of Rights. The officers were then transported separately to the station.

Named Officer #1 stated that he notified dispatch the suspect had been shot and also communicated that he and his partner were still giving the suspect orders to drop the gun. That was when everyone started showing up and he got pulled off the line. Named Officer #1 stated that although his immediate supervisor eventually came to the scene of the shooting, he thinks someone else told the sergeant of the shooting as he did not tell that sergeant personally.

Named Officer #1 stated that after the shooting when they got pulled off the line, his partner believed he had been shot in the chest. Named Officer #1 immediately holstered his gun, and he and his partner immediately pulled off the partner's jacket and vest and manually searched to make sure he was not hit. They found no injuries. The station keeper seized the Named Officer #1's weapon. At the station, before his gun was seized, Named Officer #1 realized that his gun was still cocked and the hood was down; he half-took his gun out to un-cock it and secure it in the holster. At no point did he check the magazine or reload the gun. The gun was his Department-issued Sig Sauer P-226.



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**SUMMARY OF ALLEGATIONS #1-2 continued:**

Named Officer #1 stated that he did not discuss this incident with his partner prior to being interviewed by Homicide. He did ask his partner if he was okay and “just checked in mentally,” but they did not discuss the details of what happened.

After this incident, Named Officer #1 was off work for about 10 days. During this time, he underwent interviews with Homicide and Internal Affairs. Additionally, he went to the range for firearm debriefing and then went through another qualification exam to make sure he was still prepared to fire and use his gun again. A Force Options debriefing was part of this. Named Officer #1 also received Crisis Intervention Response Team debriefing. He did not discuss any details of the incident with anyone from that team.

When the Named Officer #1 returned to work, he was back on regular assignment.

**Statement of Named Officer #2**

Named Officer #2 stated that on the day of this incident, he was working with his partner (Named Officer #1) and a third officer.

Just prior to the call, the officers had unloaded the equipment from their department vehicle and were reading department email in the report writing room. He had been wearing his body-worn camera but had unloaded it with the firearms and checked it into the armory. Shortly after unloading the car, the officers heard the call of “Shots Fired.” They stopped what they were doing and ran back to their car. Named Officer #2 at first believed that the shots fired would be gang-related, but when they got to the car they learned that someone had shot and injured a police officer.

Named Officer #2 stated that he did not return to the armory to retrieve his body-worn camera. He stated that the time he would have spent returning to the armory, finding the station keeper, and retrieving the equipment did not make sense to him or the other officers because they wanted to get out to the area as soon as possible.

Named Officer #2 got in the car with Named Officer #1 and the third officer, who drove. He stated they did not drive to the area of the initial shooting, because they heard on the radio that the suspect had already fled. They stopped at one area with the intention of establishing a perimeter, but soon saw it was already covered by SFPD officers. They continued driving past several locations until they found an unoccupied corner. The officer behind the wheel parked the car on the field and turned on his spotlights,

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**SUMMARY OF ALLEGATIONS #1-2 continued:**

reasoning that this area would offer a good view if anyone came through. Named Officers #1 and #2 went toward the end of the road where a dirt path started. They had an initial description of the suspect and later received a Department email containing a still image from surveillance footage. Named Officer #2 was able to view this photo in the field. Named Officer #2 stated that, although the patrol car's spotlights were illuminating the field and there were streetlights along the road, he did not remember there being any lights where he and Named Officer #1 were standing. He recalled they had to use flashlights. Named Officers #1 and #2 stood in a dirt area covered in something like mulch. There were several trees and the terrain dropped off in front of them toward the baseball field. The officers did not have any less lethal weapons with them. The two officers were within talking range but far enough away from each other to have different vantage points (7 to 10 feet). Over the radio traffic, they heard a unit report seeing someone running at an address that Named Officer #2 did not recognize. He looked it up on his cell phone's GPS, and found they were a block away from the location where the unit reported someone running. They went further up the incline to get a good vantage point. Named Officer #2 thought they would soon see someone running with officers chasing him.

Suddenly, Named Officer #2 heard branches breaking to his right. Initially, he thought it was an undercover unit walking through. He directed the beam of his flashlight toward the sound and saw a person who instantaneously started shooting at him. Named Officer #2 saw the muzzle flash and believed the shots were directed right at him. Named Officer #2 stated that he had his gun out the entire time but it was at low ready. He had not pointed it at the person because he believed it was an undercover unit. He thought the person shot at him 2-4 times. Named Officer #2 returned multiple rounds, although he was unsure how many. The person ran and then seemed to fall face-forward. Named Officer #2 did not think he had hit the gunman. He thought the suspect had just fallen and might soon turn and start returning fire.

Named Officer #2 did not know how many shots he had fired, so he took the opportunity of the suspect being face down to quickly reload his gun. He knew that with a tactical reload such as this, he was supposed to hang onto the old magazine and put it in his pocket if there were still rounds in it, but the magazine fell out of his hand and he put the new magazine in. He did not know if the first magazine was recovered. The suspect started trying to get up, and Named Officer #2 fired again and issued commands of "Show me your hands," and "Stop, or I'll shoot." He remembered seeing the suspect sit up with effort, which was when the officer realized he must have hit him at least once. Named Officer #2 saw a gun in the suspect's hands and he focused on that. The suspect took the firearm and pointed it at the Named Officer #2 again, so Named Officer #2 fired again to prevent the suspect from shooting him (he estimated that 20-30 seconds passed between when the gunman fell and the second round of shots). There was no question in the Named Officer #2's mind that the suspect would continue shooting if he were able. The suspect fell back, but still had the gun in his hand, resting on his chest. Named Officer #2 yelled to Named

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**SUMMARY OF ALLEGATIONS #1-2 continued:**

Officer #1 that he was close to the suspect and could still see him, and yelled for Named Officer #1 to get on the radio and broadcast where they were to the other officers (he later realized that everyone had heard the gunshots and knew exactly where they were, but he stated that it felt like they were “on an island”).

Named Officer #2 stated that as soon as he was able to turn away from the suspect, there were several officers already at the scene. The third officer he had been working with that day pulled both him and Named Officer #1 off the line and informed him that the other officers had everything under control and would take the suspect into custody. Named Officer #2 at first believed that he may have been hit, but after other officers inspected him they determined that he was uninjured. A sergeant provided Named Officer #2 with the public safety admonition. The officers were then transported back to the station in separate vehicles. He did not discuss any details of the incident with the officers who transported him and did not discuss the incident with Named Officer #1 prior to being interviewed by Homicide. At the station, the station keeper took his firearm from him and placed it in a bag.

Named Officer # 2 stated he did not personally notify his immediate supervisor of the shooting, but his supervisor was on the scene and knew what happened. Named Officer #2 stated he spent 20-30 days “on ice” before being approved to return to work on regular duty.

**Subject Matter Expert (SME)**

DPA interviewed a subject matter expert (SME) who has been a member of the Department for 18 years and instructs recruits at the SFPD Academy in the areas of Physical Training, Defensive Tactics, and Arrest and Control. This curriculum includes methods and techniques of restraining individuals with minimal force, as well as tactics, triangulation, cover and concealment. The SME stated that, when searching for an armed suspect, officers should use defensive tactics such as cover, concealment, and noise discipline. In addition, the SME stated that officers should have a weapon drawn. The SME stated that, while officers receive training for conducting searches in low-light conditions, they generally do not receive specialized training for different terrain. A properly performed low-light search would include coordination with other units, establishing a perimeter, managing the scene and completing the search to the point where, if necessary, a subject is taken into custody.

Regarding a situation like the one faced by Named Officer #1 and Named Officer #2, the SME commented that, here, officers should have one or more weapons drawn due to the known threat of a suspect with a weapon. A search under such low-light conditions should be slow and systematic, and officers should communicate back and forth with each other. However, the SME emphasized that the officers’ individual actions only need meet a “reasonable officer” standard. The SME said that surprise

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**SUMMARY OF ALLEGATIONS #1-2 continued:**

should not factor into the officers' response; officers are conditioned to prepare for the threat (such as the high perceived threat in this instance), so it is reasonable for officers in this scenario to have their firearms out. However, actual discharge of firearm must be based upon a reasonable threat assessment. If an officer is simply surprised by an individual brandishing his fists or other non-lethal force, discharging his firearm would be improper. But if someone surprises an officer with life threatening force, necessitating the defense of self or others, then discharging a firearm would be appropriate.

Finally, the SME stated that heading to a high vantage point to look over to where a suspect might be is appropriate. The SME stated that the goal of taking such a position could be for tactical advantage, but also for the purposes of a complete search.

**Physical and Forensic Evidence**

Physical evidence, including shell casings collected at the scene and examination of the named officers' handguns, established that the named officers fired 21 rounds from their Department-issued handguns. The available evidence shows that Named Officer #2 fired 18 total rounds and Named Officer #1 fired 3 total rounds.

A loaded .22 caliber revolver, registered to the decedent, was recovered next to the decedent and secured into evidence.

The Department's Crime Scene Investigation Unit (CSI) found 22 unfired .22 rounds, five .22 caliber casings, two blood pooling areas located near each other, and three expended flashbang grenades in the area where the decedent was taken into custody. The Department also recovered a black backpack.

At the shooting location near the shopping center, CSI also recovered a lead fragment and a copper jacket fragment from the trunk of a vehicle. The SFPD Forensics Unit analyzed these fragments and determined they were fired from the decedent's revolver.

CSI also responded to San Francisco General Hospital and collected gunshot residue from the decedent's hands.

An Assistant Medical Examiner (AME) conducted an autopsy and determined that the decedent's cause of death was a gunshot wound to his head. The decedent also had gunshot wounds to his right knee and left buttock and a grazing wound to the left knee. No soot or gunpowder stippling was found, indicating that

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**SUMMARY OF ALLEGATIONS #1-2 continued:**

the gunshots were not fired at close range. The AME recovered gunshot and bullet fragments and the SFPD Forensic Services Division tested them. This analysis determined that the shots to the decedent's head and right knee were fired from the Named Officer #2's gun and the shot to his left buttock was fired from Named Officer #1's gun. Forensic Services tested the officers' guns as well as the decedent's weapon and found that they all functioned properly. The AME also performed toxicology tests of the decedent's postmortem blood, which detected only caffeine in the decedent's system.

**Analysis and Conclusion**

**California Penal Code §835(a) states:**

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

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

**San Francisco Police Department General Order 5.01, Use of Force, revised on October 4, 1995, states, in part:**

**USE OF FORCE**

The purpose of this order is to set forth the circumstances under which officers may resort to the use of force. The order also outlines procedures for reporting and evaluating incidents involving the use of force.

**I. POLICY**

- A. It is the policy of the San Francisco Police Department to accomplish the police mission as effectively as possible with the highest regard for the dignity of all persons and with minimal reliance upon the use of physical force. The use of physical force shall be restricted to

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**SUMMARY OF ALLEGATIONS #1-2 continued:**

circumstances authorized by law and to the degree minimally necessary to accomplish a lawful police task.

- B. Officers are frequently confronted with situations where control must be exercised to effect arrests and to protect the public safety. Control may be achieved through advice, warnings, and persuasion, or by the use of physical force. While the use of reasonable physical force may be necessary in situations that cannot be otherwise controlled, force may not be resorted to unless other reasonable alternatives have been exhausted or would clearly be ineffective under the particular circumstances.
- C. Officers are permitted to use whatever force is reasonable and necessary to protect others or themselves, but no more. The purpose of this policy is not to restrict officers from using sufficient force to protect themselves or others, but to provide general guidelines under which force may be used. If exceptional circumstances occur which are not contemplated by this order, officers should use any force reasonably necessary to protect themselves or others; however, they must be able to articulate the reasons for employing such force.

**D. CATEGORIES OF FORCE TO EMPLOY (IN ASCENDING ORDER OF GRAVITY)**

- 1. When the use of force is necessary and appropriate, officers shall, to the extent possible, utilize an escalating scale of options and not employ more forceful measures unless it is determined that a lower level of force would not be adequate, or such a level of force is attempted and actually found to be inadequate. The scale of options, in order of increasing severity, is set forth below:
  - a. Verbal Persuasion
  - b. Physical Control (e.g., passive resister, bent wrist control, excluding the carotid restraint)
  - c. Liquid Chemical Agent (Mace/Oleoresin Capsicum)
  - d. Carotid Restraint
  - e. Department-issued Baton
  - f. Firearm

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**SUMMARY OF ALLEGATIONS #1-2 continued:**

2. It is not the intent of the order to require officers to try each of the options before escalating to the next. Clearly, good judgment and the circumstances of each situation will dictate the level at which an officer will start. Officers using any type of force are accountable for its use.

**E. REASONABLE FORCE**

1. Officers must frequently employ the use of force to effect arrests and ensure the public safety. It is not intended that any suspect should ever be allowed to be the first to exercise force, thus gaining an advantage in a physical confrontation. Nothing in this order should be interpreted to mean that an officer is required to engage in prolonged hand to hand combat with all its risks before resorting to the use of force that will more quickly, humanely and safely bring an arrestee under physical control.
2. Penal Code Section 835 a provides that, "Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed the aggressor or lose his/her right to self defense by the use of reasonable force to effect the arrest, or to prevent escape, or to overcome resistance."

**F. CIRCUMSTANCES JUSTIFYING THE USE OF FORCE**

1. Officers may use force in the performance of their duties in the following circumstances:
  - a. To prevent the commission of a public offense.
  - b. To prevent a person from injuring himself/herself.
  - c. To effect the lawful arrest/detention of persons resisting or attempting to evade that arrest/detention.
  - d. In self-defense or in the defense of another person.
2. Before using force, the officer should consider these questions:

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**SUMMARY OF ALLEGATIONS #1-2 continued:**

- a. What actions on the part of the suspect justify the use of force?
- b. What crime is being or has been committed?
- c. Does the situation require the immediate use of force?

**G. VERBAL PERSUASION AS A MEANS OF EFFECTING CUSTODY**

1. The practice of courtesy in all public contact encourages understanding and cooperation; lack of courtesy arouses resentment and often physical resistance. Simple directions which are complied with while you merely accompany the subject are by far the most desirable method of dealing with an arrest situation. Control may be achieved through advice, persuasion and warnings before resorting to actual physical force.
2. The above should not be construed to suggest that you should ever relax and lose control of a situation, thus endangering your personal safety or the safety of others. Officers are permitted to use that force which is reasonable and necessary to protect themselves from bodily harm.

**H. USE OF PHYSICAL CONTROL TO ACCOMPLISH CUSTODY**

1. Frequently, subjects are reluctant to be taken into custody and offer some degree of physical resistance. Normally all that is required to overcome the resistance is physical strength and skill in defensive tactics, e.g., passive resister, bent wrist control.
2. Defensive tactics are techniques intended for use when weapons are not available or their use is inadvisable or unreasonable under the circumstances. You must, however, ensure that you are capable of utilizing physical skills to subdue a person. Good judgement is extremely important in deciding which tactics to use and how much force to apply. The force used must be necessary.
3. When confronted with a situation that may necessitate the use of physical control, consideration should be given to calling for additional cover officers prior to the contact.
4. In encountering physical resistance and/or assault, an officer's primary goal is to control the situation. The level of force encountered determines what form of defense should be exercised. When conditions permit, the best means of controlling a subject is by the imposition of manual restraint according to methods taught in Department training courses.



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**SUMMARY OF ALLEGATIONS #1-2 continued:**

- a. Choking by means of pressure on the subject's trachea is a prohibited practice.
- b. Rendering a subject unconscious by applying pressure to the carotid artery is permissible only when lesser types of restraint would be

**L. USE OF LIQUID CHEMICAL AGENT (MACE/OLEORESIN CAPSICUM) TO ACCOMPLISH CUSTODY**

- 1. Liquid chemical agent is a non lethal device designed to subdue a person by projecting a specially formulated liquid onto the face. It is not designed to replace the police revolver or baton. Liquid chemical agent is a defensive weapon intended for use when attempting to subdue an unarmed attacker or to overcome resistance likely to result in injury to either the suspect or the officer.
- 2. In most instances, liquid chemical agent will reduce or eliminate the necessity for greater physical force to effect the arrest. Every officer should be equipped with liquid chemical agent and, when practical to do so, should use it rather than the baton or carotid restraint.
- 3. **MEDICAL TREATMENT.** Persons who have had Mace or O.C. sprayed on their faces shall have their faces washed and their eyes flushed with clean water at the scene or as soon as possible. Medical evaluation shall occur.
  - a. Prior to booking and as soon as practicable.
  - b. If the person is recovering normally, request an ambulance (Code 2) to the scene or arrange to have paramedics meet you at another location to medically assess the individual.
  - c. If the ambulance is unavailable or the delay will be excessive, transport the exposed subject to SFGH for medical evaluation.
  - d. If the sprayed suspect loses consciousness or has difficulty breathing, summon an ambulance Code 3.

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**SUMMARY OF ALLEGATIONS #1-2 continued:**

4. **TRANSPORTATION.** Persons who have been sprayed with Mace or O.C. must be transported in an upright position by two officers. The passenger officer shall closely monitor the subject for any signs of distress which would require medical evaluation and/or treatment. Hobble cords or similar types of restraints shall only be used to secure a subject's legs together. They shall not be used to connect the subject's legs to his/her waist or hands in a "trussed" position.
5. **MONITORING SUBJECTS.** Supervisors shall ensure that any person who has been sprayed with Mace or O.C. is kept under direct visual observation until he/she has been medically evaluated. If the person appears to be having difficulty breathing, an ambulance shall be summoned immediately.
6. **BOOKING FORM.** Persons who have been sprayed with liquid chemical agent shall have that noted on the booking form.

**J. USE OF CAROTID RESTRAINT TO ACCOMPLISH CUSTODY**

1. The carotid restraint, when properly applied, is a very effective means of subduing a violent subject; however, caution must be used in its application. The officer applying the hold must attempt to ensure the hold does not slip into a bar arm trachea choke.
2. The carotid restraint is an acceptable use of force in the following situations:
  - a. The officer is physically attacked.
  - b. To stop a physical attack on another person.
  - c. The officer has attempted a lesser
  - d. In the officer's best judgement, having evaluated the particular circumstances, a lesser level of force would be inadequate.
3. **MEDICAL TREATMENT.** Officers finding it necessary to apply the carotid restraint must monitor the subject's vital signs closely. Additionally, if the subject has difficulty breathing or does not immediately regain consciousness, the arresting officer shall immediately call

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**SUMMARY OF ALLEGATIONS #1-2 continued:**

paramedics to the scene. In all cases where the carotid restraint is used, the subject shall be medically evaluated.

4. **BOOKING FORM.** Persons who have been the subject of a carotid restraint shall have that noted on the booking form.

**K. USE OF BATON TO ACCOMPLISH CUSTODY.** The baton in the hands of an officer trained in its use is a very formidable weapon. If we are to obtain effective results, avoid unnecessary injury to suspects, and minimize criticism of the Department, the baton must be used properly and judiciously.

1. The baton must be carried properly in the officer's baton ring. A baton left in the car is of no use to an officer in a confrontation.
2. Officers are not to slap the palm of their hand with the baton or poke the baton at people as an intimidation technique.
3. The baton, when properly used, is capable of delivering extremely powerful blows to stun and incapacitate an aggressive opponent. It is also capable of delivering lethal or permanently disabling blows. Blows to the head, throat, side of the neck, or armpit must be avoided whenever possible.  
ineffective (see Section L, J.).
4. To properly control and therefore maximize its effectiveness, the baton should normally never be raised above the head to strike a blow. The use of the baton as a club is generally prohibited.
5. Striking a handcuffed prisoner with a baton is expressly prohibited (except as allowed for in Section L, C., of this order).
6. Officers will carry only batons issued by the Department

**L. USE OF FIREARM TO ACCOMPLISH CUSTODY.** See DGO 5.02, Use of Firearms.

**M. UNNECESSARY FORCE  
(DEFINED)**

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**SUMMARY OF ALLEGATIONS #1-2 continued:**

1. Unnecessary force occurs when it is apparent that the type or degree of force employed was neither necessary nor appropriate. When any degree of force is utilized as summary punishment or for vengeance, it is clearly improper and unlawful.
2. Malicious assaults and batteries committed by officers constitute gross and unlawful misconduct. Penal Code Section 149 provides criminal penalties for every public officer who under the color of authority, without lawful necessity, assaults or beats any person.
3. When the use of force is applied indiscriminately, the officer will face civil and criminal liability and Department disciplinary action.
4. Justification for the use of force is limited to what is reasonably known or perceived by you at the time. Facts discovered after the event, no matter how compelling, cannot be considered in determining whether the force was justified.

**USE OF FIREARMS**

This order establishes policies and reporting procedures regarding the use of firearms.

**POLICY**

- A. **GENERAL.** Officers shall use their firearms in accordance with Department General Order 5.01, Use of Force, and this General Order.
- B. **HANDLING AND DRAWING FIREARMS**
  1. **HANDLING FIREARMS.** An officer shall handle and manipulate a firearm in accordance with Department-approved firearms training. An officer shall not manually cock the hammer of the Department-issued handgun to defeat the first shot double-action feature.
  2. **AUTHORIZED CIRCUMSTANCES.** An officer may draw or exhibit a firearm in the line of duty when the officer has reasonable cause to believe it may be necessary for his or her own safety or for the safety of others. When an officer determines that the threat is over, the officer shall holster his or her firearm or hold the shoulder weapon in port arms position pointed or

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**SUMMARY OF ALLEGATIONS #1-2 continued:**

slung in a manner consistent with Department-approved firearms training. If an officer points a firearm at a person and the person is not arrested, and if the circumstances permit, the officer should tell the individual the reason the officer drew the firearm.

3. **DRAWING OTHERWISE PROHIBITED.** An officer shall not draw a Department-issued firearm except as authorized by this order, for inspection by a superior, maintenance, safekeeping, or Department-approved training.

**C. DISCHARGE OF FIREARMS**

1. **PERMISSIBLE CIRCUMSTANCES.** Except as limited by Sections C.4 and C.5., an officer may discharge a firearm in any of the following circumstances:
  - a. In self-defense when the officer has reasonable cause to believe that he or she is in imminent danger of death or serious bodily injury.
  - b. In defense of another person when the officer has reasonable cause to believe that the person is in imminent danger of death or serious bodily injury. However, an officer may not discharge a firearm at a person who presents a danger only to him or herself, and there is no reasonable cause to believe that the person poses an imminent danger of death or serious bodily injury to the officer or any other person.
  - c. To apprehend a person when both of the following circumstances exist:
    - (1) The officer has reasonable cause to believe that the person has committed or has attempted to commit a violent felony involving the use or threatened use of deadly force; AND
    - (2) The officer has reasonable cause to believe that a substantial risk exists that the person will cause death or serious bodily injury to officers or others if the person's apprehension is delayed.
  - d. To kill a dangerous animal. To kill an animal that is so badly injured that humanity requires its removal from further suffering where other alternatives are impractical and the owner, if present, gives permission.
  - e. To signal for help for an urgent purpose when no other reasonable means can be used.

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**SUMMARY OF ALLEGATIONS #1-2 continued:**

2. VERBAL WARNING. If feasible, and if doing so would not increase the danger to the officer or others, an officer shall give a verbal warning to submit to the authority of the officer before discharging a firearm.
3. REASONABLE CARE. To the extent practical, an officer shall take reasonable care when discharging his or her firearm so as not to jeopardize the safety of innocent members of the public.
4. GENERALLY PROHIBITED CIRCUMSTANCE. As a warning.
5. MOVING VEHICLES. The following policies shall govern the discharge of firearms at or from a moving vehicle or at the operator or occupant of a moving vehicle:
  - a. At a Moving Vehicle. An officer shall not discharge a firearm at a moving vehicle with the intent to disable the vehicle.
  - b. From a Moving Vehicle. An officer shall not discharge a firearm from a moving vehicle unless the officer has reasonable cause to believe there is an imminent danger of death or serious bodily injury to the officer or to others.
  - c. At the Operator or Occupant of a Moving Vehicle. Discharging a firearm at the operator or occupant of a moving vehicle is inherently dangerous to officers and the public. Disabling the operator will not necessarily eliminate an imminent danger of death or serious bodily injury. Further, a moving vehicle with a disabled operator may crash and cause injury to innocent members of the public or officers. Accordingly, it is the policy of the Department that **officers are prohibited from discharging their firearm at the operator or occupant of a moving vehicle except in the narrow circumstances set in this subsection (c).**<sup>1</sup> An officer shall not discharge a firearm at the operator or occupant of a moving vehicle except under the following circumstances:
    - (1) If the operator or occupant of a moving vehicle is threatening the officer with imminent danger of death or serious bodily injury by means other than the vehicle itself.

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<sup>1</sup> Emphasis in original.

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**SUMMARY OF ALLEGATIONS #1-2 continued:**

- (2) If the operator of the moving vehicle is threatening the officer with imminent danger of death or serious bodily injury by means of the vehicle, and the officer has no reasonable and apparent way to retreat or otherwise move to a place of safety.
- (3) In defense of another person when the officer has reasonable cause to believe that the person is in imminent danger of death or serious bodily injury.
- (4) To apprehend a person when both of the following circumstances exist:
  - (a) The officer has reasonable cause to believe that the person has committed or has attempted to commit a violent felony involving the use or threatened use of deadly force; AND
  - (b) The officer has reasonable cause to believe that a substantial risk exists that the person will cause death or serious bodily injury to officers or others if the person's apprehension is delayed.

d. In reviewing incidents involving the discharge of firearms from a moving vehicle or at an operator or occupant of a moving vehicle, the Department will consider the totality of the circumstances, including but not limited to whether the officer or others were in imminent danger of death or serious bodily injury and whether the officers who were present employed tactics consistent with Department-approved training.

D. REPORTING DISCHARGE OF FIREARMS. Except for firearm discharges at an approved range or during lawful recreational activity, an officer who discharges a firearm, either on or off duty, shall report the discharge as required under Department General Order 8.11. This includes an intentional or unintentional discharge, either within or outside the City and County of San Francisco.

The evidence established that the decedent had a weapon on his person that he had already used to commit a violent felony in shooting and injuring a San Francisco police officer. Civilian witnesses reported that mace or pepper spray had no effect on the man, and he successfully evaded a police manhunt for over an hour. In his next encounter with police officers, he again fired on them without warning. Although the evidence indicates that the decedent had been mentally disturbed, his sudden attack afforded Named Officers #1 and #2 no opportunity to establish rapport, use less-lethal weapons or to deescalate the encounter. The decedent placed the lives of officers and the public in immediate danger, because the

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**SUMMARY OF ALLEGATIONS #1-2 continued:**

decedent delivered lethal force toward the officers at close range and without warning and posed an immediate deadly threat, requiring the officers to use deadly force.

The evidence also established that even after officers had injured the decedent and he was lying on the ground, he refused to relinquish his gun, despite repeated commands to do so. In fact, the evidence showed that he appeared to repeatedly reach for the gun, despite his ultimately fatal injuries. Other officers at the scene used verbal commands, extended range impact weapons, and flashbang grenades to no avail in their attempts to disarm him after he was shot.

A preponderance of the evidence established that the officers reasonably believed that the decedent posed an immediate threat to their lives and they had no other recourse for their own safety but to respond in self-defense with their own firearms. The evidence also established that their actions were proportionate and in furtherance of public safety.

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



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

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

**FINDINGS OF FACT:** The complainant described an incident at a fast food restaurant, mentioned an arrest, and included two names of officers.

The officer names provided did not match any sworn members of the SFPD.

No relevant incident could be found.

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