

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 01/03/19    **DATE OF COMPLETION:** 04/08/19    **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant stated that he reported a home burglary to the police. Officers arrived at his residence and took pictures of the evidence. However, they did not dust for fingerprints or follow up on the case. The complainant did not feel that the officers conducted a thorough investigation.

One named officer stated that he was unable to dust for fingerprints because there was no printable surface; many surfaces in the complainant's residence had been touched and contaminated prior to his arrival. This named officer stated that, due to this lack of physical evidence, he did not contact CSI. The officer stated that he attempted to check footage from the security cameras in the courtyard of the complainant's building, but he learned from the security company that the cameras in the area did not show the front entrance to the complainant's apartment. The officer stated that he did forward the incident report to the Special Investigation Team for follow up.

The other named officer stated that his partner was the investigating officer and he himself was not involved in documenting the investigation.

Body-worn camera footage shows that the named officers checked for forced entry and photographed the broken safe. Additionally, Department documents indicate that the case was assigned to a sergeant, who contacted the security office of the apartment complex after the incident to request the building's security camera video and key fob history. That sergeant then followed up with the complainant via telephone.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 01/08/19    **DATE OF COMPLETION:** 04/04/19    **PAGE#** 1 of 1

**SUMMARY OF ALLEGATION #1:** The officer engaged in biased policing based on race.

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

**FINDINGS OF FACT:** The complainant was sleeping on a sidewalk when two individuals woke him up and told him to leave because the police were coming. The complainant stated that two officers, one armed with a shotgun, arrived at the scene. The complainant stated one of the officers racially profiled him.

The complainant failed to come forward and he did not provide additional requested information.

An incident was identified, possibly matching the facts, but without complainant's input it was impossible to determine whether the incident DPA identified was the incident about which complainant complained. Moreover, the officer identified has retired and is no longer subject to discipline.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 02/07/19 **DATE OF COMPLETION:** 04/23/19 **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant said that, a year prior, the named officer initially refused to meet with him, yelled in his face and behaved in an inappropriate manner in front of two female civilian Department employees when he appeared in a Department lobby as a crime victim.

The named officer denied refusing to meet with the complainant, denied yelling at the complainant, and denied behaving inappropriately.

A civilian witness in the lobby recalled seeing the complainant but could not recall which investigator engaged with him. She also said she had not heard any investigator yell or argue with a survivor in the lobby.

The other civilian witness stated she was at lunch at the time the complainant came to the SVU lobby.

No other witnesses were identified.

Department records documented an interview by the named officer of the complainant on the day in question but included no reference to any dispute or argument.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 01/22/19 **DATE OF COMPLETION:** 04/17/19 **PAGE#** 1 of 1

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

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 01/27/19    **DATE OF COMPLETION:** 04/10/19    **PAGE#** 1 of 3

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

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

**FINDINGS OF FACT:** The complainant, a pedestrian, stated that he was hit by a Muni bus and transported to the hospital. He later received a citation in the mail for violation of California Vehicle Code section 21956. The complainant stated that he did not sign the citation and believes that the citation was improperly issued as the bus struck him.

Department General Order 9.01 states that a “Notice to Appear issued in connection with a traffic collision does not constitute an arrest and the violator need not sign the citation.”

California Vehicle Code section 21956(b) states that a pedestrian may walk close to the right-hand edge of the roadway “if a crosswalk or other means of safely crossing the roadway is not available.”

The named officer stated that his investigation revealed that the complainant stepped out into the street outside of the crosswalk without looking, causing the Muni bus to strike him.

Video from the Muni bus showed that the complainant failed to look in the direction of the bus despite the bus honking, then walked past the yellow line on the pedestrian island.

The named officer interviewed two witnesses on BWC at the scene. Both witnesses agreed that the complainant stepped out into the street without looking and that the bus honked repeatedly.

Records showed that the citation was mailed by SFPD Traffic Administration to the complainant, who received it after the hearing date.

Based on the totality of circumstances, the evidence proved that the acts that provided the basis for the allegations occurred; however, such acts were justified, lawful, and proper.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 01/27/19    **DATE OF COMPLETION:** 04/10/19    **PAGE#** 2 of 3

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

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

**FINDINGS OF FACT:** The named officer deactivated (muted) his body worn camera when he stepped into an ambulance with the complainant. His BWC remained muted after he briefly stepped off the ambulance to obtain measurement for his investigation and returned to the ambulance to ride with the complainant to the hospital. The named officer failed to document the reason(s) he muted his BWC, in violation of DGO 10.11.

Department General Order 10.11 states that members shall deactivate their body worn camera in certain situations, including when “recording at a hospital would compromise patient confidentiality.” However, the DGO further states that if a member deactivates a recording, he “shall document the reason(s) for terminating the recording in CAD, an incident report, a written statement or a memorandum.”

The named officer acknowledged that he muted his BWC and forgot to document the reason. He stated he typically documents deactivation in the CAD, but in this case, after riding with the complainant to the hospital, he went to another call and didn’t have access to the CAD.

DPA’s investigation found that the named officer was aware of his duty to document the muting of his BWC, but circumstances beyond his control resulted in his failure to do so on this one occasion. DPA therefore finds that his conduct does not rise to the level of misconduct that should result in formal discipline.

Based on the totality of circumstances, there was insufficient evidence to either prove or disprove the allegation.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 01/27/19    **DATE OF COMPLETION:** 04/10/19    **PAGE#** 3 of 3

**SUMMARY OF DPA-ADDED ALLEGATION #2:** The officer failed to comply with DB 17-156.

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

**FINDINGS OF FACT:** The named officer muted his body worn camera and failed to document the reason(s) for doing so, in violation of DB 17-156.

Department Bulletin 17-156 states that utilizing “the mute feature is considered a termination of the recording as outlined by Department General Order 10.11, section E, Termination of Recordings” and that if a member mutes the audio, “the member shall document the reason(s)” for doing so.

DPA’s investigation found that the named officer was aware of his duty to document the muting of his BWC, but circumstances beyond his control resulted in his failure to do so on this one occasion. DPA therefore finds that his conduct does not rise to the level of misconduct that should result in formal discipline.

Based on the totality of circumstances, there was insufficient evidence to either prove or disprove the allegation.

**SUMMARY OF ALLEGATION #:** This complaint raises matters outside the DPA’s jurisdiction.

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

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

Superior Court of California  
County of San Francisco  
850 Bryant Street, Room 145  
San Francisco, CA 94103

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 02/07/19      **DATE OF COMPLETION:** 04/04/19      **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant said her 10-year-old daughter was sexually battered by another 10-year-old child at their elementary school yard and SFPD would not prepare an incident report. The complainant terminated her DPA interview prematurely and refused to participate further in the investigation.

DGO 7.01 II. B. defines any person under the age of 14 as a child and California Penal Code Section 26 states that all children under the age of 14 are not capable of committing crimes unless there is clear proof that at the time of committing the act charged against them, they knew its wrongfulness.

The complainant failed to provide additional requested evidence.



**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 02/11/19    **DATE OF COMPLETION:** 04/08/19    **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 the named officers seized his money when he was arrested. He stated the named officers would not return his money.

Department records show the complainant was arrested for auto burglary, and during the search of his vehicle, the named officers located a large sum of money which was taken into evidence.

Court records indicate the complainant's attorney filed a motion for the return of property, which the court granted.

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:** 02/12/19 **DATE OF COMPLETION:** 04/05/19 **PAGE#** 1 of 1

**SUMMARY OF ALLEGATIONS #1 - 2:** The officers did not properly investigate.

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

**FINDINGS OF FACT:** The complainant stated that she called the police regarding a burglary that occurred at her residence, but the officers did not investigate.

The named officers stated that when they arrived on scene at the complainant's residence, the complainant did not answer the door and no witnesses were present. They were therefore unable to obtain any information regarding the burglary.

Department documents show that the named officers responded to the complainant's location, but the complainant was gone upon their arrival. There were no interactions between the officers and the complainant.

No witnesses were identified.

The evidence showed that the officers responded to the complainant's residence, but she had already left the scene when the officers arrived and did not provide further information.

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:** 02/12/19      **DATE OF COMPLETION:** 04/03/19      **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant stated that he called the police after a restaurant refused to give him a full refund. He stated that officers did not assist him or view security camera footage, but only told him that the restaurant had the right not to provide him with a full refund. The complainant was not able to identify the officers.

An employee of the restaurant stated that one of the officers interviewed her. She told the officer that, after being refunded the exact cost of his meal, the complainant demanded whole currency bills and refused to accept any coins. The witness was also unable to identify the officers.

An officer identification poll was returned with negative results.

The identity of the alleged officers could not be established.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 02/13/19    **DATE OF COMPLETION:** 04/22/19    **PAGE#** 1 of 1

**SUMMARY OF ALLEGATION #1:** The officer engaged in biased policing based on race.

**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 April 22, 2019.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 02/21/19    **DATE OF COMPLETION:** 04/29/19    **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** By mutual agreement of the complainant and the named officers, the complaint was not successfully completed through mediation due to the complainant's failure to show but was resolved in a non-disciplinary manner on April 23, 2019.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 02/21/19    **DATE OF COMPLETION:** 04/02/19    **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:** An anonymous complainant stated they observed the named officer disrespectfully speaking to homeless individuals waiting at a bus shelter. The complainant said that the named officer then issued one of the homeless people a citation for riding a bicycle in the bus lane.

The named officer stated that he was not disrespectful. He said that he was assigned to interact with individuals in the area to determine whether they needed services. The named officer said that he had no knowledge if any of the individuals were homeless, and they did not identify themselves as such. The named officer stated that he did stop a male who was riding a bicycle on the sidewalk. This man was not homeless and lived locally in an apartment. The named officer said he warned this individual and did not issue a citation.

A witness officer corroborated the named officer's account.

Body Worn Camera (BWC) showed that the man on the bicycle was riding on the sidewalk, not the bus lane. The BWC showed the named officer interacted cordially with the bicyclist, and did not issue a citation but instead gave the individual a verbal warning.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 03/04/19 **DATE OF COMPLETION:** 04/04/19 **PAGE#** 1 of 1

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

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

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

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

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

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

**SUMMARY OF ALLEGATION #3:** The officer engaged in biased policing due to race.

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

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

**SUMMARY OF ALLEGATION #4:** The officer failed to comply with DGO 5.15.

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 03/07/19 **DATE OF COMPLETION:** 04/25/19 **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The incident in question occurred while the officer was off-duty. As such, this complaint raises matters outside the DPA's jurisdiction. This complaint has been referred to:

San Francisco Police Department  
Internal Affairs Division  
1245 3<sup>rd</sup> Street  
San Francisco, CA 94158

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

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

**FINDINGS OF FACT:** The incident in question occurred while the officer was off-duty. As such, this complaint raises matters outside the DPA's jurisdiction. This complaint has been referred to:

San Francisco Police Department  
Internal Affairs Division  
1245 3<sup>rd</sup> Street  
San Francisco, CA 94158



**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 03/11/19 **DATE OF COMPLETION:** 04/05/19 **PAGE#** 1 of 1

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

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

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

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

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 03/13/19    **DATE OF COMPLETION:** 04/22/19    **PAGE#** 1 of 2

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

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

**FINDINGS OF FACT:** The complainant stated the named officer issued him a citation without cause. The complainant admitted he was double-parked.

Body worn camera footage shows the complainant admitting to the named officer he was double-parked. The footage also shows the named officer explaining to the complainant that he is issuing him a citation for double-parking.

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:** PC      **DEPT. ACTION:**

**FINDINGS OF FACT:** The complainant stated the named officer intimidated him and bullied him by threatening to take him to jail if he did not sign the citation. He also stated that the named officer spoke “loudly” to his girlfriend.

A witness, the complainant’s girlfriend, stated the named officer threatened to take the complainant to jail if he did not sign the citation. She did not complain that the named officer yelled at her “loudly.”

No other witnesses were identified.

Body worn camera footage shows the named officer acting in a very professional manner. The footage shows the named officer tell the complainant that if he does not sign the citation, he will be taken to jail. The footage does not show the named officer speaking “loudly” to the complainant’s girlfriend.

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**DATE OF COMPLAINT:** 03/13/19    **DATE OF COMPLETION:** 04/22/19    **PAGE#** 2 of 2

The named officer, in stating to the complainant that if the complainant refused to sign the citation, he would be taken to jail, was following the exact mandate of DGO 5.06(II)(C) and (D):

C. INFRACTION EXCEPTIONS. If a person is arrested solely for an infraction offense(s), he/she shall be cited, except when any of the following conditions exists:

...

8. The person refuses to sign the citation or demands to be taken before a magistrate (see below).

D. REFUSING TO SIGN THE CITATION. When taking a person to a police facility after he/she refuses to sign a citation, follow these procedures:

1. Remind the person that signing the citation (promise to appear) does not constitute an admission of guilt.
2. Give the person one more chance to sign the citation before booking him/her.

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

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

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

**FINDINGS OF FACT:** The complainant stated the named officer failed to file the citation with the court.

The named officer issued the citation on a new system called eCite, where the citations are automatically transmitted to court.

A review of the traffic case management system indicates the citation has been transmitted to court.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 03/15/19    **DATE OF COMPLETION:** 04/10/19    **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant reported that officers assigned to the Mayor rudely interrupted him for no reason after he attempted to say a few words to the Mayor about the “hooker, rape, and underage conundrum that he brought to light.”

The complainant did not respond to DPA’s request for an interview. The complainant did not identify the involved officers or provide any descriptions from which DPA could determine their identities.

The complainant failed to provide additional requested evidence.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 03/25/19    **DATE OF COMPLETION:** 04/23/19    **PAGE#** 1 of 1

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 03/27/19      **DATE OF COMPLETION:** 04/02/19      **PAGE#** 1 of 1

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

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

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

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

**SUMMARY OF ALLEGATION #2:** The complaint raises matters outside the DPA's jurisdiction.

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 03/24/19 **DATE OF COMPLETION:** 04/05/19 **PAGE#** 1 of 1

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 03/29/19    **DATE OF COMPLETION:** 04/09/19    **PAGE#** 1 of 1

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

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

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

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



**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 04/01/19      **DATE OF COMPLETION:** 04/08/19      **PAGE#** 1 of 1

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 03/29/19 **DATE OF COMPLETION:** 04/15/19 **PAGE#** 1 of 1

**SUMMARY OF ALLEGATION #1:** The officer failed to comply with DB 17-183, Grooming Standards.

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

**FINDINGS OF FACT:** The anonymous complainant was shown a picture of the named officer and her supervisor and noticed four violations that were completely out of compliance of the grooming standards set forth in Department Bulletin 17-183. The violations included hair, nails, and jewelry. The complainant found the named officer's disregard of the grooming standards offensive and demanded SFPD hold her accountable.

Department Bulletin 17-183, issued on September 6, 2017, states that the purpose of the bulletin was to provide sworn members with a general guideline for professional grooming standards. It is not all inclusive for every situation. Generally, many hairstyles are acceptable as long as they are neat and moderate. It is the responsibility of supervisors at all levels to exercise good judgment when enforcing grooming standards.

The anonymous complainant did not provide the picture complained of to DPA or contact information to obtain additional information about the picture. DPA could not reasonably investigate this complaint without further information.

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

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

**FINDINGS OF FACT:** The complainant stated the named officer appeared in a picture with another officer, who violated Department grooming standards. The complainant requested that DPA investigate the named officer's failure to supervise and showing of favoritism lack of enforcement of the grooming standards. Department Bulletin 17-183 states that supervisors shall ensure that sworn members conform to the Department's grooming standards and shall take corrective action if a member is not in compliance. Supervisors who fail to take action may be considered in neglect of duty.

The anonymous complainant did not provide the picture complained of to DPA or contact information to obtain additional information about the picture. DPA could not reasonably investigate this complaint without further information.

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COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 04/03/18 **DATE OF COMPLETION:** 04/08/19 **PAGE#** 1 of 1

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

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

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

Department of Human Services  
1650 Mission Street  
San Francisco 94103

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT: 04/04/19    DATE OF COMPLETION: 04/30/19    PAGE# 1 of 1**

**SUMMARY OF ALLEGATION #1:** The officer engaged in biased policing based on race.

**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:** 04/05/19      **DATE OF COMPLETION:** 04/30/19      **PAGE#** 1 of 1

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

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

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

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**DATE OF COMPLAINT:** 04/08/19    **DATE OF COMPLETION:** 04/25/19    **PAGE#** 1 of 1

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

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

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

BART Office of the Independent Police Auditor  
P.O. Box 12688  
Oakland, CA 94604-2688

**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 04/08/19 **DATE OF COMPLETION:** 04/15/19 **PAGE#**1 of 1

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

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

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

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 04/05/19      **DATE OF COMPLETION:** 04/10/19      **PAGE#** 1 of 1

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

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



**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 04/08/19      **DATE OF COMPLETION:** 04/15/19      **PAGE#** 1 of 1

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 04/16/19 **DATE OF COMPLETION:** 04/17/19 **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** This complaint raises matters outside 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, 94103

**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 04/14/18 **DATE OF COMPLETION:** 04/03/19 **PAGE#** 1 of 9

**SUMMARY OF ALLEGATIONS #1 - 2:** The officers made an arrest without cause.

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

**FINDINGS OF FACT:** The complainant stated that he and the co-complainant were arrested for no reason.

The co-complainant stated that they were at a restaurant trying to pay their bar tab and the bartender refused to accept payment and told them to leave. They did not leave the restaurant because they felt they were being treated unfairly. They were told the police would be called if they did not leave. The complainants declined to leave the restaurant and stayed to wait for the police.

The named officers denied the allegation, stating their sergeant ordered them to place the complainants under arrest for public intoxication.

An employee notified the owner of the restaurant that the complainants were acting strangely. The owner stated that he believed the complainants were under the influence of drugs, not alcohol. He asked the complainants to leave the restaurant and they refused. He informed the complainants that he would call the police if they did not leave. The complainants stayed at the restaurant and waited for the police to respond. The owner did not see the arrest because it occurred outside the restaurant.

Police records show that the named officers responded to a call for service regarding a fight between the complainants and restaurant staff.

The evidence established that the officers' action was justified, lawful, and proper.

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**DATE OF COMPLAINT:** 04/14/18    **DATE OF COMPLETION:** 04/03/19    **PAGE#** 2 of 9

**SUMMARY OF ALLEGATIONS #3:** The officer made an arrest without cause.

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

**FINDINGS OF FACT:** The complainants stated they were arrested for no reason.

The named officer denied the allegation, stating the complainants showed signs of intoxication that included throwing food in a restaurant, refusing to pay the restaurant bill, responding nonsensically to questions, swaying, confusion, and smelling of alcohol. He also stated the co-complainant slurred his words. The named officer stated he ordered the complainants to go home at least two times, but they refused. The named officer felt the complainants were unable to care for themselves in their intoxicated state as they could become a victim of a crime, walk into a busy street, or cause another scene.

Witness officer #1 stated the complainants appeared to be intoxicated as they slurred their speech, made repetitive statements and refused to comply with lawful orders.

Witness officer #2 stated he did not observe the co-complainant, but he stated the complainant was intoxicated as his speech was slurred, his eyes were bloodshot, his skin was pale and sweaty, and he emitted a strong odor of alcohol. The complainant would not leave the scene after several lawful orders to do so, and Witness officer #2 feared the complainant would escalate his verbal argument into a fight.

No other witnesses were identified.

BWC footage showed the complainant swaying while speaking with the named officer and the co-complainant slurring his speech and being overly-emotional. The footage also showed the complainants disobeying lawful commands to leave the area.

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

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**DATE OF COMPLAINT:** 04/14/18    **DATE OF COMPLETION:** 04/03/19    **PAGE#** 3 of 9

**SUMMARY OF ALLEGATIONS #4 - 6:** The officers engaged in biased policing based on sexual preference.

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

**FINDINGS OF FACT:** The co-complainant stated the named officers arrested him because he is queer and was dressed in tight women's jeans, a tight shirt and had on nail polish, which clearly identified him as queer. He stated that the officers did not make any comments about his sexuality.

DGO 5.03 states it is the policy of the San Francisco Police Department that every person has the right to use the public streets and public places so long as he/she does not engage in criminal activity. Factors such as the person's race, sex, sexual orientation, gender, gender identity, gender presentation, age, dress, unusual or disheveled or impoverished appearance do not alone justify even a brief detention, a request for identification, or an order to move on, nor do general complaints from residents, merchants or others. Officers must have a reasonable suspicion that the person's behavior is related to criminal activity. The officer must have specific and articulable facts to support his/her actions.

The named officers denied the allegation stating that sexual preference was not a factor in their decision to arrest the complainants. The complainants were arrested for being drunk in public and that they were unable to care for themselves.

Police records show that the named officers responded to a call for service regarding a fight between the complainants and restaurant staff.

The restaurant staff identified the complainants as the suspects. Based on the complainants' behavior the staff believed the complainants were under the influence.

No other witnesses were identified.

BWC footage supports the named officers probable cause to arrest the complainants for public intoxication.

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

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**DATE OF COMPLAINT:** 04/14/18 **DATE OF COMPLETION:** 04/03/19 **PAGE#** 4 of 9

**SUMMARY OF ALLEGATIONS #7:** The officer engaged in biased policing based on sexual preference.

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

**FINDINGS OF FACT:** The co-complainant stated the named officer arrested him because he is queer and was dressed in tight women's jeans, a tight shirt and had on nail polish, which clearly identified him as queer.

The named officer was at the station when the complainant was arrested.

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

**SUMMARY OF ALLEGATIONS #8 - 10:** The officers engaged in biased policing based on race.

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

**FINDINGS OF FACT:** The co-complainant stated he was targeted by the named officers because he is Latino and the named officers are White. The co-complainant did not elaborate on why he believed the officers were bias toward him because he is Latino.

The named officers denied the allegation, stating they did not know the complainant's race until after they contacted him. They stated the co-complainant was arrested for being drunk in public, and his race was not a factor in their decision to arrest him.

Police records show that the named officers responded to a call for service regarding a fight between the complainants and restaurant staff.

The restaurant staff identified the complainants as the suspects. Based on the complainants' behavior, the staff believed they were under the influence.

BWC footage supports the named officers probable cause to arrest the complainants for public intoxication.

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

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**DATE OF COMPLAINT:** 04/14/18 **DATE OF COMPLETION:** 04/03/19 **PAGE#** 5 of 9

**SUMMARY OF ALLEGATIONS #11:** The officer engaged in biased policing based on race.

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

**FINDINGS OF FACT:** The co-complainant stated he was targeted by the named officer because he is Latino and the named officer is White. The co-complainant did not elaborate.

The named officer was at the station when the complainants were arrested.

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

**SUMMARY OF ALLEGATIONS #12 - 14:** The officers used excessive force.

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

**FINDINGS OF FACT:** The complainant stated that the named officers assaulted him and the co-complainant. He stated the named officers injured the co-complainant's wrist.

The co-complainant stated that he was placed in tight handcuffs and the named officers yanked and jerked him around while escorting him to a patrol vehicle. The co-complainant acknowledged that he resisted being handcuffed. He pulled his arm away from the handcuffing officer, demanded a breathalyzer and continued to resist while handcuffed. He stated he had an anxiety disorder and started having a panic attack. He stated the complainant told him to calm down and quit resisting.

DGO 5.01 states that officers may use reasonable force options in the performance of their duties to effect a lawful arrest, detention, or search; to overcome resistance or to prevent escape; and to gain compliance with a lawful order. Officers shall strive to use the minimum amount of force necessary to accomplish their lawful purpose.

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Named officer #1 denied the allegation, stating the complainants were handcuffed without incident and he did not recall the complainants struggling while walking to the patrol vehicle. He stated he did not recall if either complainant stated they were injured, and he did not use any reportable use of force.

Named officer #2 denied the allegation, stating he handcuffed the complainant and checked the proper degree of tightness, double-locking them. Once the complainant was handcuffed, he led him by the arm to the patrol vehicle. He did not injure the complainant or observe any injuries.

Named officer #3 stated he assisted with handcuffing the complainant. He denied using excessive force, stating he used technique, not force to place the co-complainant's hands behind his back.

Witness officer #1 stated he accompanied the complainant in the ambulance to the hospital. He stated he did not observe any bruises or visible injuries on the complainant and did not hear the complainant complain of pain.

Witness officer #2 stated he transported the complainant to jail after he was cleared medically at the hospital. He stated he did not observe any bruises or injuries to the complainant's wrists and the complainant never complained of pain.

Witness officer #3 stated he transported the co-complainant to the county jail. He stated the co-complainant never stated he was injured, and he did not observe any injuries on the co-complainant. He stated he asked the co-complainant if he was in pain or if he had any visible injuries and the co-complainant replied, "No."

Police records showed that the complainant refused to sign his medical screening form. However, the form showed that the complainant informed the station keeper that he needed to take his prescription drugs in 4 hours. The complainant was transported to CJ1 three hours after booking.

Police records showed that the co-complainant refused to sign his medical screening form. However, the form showed that the co-complainant lost consciousness the last 8 hours, he was seriously ill or injured, and he needed immediate medical attention. Paramedics transported the co-complainant to San Francisco General Hospital.

Medical records showed there was bruising on the co-complainant's wrists with no swelling. Additionally, he had no facial swelling or tenderness to his chest.



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Photographs taken of the co-complainant inside the jail show no visible injuries to the co-complainant's head, chest, arms or wrists.

Video footage from the restaurant showed the named officers handcuff the complainant without incident. However, the footage showed the co-complainant initially resist the handcuffing. Two additional officers step in to assist in handcuffing the co-complainant. The footage does not show excessive force.

BWC footage showed the entire incident from the restaurant to the station. The complainant was handcuffed, escorted to the patrol vehicle and transported to the station with no force. It showed that the co-complainant initial resist handcuffs but comply with orders once handcuffed. While at the station, the footage showed the complainant lying on a gurney in an ambulance looking relaxed and not complaining of pain or injury. The co-complainant was asked if he wanted to go to the ER, and the co-complainant responded, "No, my face just hurts."

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

**SUMMARY OF ALLEGATION #15:** The officer used excessive force.

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

**FINDINGS OF FACT:** The co-complainant stated the named officer beat him up and injured him while in the holding area at the station. He stated when the complainant went to the hospital and they were separated, his anxiety worsened. He started panicking, hyperventilating and started shouting "let me out of here!" He admitted he was fidgety, antsy, and was rocking back and forth. He stated that the named officer told him to calm down and he yelled back that the cuffs are too tight, and he needed his meds. He continued to yell and scream, and the named officer tried to subdue him by tightening his handcuffs and laying him on his side, while still handcuffed to the bench. The named officer put all his body weight on him and locked his arm and slammed his face to the ground causing a cut on the inside of his cheek and gums to bleed. The named officer also kneed and punched him in the ribs.

The named officer denied the allegation, stating the co-complainant, who was intoxicated, broke his handcuffs and began yelling, kicking and screaming in the holding area at the station. The named officer

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stated he feared for the co-complainant's safety as he could possibly hurt himself. The named officer stated he attempted to re-handcuff the co-complainant, but the co-complainant became combative and kicked the named officer. The named officer stated he used compliance holds on the co-complainant in order to get him to comply with being handcuffed. The named officer denied using excessive force and only used force necessary to handcuff the co-complainant.

Witness officer #1 stated the named officer did not use excessive force on the co-complainant. He stated the co-complainant was actively resisting the named officer's attempt to re-handcuff him. He stated the named officer only put his body weight on the co-complainant's leg when the co-complainant tried to kick him.

Witness officer #2 stated he transported the co-complainant to the county jail. He stated he asked the co-complainant if he was in pain or if he had any visible injuries and the co-complainant responded, "No." Witness officer #2 stated the co-complainant never stated he was injured, nor did witness officer #2 observe any injuries on the co-complainant.

No other witnesses were identified.

Police report shows that the co-complainant was double cuffed to the bench inside the holding cell. The co-complainant continued to pull his hands out of the handcuffs and eventually breaking one of the handcuffs off the bench. When the named officer entered the holding cell and attempted to unlock and re-apply the co-complainant's handcuffs, the co-complainant kicked him in the midsection and wouldn't allow him access to the handcuffs. The named placed a knee on the co-complainant's side to prevent him from kicking.

The Public Intoxication Report showed that the co-complainant was held in the sobering cell and observed every 30 minutes. The complainant's behavior was described as agitated and handcuffed to a bench.

There was insufficient evidence to either prove or disprove that the named officer's use of force was minimally necessary to accomplish his lawful police task.

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**DATE OF COMPLAINT:** 04/14/18    **DATE OF COMPLETION:** 04/03/19    **PAGE#** 9 of 9

**SUMMARY OF ALLEGATIONS #16 - 17:** The officers failed to promptly and politely provide their name and star number upon request.

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

**FINDINGS OF FACT:** The co-complainant stated the named officers did not provide their names and star numbers upon request.

DGO 2.01 (14) states that when requested, members shall promptly and politely provide their name, star number and assignment.

The named officer #1 stated he could not remember if the co-complainant asked for his name and star number. He stated if the co-complainant asked, he would have been happy to provide it.

The named officer #2 denied the allegation, stating he verbally provided the co-complainant with his name and star number. In addition, he stated he wrote his name and star number on the co-complainant's booking card.

The booking card printout was inconclusive.

No witnesses were identified.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 04/19/19 **DATE OF COMPLETION:** 04/23/19 **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** This complaint raises matters outside 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:** 04/19/19 **DATE OF COMPLETION:** 04/23/19 **PAGE#** 1 of 1

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

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

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

Clearlake Police Department  
14050 Olympic Drive  
Clearlake, CA 95422

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 04/22/19      **DATE OF COMPLETION:** 04/30/19      **PAGE#** 1 of 1

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

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

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

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**DATE OF COMPLAINT:** 05/18/18      **DATE OF COMPLETION:** 04/30/19      **PAGE#** 1 of 3

**SUMMARY OF ALLEGATION #1:** The San Francisco Police Department does not offer cultural sensitivity programs.

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

**FINDINGS OF FACT:** The complainant stated he was concerned about discriminatory harassment and abuse directed at a Muslim officer by SFPD colleagues. The complainant stated he believed all individuals should be able to work in environments free of discrimination or harassment, regardless of their race, color, religion, sex, or national origin. The complainant requested that the SFPD implement (1) Muslim and Middle Eastern cultural-sensitivity education and training in SFPD’s periodic training bulletins, as well as in SFPD’s Academy curriculum; and (2) independent review mechanisms to ensure that such education elements are successfully executed.

SFPD documents show that, at the SFPD Basic Academy, officers are trained in cultural diversity and discrimination. The training includes lessons on diversity, stereotyping, unlawful acts of discrimination, strategies for successful contact with groups from differing cultural, racial or ethnic backgrounds, and such criminal acts as hate crimes and the impact on of such crimes on victims and communities. Additionally, officers attend a course titled “Procedural Justice and Implicit Bias,” which teaches policing approaches that emphasize respect, listening, neutrality and trust while also addressing the common implicit biases that can be barriers to these approaches.

SFPD documents show SFPD Basic Academy is in the process of implementing a community immersion program, a part of community policing training curriculum. The goal of the program is that recruit officers interact with community stakeholders who will discuss their relationships and experience with the police.

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

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**DATE OF COMPLAINT:** 05/18/18      **DATE OF COMPLETION:** 04/30/19      **PAGE#** 2 of 3

**SUMMARY OF ALLEGATIONS #2-3:** The officers failed to take required action.

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

**FINDINGS OF FACT:** Department documents showed the named lieutenant assigned three internal investigation cases to the named sergeant. In one case, an officer was a victim, and, in the other two cases, the same officer was a suspect. The named sergeant investigated all cases simultaneously without identifying a conflict of interest.

A witness officer stated investigators are instructed how to identify and avoid a conflict of interest. He stated it would be a conflict of interest for an investigator to be assigned to a case in which an officer was a victim while also investigating that officer for misconduct. The witness officer stated if the investigator was assigned to both cases at the same time, it would affect the integrity of the cases. He stated it could be problematic for a subject officer to know if the investigator were speaking to him as a victim or a suspect. The witness officer stated the named lieutenant should have identified a conflict of interest and re-assigned one of the cases to another investigator. The witness officer also stated the named sergeant should have recognized the conflict of interest and reported it to his supervisor. The witness officer stated there was no formal training or policy regarding conflicts of interest during internal investigations.

The named lieutenant stated he did not believe the instant situation constituted a conflict of interest. He stated he assigned the same investigator to all the cases because the named sergeant was familiar with all the facts. The named lieutenant stated there is no policy or training regarding conflicts of interest in case assignment during internal investigations.

The named sergeant stated he did not know why he was assigned both cases but stated he did not believe there was a conflict of interest. The named sergeant noted that he had already completed the interview of the alleged officer for the case in which he was a victim before investigating him for misconduct. The sergeant also stated there was no conflict of interest because he was a neutral investigator that focused on facts and did not make disciplinary decisions. The named sergeant stated there is no training or policy in place regarding conflicts of interest.

The DPA therefore identifies a policy failure for the lack of clear written policies and training on how the SFPD should identify and address conflicts of interests in internal investigations. The SFPD should implement formal policies to provide better instruction to investigators.



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**SUMMARY OF ALLEGATION #4:** The officer engaged in retaliatory conduct.

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

**FINDINGS OF FACT:** The named lieutenant opened an investigation into whether an officer lied on his application to the SFPD, while, at the same time, investigating the same officer's complaint that he was the victim of harassment and discrimination. The complainant alleged that the fabrication investigation was opened in retaliation for the officer's complaint of harassment and discrimination.

The named lieutenant stated that he directed a sergeant to open an investigation of the officer based on a rumor that the officer had lied on his application to the SFPD. The named lieutenant was unable to recall how he learned of the rumor. The named lieutenant stated he had previously opened similar investigations, but those cases were opened based on either an allegation from a specific source or identified through another investigation. The named lieutenant denied opening the investigation in retaliation for the officer's complaints of harassment and discrimination.

The sergeant stated that the named lieutenant directed him to open an investigation and determine if the officer had lied on his application to the SFPD. The sergeant stated he did not know how the lieutenant discovered the information, nor did he ask. The sergeant stated he did not know of any alleged fabrication until the Lieutenant ordered him to open a case.

There is insufficient evidence to determine if the named lieutenant engaged in retaliatory conduct. The named lieutenant's failure to document the alleged rumor, and the named lieutenant's failure to recognize the potential conflict of interest, give rise to an inference of retaliation. On the other hand, it is of the utmost importance that the SFPD investigate all claims of fabrication by peace officers, and there is no specific evidence of retaliatory motive or intent. The allegation is therefore not sustained. However, the DPA recommends that the SFPD better document the source of allegations and better recognize conflicts of interest, or even the appearance of conflicts of interests, to avoid future inferences of retaliation.

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**DATE OF COMPLAINT:** 05/29/18    **DATE OF COMPLETION:** 04/04/19    **PAGE#** 1 of 3

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

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

**FINDINGS OF FACT:** The complainant stated the named officers interrogated his client regarding a criminal matter in April 2010. The client was represented by another attorney throughout the criminal trial proceedings. The complainant later represented the client during the appeal proceedings of his criminal conviction. The complainant stated the named officers violated his client's constitutional rights when they continued to question his client about a shooting incident after his client invoked his right to remain silent during the interview. As a second issue, the complainant stated the named officers also violated his client's Fifth and Sixth Amendment rights when they spoke to his client about a matter in an unrelated case, in which his client had been arrested a week earlier and released on his own recognizance. The complainant stated the named officers should have known his client was represented by legal counsel in the unrelated case.

The first named officer stated the training he received with respect to Miranda and post invocations never advised officers to omit warnings after a suspect invoked their rights nor to continue questioning a suspect after they invoke. The first named officer stated he did not interpret the suspect's statements as a clear and unambiguous invocation of his Miranda rights. The first named officer stated he interpreted the suspect's statements as the suspect questioning whether he wanted to talk to him and the second named officer. The first named officer stated he wasn't sure the suspect wanted to end the interview because the suspect continued to talk to them. The first named officer stated that he recalled that he asked the suspect if he was asking for a lawyer and the suspect replied, "No sir." The first named officer stated the suspect's stepfather mentioned the suspect was upset about a prior contact with other officers and that there was some sort of altercation. The first named officer stated he asked the suspect about the earlier police contact because he thought it may explain why the suspect committed the shooting. The first named officer stated he did not know anything about the earlier incident except what the suspect's stepfather had told him. The first named officer stated he was not involved with that investigation and had never met the suspect prior to the shooting incident he was investigating. The first named officer was unaware of any criminal proceedings against the suspect in that matter and was unaware the suspect was represented by an attorney for the earlier incident. The first named officer stated that he and the second named officer stopped talking about the earlier incident once the suspect told them he had court proceedings pending. The first named officer stated he did not receive any other guidance on this issue other than his basic training and on-the-job experience and could not recall any specific training on this subject.

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**SUMMARY OF ALLEGATIONS #1-2:** (Continued)

The second named officer stated all his training with POST and SFPD has been consistent with Miranda. He stated that if a suspect communicates a clear and unambiguous invocation, any sort of interrogation

questions would cease at that point. He noted that suspects can clearly invoke, but that there are also ambiguous statements that are less clear. The second named officer stated he doesn't have an independent recollection of what was said in this incident, because it was more than 9 years ago. However, he denied intentionally interrogating the suspect outside of Miranda to elicit incriminating statements. The named officer stated he believed the suspect's earlier statement was not clear and unambiguous. The named officer also stated he did not believe his questions about an earlier incident were improper. He stated he was asking about a shooting that occurred a year or more before, and he believed the suspect in this incident was actually a victim in the earlier incident. The named officer stated no criminal proceedings were pending against the suspect related to the earlier shooting.

The appellate court opinion found that the lower court's admission of statements made to the named officers, purportedly after invoking the right to remain silent, was not prejudicial error. It noted that the lower court determined that the suspect "did not unequivocally invoke his right to remain silent" until being asked whether he wanted to end the interview, and he responded, "I do ...". The appellate court disagreed and found that his earlier statement of, "I'm not talking anymore, that's it," was an unambiguous assertion of his right to remain silent and end the interview. The appellate court concluded, however, that this was harmless error.

A transcript of the interrogation also documents that the suspect was read his Miranda rights, responded that he understood his rights, and then proceeded to answer questions.

The California Commission on Peace Officer Standards and Training (POST) Basic Course Workbook, Learning Domain 15 on Laws of Arrest states, "During the performance of their duties peace officers have a legal, moral and ethical responsibility to protect all of the rights afforded to a citizen by the United States and California Constitutions." It also states, "When conducting a custodial interrogation, peace officers must follow Miranda procedures to ensure that any answers they obtain will be admissible in court." It also states:

The right to remain silent may be invoked by *any words or conduct* [emphasis in the original] which reflect an unwillingness to discuss the case ... Once a person invokes the right to *silence* [emphasis in the original], Miranda requires that all interrogation must cease.

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**SUMMARY OF ALLEGATIONS #1-2:** (Continued)

The Department does not have clear guidelines related to interrogation and the invocation of Miranda rights. While the POST workbook describes invoking by using words that reflect unwillingness to discuss the case, it also states that the objective for peace officers is to ensure incriminating responses are admissible in court. The courts, here, disagreed about when the invocation occurred, but ultimately concluded the most incriminating information was provided before an invocation.

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

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**DATE OF COMPLAINT:** 06/12/17 **DATE OF COMPLETION:** 04/08/19 **PAGE#** 1 of 2

**SUMMARY OF ALLEGATIONS #1 - 2:** The officers misrepresented the truth.

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

**FINDINGS OF FACT:** The co-complainant filed a complaint on behalf of an arrested juvenile and his mother, alleging an incident report misrepresented facts related to the juvenile threatening an officer and spitting at the boots of another officer.

The juvenile complainant admitted that he jaywalked, spit at an officer's shoes, and threatened the named officer, thereby violating his probation, which was in effect at the time of the incident.

Department body worn cameras verified the actions and statements documented in the report justifying the juvenile complainant's detention and arrest.

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

**SUMMARY OF ALLEGATIONS #3 - 4:** The officers detained the complainant for a prolonged period of time.

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

**FINDINGS OF FACT:** The co-complainant stated the detention of the juvenile complainant was prolonged, given that he was arrested for an infraction.

Department body worn camera footage showed the juvenile complainant delayed identifying himself and providing his mother's contact information, which would have been required to cite and release him from the scene. The footage further showed he threatened the named officer and assaulted another officer, leading to his probation violation and custodial arrest. During the detention, the officers were diligently pursuing legitimate law enforcement objectives.

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:** 06/12/17    **DATE OF COMPLETION:** 04/08/19    **PAGE#** 2 of 2

**SUMMARY OF ALLEGATIONS #5 - 6:** The officers engaged in selective enforcement due to racial bias.

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

**FINDINGS OF FACT:** The co-complainant stated the juvenile complainant's detention for jaywalking was a selective race-based stop. The juvenile complainant, who is African American, stated his detention was personal rather than race-based. He explained that even though he was the sole detainee from a group of jaywalking juveniles, the group had other African Americans and Latinos. The complainant stated the named officers focused on him because they knew he was on probation and knew he would be disrespectful to them, which would justify his arrest.

One named officer stated he and his partner knew the juvenile complainant was on probation and knew of his very confrontational attitude toward police. Since they had seen him smoking marijuana in United Nations Plaza, their intention in detaining him for jaywalking was to isolate him and deal with him safely, without interference or obstruction from his friends.

A preponderance of the evidence established that the named officers had reasonable suspicion to detain the complainant.

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

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**DATE OF COMPLAINT:** 06/18/18 **DATE OF COMPLETION:** 04/29/19 **PAGE#** 1 of 4

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

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

**FINDINGS OF FACT:** The complainant said that officers arrested him without cause.

The named officers said that they arrested complainant because there was probable cause that he committed domestic violence. The named officers stated that a victim reported that the complainant assaulted her and prevented her from leaving his apartment. The named officers stated that they visually observed a ripped shirt and visual scratches on the victim's shoulder. The named officers stated that other officers observed a male matching the complainant's description hiding behind a parked car about a block away from the apartment building. The named officers further stated that additional investigation confirmed that the complainant assaulted and injured his girlfriend.

The Body Worn Camera ("BWC") footage revealed that the named officers properly conducted a domestic violence investigation. The BWC footage showed that the named officers detained the complainant outside the apartment building.

The complainant and the victim failed to respond to DPA's efforts to obtain more evidence to the incident.

No witnesses came forward.

The victim's statements and the officers' visual observations provided probable cause for an arrest. The arrest was therefore proper.

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 #3 - 5:** The officers searched his residence without cause.

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

**FINDINGS OF FACT:** The complainant stated the police searched his residence without cause.

The named officers stated that they entered complainant's apartment to conduct a well-being check. The named officers stated that due to the seriousness of the crime, the victim's injuries and size, and information that the suspect was inside the apartment but not responding, the officers concluded that warrantless entry for the limited purpose of a welfare check was appropriate. The named officers stated they did not conduct any search of the personal property and merely checked for complainant's presence.

The body worn camera (BWC) footage of the named officers shows that the entry of complainant's apartment was brief and limited to checking for the complainant's presence. The BWC footage shows that officers did not search, move, or disturb the complainant's personal property, and that the entry lasted less than a minute. The BWC footage showed that, after officers were unable to locate complainant, the officers promptly left the apartment and locked the door behind them.

The complainant and the victim failed to respond to DPA's efforts to obtain more evidence to the incident.

No witnesses came forward.

As the complainant refused to cooperate further by providing more information about the complained of search, there was insufficient evidence to either prove or disprove the allegation made in the complaint.



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**SUMMARY OF ALLEGATIONS #6 - 7:** The officers used unnecessary force.

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

**FINDINGS OF FACT:** The complainant stated that officers used unnecessary force by slammed him to the ground.

Named officer #1 stated he looked for the complainant outside the complainant's apartment building. The officer stated that he saw complainant duck behind a parked car before fleeing on foot. The officer stated he pursued the complainant on foot while the sergeant followed in a vehicle. The officer and the named sergeant stated they each grabbed one of the complainant's arms and used a leg sweep to take the complainant to the ground. Named officer #1 stated that the complainant failed to follow verbal orders to show his hands and to take them out of his pockets. The officer stated the complainant had no visible injuries, no complaint of pain, or a request for medical aid. The officer further stated there was a use of force investigation after the incident when the complainant complained of shoulder pain at the time of booking at County Jail.

The body worn camera (BWC) footage of the named officers shows that the complainant resisted the officers and disobeyed verbal commands to show his hands. The BWC footage also shows that the named officers used a low level of force to take the complainant into custody. The BWC footage further shows that the complainant did not complain about the use of force nor any injuries or pain or request medical aid when he was detained.

The complainant and the victim failed to respond to DPA's efforts to obtain more evidence to the incident.

No other witness came forward.

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

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**SUMMARY OF ALLEGATIONS #8 - 10:** The officers failed to properly process property.

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

**FINDINGS OF FACT:** The complainant stated in his written complaint that money and jewelry were missing from his apartment after he was released from incarceration.

The named officers, who acknowledged briefly entering the complainant's apartment, denied they seized any money or jewelry. The named officers stated that they locked the complainant's apartment and returned the key to the apartment management upon their departure.

The Body Worn Camera (BWC) footage of the officers shows that the named officers were briefly inside the complainant's apartment. The BWC footage shows that officers did not search, move, or disturb the complainant's personal property. The BWC footage also shows that the officers did not seize any cash or chains. The BWC footage also shows that the officers locked the complainant's apartment door after the apartment entry.

The DPA initially referred this allegation to SFPD Internal Affairs Division (IAD) for a criminal investigation. IAD found the allegation "unfounded" because there was no evidence the named officers who entered the complainant's apartment removed items reported missing. IAD's investigation also concluded that the named officers locked the room after exiting and one of the officers gave the key back to management.

The complainant and a woman who had been in the apartment with him before he was arrested failed to respond to DPA requests for further evidence.

No other witnesses came forward.

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

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**SUMMARY OF ALLEGATIONS #1-2:** The officers failed to comply with DGO 5.20, "Language Access Services for Limited English Proficient (LEP) Persons."

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

**FINDINGS OF FACT:** San Francisco Police Officers were on patrol in a marked police cruiser in the Taraval District when they saw a blue, four door, Mazda sedan fail to stop at a stop sign. The officers conducted a traffic stop to issue a citation.

During the traffic stop, the driver, who is the complainant, spoke to the officers in broken English with a heavy accent. When officers handed the complainant the citation, the complainant refused to sign it and said he was going to call his cousin. The officers then removed the complainant from the car and explained to him in "pigeon" English that he had to sign the citation and go to court. The complainant responded to the officers with "sorry," "okay," and "uh-huh," and signed the citation.

The officers failed to provide the complainant with an interpreter as required by Department General Order 5.20. There were numerous signs that the complainant had a "limited ability to read, write, speak, or understand English," which qualified him for language services under DGO General Order 5.20 at II.B. The complainant spoke in broken English, did not respond in an ordinary way to verbal commands, and specifically noted the need for a Cantonese translator. The officers did not present their language identification card and did not attempt to call a telephone interpreter.

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

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**SUMMARY OF ALLEGATION #3:** The officer used unnecessary force.

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

**FINDINGS OF FACT:** The complainant stated the named officer grabbed and pulled his left wrist while taking him out of his car. The complainant also stated he did not complain of pain, injury or a request for medical aid while at the scene. The complainant stated he did not sustain injuries nor complained of pain. The complainant further stated he did not seek any medical treatment after the incident.

The officers' body worn cameras captured the incident. During the traffic stop, the complainant was uncooperative and failed to follow verbal orders to not use his cellular phone. The officers used minimal force to remove complainant from the car and overcome his passive resistance.

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 #4-5:** The officers behaved inappropriately.

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

**FINDINGS OF FACT:** The complainant stated the named officer grabbed his cell phone while he attempted to call his cousin. The complainant stated he wanted his cousin to help him by talking to the officers regarding the traffic stop and the citation. The complainant confirmed that he did get back his cellular phone at the end of the incident.

The officers' body worn cameras captured the incident. The officers ordered the complainant to put down his phone and stop calling people. The complainant failed to follow the officers' orders. The officers then seized the phone and returned the phone after the detention was completed.

Officers are entitled to demand that a suspect not use his cellular phone during a detention. If a suspect refuses to obey, officers may seize a phone to prevent the suspect from interfering with or obstructing the officers' lawful orders.

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 #6-7:** The officers threatened to arrest the complainant without cause.

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

**FINDINGS OF FACT:** The complainant stated the named officers told him he would be arrested if he did not sign the citation. The complainant stated he initially refused to sign the citation, because he didn't understand what the citation was about. The complainant stated he signed the citation after he was pulled out of his car by one of the named officers.

The named officers stated that the complainant was uncooperative and refused to sign the citation.

The body worn camera footage of the incident does not show any officer threatening arrest if the complainant failed to sign the ticket. However, even if the officer had, such a statement would be proper.

California Vehicle Code 40302 states that an officer shall arrest and bring a suspect to a magistrate if they refuse to sign a citation.

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

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

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

**FINDINGS OF FACT:** The complainant has a valid restraining order against an individual. The restrained individual repeatedly violated the order. The complainant stated that the SFPD failed to protect him because, although officers continually arrested the restrained party, the individual was usually released within 24 hours.

The district station Captain stated that SFPD officers do not possess any control over the timing of a detainee's release from County Jail or Psychiatric Emergency Services.

Department records showed that officers responded to the complainant's calls for service and arrested the restrained party when he was in violation of the restraining order.

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 failed to make an arrest.

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

**FINDINGS OF FACT:** The complainant has a valid restraining order against an individual. The complainant stated that the named officer witnessed the restrained party in violation of the order, but she failed to arrest him.

The named officer stated that the individual was not present upon her arrival.

A witness officer confirmed that the individual had left the area before their arrival.

No other witnesses were identified.

A preponderance of the evidence proved that the acts alleged in the complaint did not occur.

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

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

**FINDINGS OF FACT:** The complainant was arrested for shoplifting. She stated she took a step and was thrown against a wall by an officer, causing an injury above her eye.

The named officer stated he came to the scene to assist because the complainant was not cooperating with the other officers, and she was attempting to walk away. He stated he grabbed the complainant's shoulder, but she raised her right hand, so he grabbed her arm and put her against the bus station before handcuffing her. He also said he pressed the complainant against the bus stop, rather than the ground, and he applied a wrist lock, but with less force than normal, to account for her age and physical condition.

The Body Worn Camera (BWC) footage shows the complainant, who is an older lady, repeatedly attempt to walk away from an officer who is telling her she is not free to leave. A second officer arrives on scene, and he tells the complainant she will have to be placed in handcuffs if she does not comply. The complainant settles down momentarily, then tries to leave again as a third officer arrives on scene to assist.

Department General Order 5.01, Use of Force, allows officers to use reasonable force options, "to effect a lawful arrest, detention or search...to overcome resistance or prevent escape...[and] to gain compliance with a lawful order..." Use of force evaluations consider, "whether the suspect is actively resisting arrest or attempting to evade arrest by flight...[and] the officer's tactical conduct and decisions preceding the use of force..." The Order states the use of force against vulnerable populations, including elderly persons and people with mental and physical disabilities, "should be used as a last resort, when all other reasonable means have been exhausted."

The complainant was told repeatedly she was under arrest and not free to leave; however, she continued to try to leave. The named officer warned the complainant if she did not follow instructions, she would be placed in handcuffs. The complainant was given a reasonable opportunity to comply with the named officer's demands; however, she walked away, and raised her arm instead. The named officer used a force option based on the complainant's actions, in order to arrest her. He also indicated he modified his actions, to account for her vulnerability.

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 #2-3:** The officers used unnecessary force.

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

**FINDINGS OF FACT:** The complainant was arrested for shoplifting. The complainant indicated she took a step and was thrown against a wall by an officer, causing an injury above her eye.

The named officers indicated there were multiple times when the complainant attempted to leave the area where she was being detained, and later arrested. They noted they gave the complainant multiple opportunities to comply before handcuffing her. The named officers also noted they did not put her arm completely behind her back, as to provide her some comfort during the handcuffing.

The body worn camera footage shows a named officer giving the complainant the option to go into handcuffs or comply with orders. The officer begins applying handcuffs, but stops, allowing the complainant the opportunity to calm down. The named officers eventually assist a third officer with handcuffing the complainant. The footage does not show either named officer throw the complainant against a wall as alleged.

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

**SUMMARY OF DPA-ADDED ALLEGATIONS #1-5:** The officers detained a person without justification.

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

**FINDINGS OF FACT:** The complainant was arrested for shoplifting. The named officers required her to stay at the scene, even after she received her citation.

The named officers stated that the complainant said they injured her, but she was refusing medical treatment, and so they wanted her to be present for a Use of Force Investigation by a sergeant.

A named officer noted he contacted a sergeant, who instructed him to keep the complainant on scene until he arrived. The sergeant, also a named officer, stated the injured subject is required to be present for the

Use of Force Investigation but said he did not instruct another named officer to keep the complainant on scene.



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**SUMMARY OF DPA-ADDED ALLEGATIONS #1-5:** (Continued)

The BWC footage shows the complainant was cited for shoplifting. The footage shows four of the named officers tell the complainant to sit down and wait for a another named officer – the sergeant – even though she repeatedly asks to leave to get her dog. The BWC footage shows a named officer make a phone call to the named sergeant, where he asks whether he has to keep the complainant on scene. Once the call ends, the named officer instructs the complainant to wait for the named sergeant. The named sergeant arrives and asks a few questions before telling the complainant she is free to leave.

Records from the Department of Emergency Management show that the named officers responded to a call created at 09:52:12. According to the records, the first unit reported they were on scene at 10:17:32. The named sergeant reported he was on scene at 10:30:24.

The incident report, authored by one of the named officers, states:

I presented [the complainant] with her completed shoplifting citation ... which she signed in my presence and also provided a thumb print on the back. I provided [the complainant] with her copy of the citation and [another named officer] removed her handcuffs ... [the complainant was cited for 459.5 PC (shoplifting) and released on scene. At this time [the complainant] stated that she had a complaint of pain to the left side of her forehead and her right elbow ... [Another named officer] requested a supervisor and [the named sergeant] responded to the scene to complete a use of force investigation.

Department General Order 5.01, Use of Force, states, “when notified of the use of force, the supervisor shall conduct a supervisory evaluation to determine whether the force used appears reasonable...The supervisor shall...ensure the scene is secure and observe injured subjects or officers...”

Department General Order 5.06, Citation Release, states, “It is the policy of the San Francisco Police Department, in accordance with state law, that officers cite and release all persons arrested for misdemeanor and infraction offences. ... If the person is eligible for citation release, cite and release him/her at the location of arrest.” It also states, “When a person is arrested for a misdemeanor or an infraction and it is later determined that he/she is eligible for a citation release, an officer shall promptly cite and release the person at any time prior to the Sheriff Department assuming custody.”

The complainant was properly detained, and then cited at the scene. After she was cited, however, the concern is whether she should have been released when the citation process was complete. The citation and release policy only states that a subject should be released at the location of arrest, only emphasizing timing when addressing a later determination that someone may be eligible for cite and release. Even then, it allows flexibility in timing of the release.

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

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**SUMMARY OF ALLEGATION #1:** The officer searched a residence without cause.

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

**FINDINGS OF FACT:** The complainant stated that officers searched her residence without cause. She stated that officers provided her with a copy of the search warrant at the time of the search.

San Francisco Police Department (SFPD) records indicated that the search was conducted pursuant to a search warrant, signed by a San Francisco Superior Court Judge.

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 intentionally damaged property.

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

**FINDINGS OF FACT:** The complainant stated that, when the SWAT team knocked on her front door, she told them from the second story window that she would come down. The complainant further stated that officers broke her front door intentionally and without cause.

The named officer stated that Tactical Company was tasked with making entry and securing the residence due to the high risk associated with the search warrant. The named officer stated that the subject of the search warrant had a history of gun possession and violence and was believed to be involved in an armed robbery. The named officer stated he heard yelling from inside the residence after one of the officers knocked on the complainant's door and announced their presence, but he did not understand what the person was saying. He stated he ordered the breach of the door after waiting a reasonable amount of time after knock-notice. He further stated it is not uncommon with high-risk search warrants for people to yell to officers that they are coming to open the door in order to stall, hide evidence, conceal themselves, or attempt to escape. He further stated that waiting for an occupant to open the door puts the officers at significantly more risk. The named officer stated the officer hit the complainant's door one time with the ram and stopped the forced entry as soon as the complainant could be heard coming down the stairs. The

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**SUMMARY OF ALLEGATION #2** (Continued)

named officer stated they showed a high level of reasonableness and professionalism in stopping the breach once the complainant was heard coming down the stairs.

SFPD Body Worn Camera (BWC) recordings showed the officer knock on the complainant's door and wait several seconds before using the ram. The video showed the officer use the ram one time on the complainant's door and then swing the ram back in preparation to hit the door again. The video further showed the officer stop mid-swing when the door knob turned.

The officers were at the complainant's residence to execute a high-risk search warrant, the subject of which had a history of gun possession and violence and was a suspect in an armed robbery. The named officer did not hear what the complainant was yelling out the window. He ordered the officer to breach the front door after waiting several seconds after the knock-notice. Considering the risks involved with waiting for an occupant to open the door, the named officer waited a reasonable amount of time before giving the order to breach the door. Moreover, the officer breaching the door stopped the forced entry as soon as the complainant opened the door.

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

**SUMMARY OF ALLEGATIONS #3, #4, #6:** The officers failed to comply with Department General Order (DGO) 5.01, Use of Force.

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

**SUMMARY OF ALLEGATIONS #5, #7:** The officers used excessive force.

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

**FINDINGS OF FACT:** The complainant stated that officers pointed guns at the juvenile occupants' heads.

The complainant's residence was searched in the middle of the night. During the search, her 12-year-old daughter, 12-year-old niece, and 16-year-old daughter were awakened and ordered out of the house at

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**SUMMARY OF ALLEGATIONS #5, #7:** (Continued)

gunpoint. Multiple officers were pointing guns into the residence as the children descended the stairs. This encounter traumatized these young women.

Officers executed the search warrant on complainant's residence at approximately 4:30 AM. Before executing the warrant, officers knew there was a strong possibility that someone was going to be home, including children. The door was opened, and occupants were ordered to leave the residence. In order to leave the residence, the occupants had to descend an indoor staircase. The complainant was the first to descend the staircase and she told the officers that her juvenile daughters and niece were coming down behind her. The young women then began to descend the staircase, one by one with their hands in the air. The suspect was not home, and no evidence was seized during the search.

The named officers were the officers positioned at the door of the residence, holding rifles pointed into the residence.

Although they acknowledge that pointing a weapon at an individual is considered using force, they, along with the named sergeant, claimed that the pointing of a weapon at an individual must be intentional to be considered a reportable use of force. Two named officers stated that they were pointing their rifles in the direction of the young ladies, but not intentionally at them. In justifying the actions of the officers, the named sergeant stated,

I would like to note that, from my perspective here, it doesn't appear that [the named officer] is pointing his firearm at any of the occupants. He is pointing his weapon in the general direction of the residents, and that's because he needs to be able to respond to any threat that may present itself. If you can tell, from the top of the stairs, it's almost a blind corner, and even when these folks are popping out, in what you would probably consider just a normal walking manner, they appear almost from nowhere. He has to be able to respond to that, and that's why his weapon is pointed inside the residence. If you notice, when these folks walk down the stairs, his weapon doesn't track any of these people. In fact, he kind of moves it to make sure that he's not tracking his weapon on any of the occupants coming down the stairs.

The named sergeant acknowledged that officers should be cognizant not to point any firearms at children because officers are aware of how traumatic it can be, but officers must temper that with ensuring that their safety and the safety of others is not compromised. He did not think the named officers' actions warranted a use of force report. In his incident report, the named sergeant specifically stated that there was no reportable use of force.

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**SUMMARY OF ALLEGATIONS #5, #7:** (Continued)

During the execution of the search warrant, officers pointed two rifles at three children as the children descended the staircase. The children were not suspected of any wrongdoing and they were not the subject of the search warrant. When officers are aware that young children may be present during the execution of a search warrant, they must take extra care not to point their rifles in the direction of the children, but to point them down at the ground considering the height differential between adults and children. The way

the named officers positioned their rifles not only constituted the use of force but rose to the level of excessive force. Thus, at the very least, it should have been reported.

Pointing a gun at people constitutes use of force. (See *Robinson v. Solano Cty.*, 278 F.3d 1007, 1014 (9th Cir. 2002).) The question most courts are tasked with answering in gun-pointing cases is whether the action constitutes excessive use of force, not whether it qualifies as use of force because it is presumed that pointing a weapon in someone's direction is considered use of force. (See *Hopkins v. Bonvicino*, 573 F.3d 752, 777 (9th Cir. 2009).) Courts do not distinguish between intentional and unintentional display of a firearm by officers when analyzing cases that involve excessive force because they presume that officers do not pull out their guns unintentionally and the display of a firearm, under many circumstances, is not just force, but excessive force. (*Id.*)

DGO 5.01 VI. G. 1. b. states, in pertinent part, “[a]n officer may draw, exhibit or point a firearm in the line of duty when the officer has reasonable cause to believe it may be necessary for the safety of others or for his or her own safety.” DGO 5.01 VI. G. 1. D. states, in pertinent, “[t]he pointing of a firearm at a person is a seizure and requires legal justification. **No officer shall point a firearm at or in the direction of a person** unless there is a reasonable perception of a substantial risk that the situation may escalate to justify deadly force. If an officer points a firearm at a person, the officer shall, if feasible, safe and when appropriate, advise the subject the reason why the officer(s) pointed the firearm. DGO 5.01 VI. G. 1. e. states, in pertinent part, “[w]hen an officer intentionally points any firearm at a person, it shall be considered a reportable use of force.”

The named officers, as well as the named sergeant, stated they did not have to report any use of force in this incident because they did not point their rifles at the girls intentionally. This distinction is not recognized in the applicable case law, and the body worn camera footage contradicts their assertion. The video shows that named officers lower their rifles slightly while the minors descend the stairs. However,

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**SUMMARY OF ALLEGATIONS #5, #7:** (Continued)

their positioning of the rifles should have been adjusted based on the position of the individuals with whom they are interacting, based on the subjects' age, based on the height of minors, and, most importantly, based on the fact that they were not the suspect. The low ready position of a rifle when dealing with a person who is over six feet tall may look very different from the low ready position of a rifle when dealing with a child. Here, the average reasonable person would conclude that the officers were pointing the rifles at the individuals as they descended down the stairs, not that the guns were at the low ready position.

Moreover, while they may not have had any intention of discharging their rifles or traumatizing the complainant or the children, their subjective intent is only one piece of the analysis. When viewed from an objective standard, given the size, age, and status of the girls as residents rather than suspects, the officers' display of rifles into the stairwell during the girl's descent constitutes, at the very least, reportable force.

This section of the report does not question whether the force was excessive, but rather, whether it was reportable. The San Francisco Charter bestows upon SFPD very strict data retention and reporting requirements. Use of force, excessive or warranted, must be documented, tracked and reported by SFPD to the Mayor, the Board of Supervisors, the Police Commission, and the Human Rights Commission. (See § 96.A.3.) These reporting requirements are rendered meaningless if situations like these are not mentioned as reportable uses of force.

Therefore, a preponderance of the evidence establishes that the allegations of Neglect of Duty should be sustained against the named officers, as well as the named sergeant, because they violated DGO 5.01, Use of Force, when they did not report the use of force in this case based on the way the named officers used their rifles under the circumstances.

Not only did the actions of the named officers constitute the use of reportable force, it was excessive under the circumstances. To determine if force used by officers was excessive, courts balance the force that was used by the officers against the need for such force to determine whether the force used was "greater than is reasonable under the circumstances." (*Santos v. Gates*, 287 F.3d 846, 854 (9th Cir.2002).) The actions of the named officers in this incident could have exposed SFPD to substantial civil liability. (See, e.g., *Robinson v. Solano Cty*, *supra*, 278 F.3d 1007 at 1013 [officers' conduct in pointing gun at detainee at close range presents triable issue of fact on excessive force claim]; *Cornell v. City & Cty. of San Francisco* (2017) 17 Cal. App. 5th 766, 794 [jury found SFPD officers liable for violation of Cal. Civ. Code § 52.1 for gun-pointing combined with the unlawful arrest, the baseless Penal Code section 148 citation, and other mistreatment following the arrest]; *Espinosa v. City & Cty. of San Francisco*, 598 F.3d 528, 537 (9th Cir. 2010).)

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**SUMMARY OF ALLEGATIONS #5, #7:** (Continued)

In *Tekle v. United States*, officers were entering a house to arrest a father suspected of drug trafficking and tax-related offenses. His eleven-year-old son unexpectedly opened the garage to take out the garbage. At gunpoint, the boy was ordered to walk out backwards, lay face down on the driveway, and he was searched and momentarily handcuffed. (*Tekle v. United States*, 511 F.3d 839, 843 (9th Cir. 2007).) The Court reversed summary judgment issued in favor of the officers and said, “There were over twenty officers present at the scene, and Tekle was not suspected of any crime. He was cooperative and unarmed and, most importantly, he was eleven years old. A reasonable agent confronted with these circumstances should have known that there was no need to use guns and handcuffs. Yet, the officers kept Tekle handcuffed and pointed their weapons at him even after it was apparent that he was a child and was not resisting them or attempting to flee.” (*Tekle, supra*, at pg. 846.)

Here, if the complainant, her niece and her daughters decided to sue SFPD and the officers individually, while they may not ultimately succeed at trial, their suit would be meritorious, and its defense would likely be very costly for the City. From a legal perspective this conduct qualifies as excessive force.

Therefore, a preponderance of the evidence establishes that the allegations of Unnecessary Force for gun pointing in violation of DGO 5.01, Use of Force, against the named officers is **Sustained**.

**SUMMARY OF ALLEGATION #8:** The officer failed to take required action.

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

**FINDINGS OF FACT:** The complainant stated that she was pat searched by a male officer while only wearing sweatpants and a small t-shirt.

A witness officer stated that he did not observe any officer conduct a pat search of the complainant. He further stated that a member of the reception team would have conducted the pat search if the complainant was searched. The three members of the reception team denied conducting a pat search of the complainant or observing another officer conduct a pat search.

SFPD BWC recordings showed the complainant exiting the residence and reception officers escorting her to a nearby stairwell. The recordings do not show any officers conduct a pat search of the complainant.

The identity of the alleged officer could not be identified.

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**SUMMARY OF ALLEGATION #1:** The officers used sexually derogatory behavior.

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

**FINDINGS OF FACT:** The complainant stated a white male in plain clothes told him to sign a form and when the complainant refused, the officer, who was handling prisoner intake, approached and stood with his crotch in the complainant's face. The complainant was forced to turn his head to the side and when he did, the officer pushed the paper into his face. The complainant stated further that the officer who engaged in the derogatory behavior later entered the holding area and punched him several times.

The named officer stated that when he arrived at the station on the day the complainant was arrested, it was at shift change and he did not recall if he was the officer who processed the complainant's booking. The named officer, who also did not recall if he was in uniform, stated the first form completed by the processing officer would be the Medical Screening Form. The named officer stated he did not recall if he offered the complainant an opportunity to sign a form. The named officer stated he generally does not make arrestees sign forms if they do not wish to; he simply writes "refused." The named officer said he did not know if there was a camera in the area in which the complainant was being held. The named officer acknowledged the complainant threw a shoe at him, and that he punched the complainant when he resisted handcuffing.

Several witness officers stated they did not see the named officer walk up and put his crotch in the complainant's face. One officer, who acknowledged being present during the complainant's booking, said the only officer in plain clothes was the named officer.

Department records showed that the named officer performed the Medical Screening Form in the name of the complainant. Department records show also that a different officer completed a property receipt that the complainant refused to sign. There was no video collected by the officers from cameras in the station.

No independent witnesses were identified.

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



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

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

**FINDINGS OF FACT:** The complainant alleged he told the named officer that he wanted to file a complaint against him.

The named officer stated the complainant did not tell him he wanted to file a complaint.

Several witness officers stated the complainant did not ask to file a complaint against the named officer.

No independent witnesses were identified.

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

**SUMMARY OF ALLEGATIONS #3 - 5:** The officers used excessive force.

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

**FINDINGS OF FACT:** The complainant stated the named officers knocked him down onto his stomach and started to punch and kick him. The complainant stated all the strikes were to his upper body and head. The complainant stated he blacked out from the strikes and denied resisting.

Named officer #1 stated he observed the complainant being belligerent and extremely agitated. Named Officer #1 stated he entered the cell and tried to deescalate the situation and told the complainant he would unhook his hands so that he could put his shoes on. The complainant then threw a shoe at named officer #2. Named officers #2 and #3 tried to grab the complainant's arms, but the complainant moved to the floor. The officers told the complainant to stop resisting and put his hands behind his back. The complainant put his hands under his body. Named officer #1 punched the complainant three times in the torso with a closed fist. The named officers were then able to handcuff the suspect.

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Named officer #2 stated he entered the holding area and the complainant immediately became verbally abusive. Named officer #2, believing the complainant could use the shoes as a weapon, entered the cell to handcuff him. As named officer #2 approached, the complainant threw his shoes at named officer #2,

missing him. Named officers #1 and #2 grabbed the complainant and tried to place handcuffs on his wrists. The complainant pulled away. Named officers #1 and #2 took the complainant to the ground. Named officer #2 stated he ordered the complainant to stop resisting and put his hands behind his back. The complainant refused to comply. Named officer #2 then punched the complainant several times in the shoulder area to gain compliance. Eventually, the complainant complied, and officers placed him in handcuffs. No video of the holding area was reviewed or captured by the officers using force.

One sergeant stated he was notified by the named officers of their uses of force and completed a supervisory use of force evaluation. The sergeant stated he tried to interview the complainant regarding the use of force, but the complainant refused to speak to him. The sergeant conducted an evaluation and determined the amount of force was reasonable. The evaluation form completed by the sergeant indicated that there was no video of the use of force available, but the sergeant acknowledged that there were cameras in the area where the force was used, and no officer attempted to obtain footage from them.

No other witnesses were identified.

Medical staff examined the complainant and found minor injuries. Medical staff examined the complainant's head and noted a small abrasion just lateral to his left eyebrow, and a small abrasion over his nose, in addition to swelling of his jaw. The medical examination noted that the complainant complained of significant pain in his jaw and reported difficulty opening it. Photographs attached to an incident report documenting the use of force showed the complainant, bleeding from the forehead and bridge of the nose, in addition to bleeding from one nostril.

There was insufficient evidence to either prove or disprove that the level of force used by the named officers was minimally necessary to accomplish their task.

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

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**SUMMARY OF DPA-ADDED ALLEGATION #1:** The officer failed to comply with DB 17-109.

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

**FINDINGS OF FACT:** SFPD Incident Report dated April 27, 2018, showed the complainant was arrested for resisting arrest while in the holding cell at SFPD police station. The SFPD incident report does not document that there was video evidence available and that the named officer did not collect video footage as evidence.

SFPD Supplemental Report dated October 28, 2018, completed by the named officer, documented that there were surveillance cameras inside the holding cells that may have obtained footage of the complainant resisting officers prior to being taken to County Jail. The named officer stated he unable to and not trained on how to access and play surveillance footage from these cameras and was unable to access them on the day of the incident.

The Department of Technology advised that video footage is auto-deleted within seven days of the recorded date. DT verified the requested video footage for the Station Holding Cell on April 27, 2018, was no longer available and had been auto-deleted.

The named officer admitted he was responsible for collecting video evidence from the holding area at the police station and that at the time he did not collect the evidence, nor did he document it in the incident report. The named officer stated he did complete a supplemental report documenting the availability of video evidence the day before his interview with DPA.

The witness officer stated that the named officer was responsible for collecting the evidence and ensuring it was documented in the incident report. The witness officer stated that the named officer did not request or ask how to collect video footage after the incident.

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SFPD Department Bulletin- 17-109: Booking Recording Device Evidence and Written Statements, documents:

Department members are required to check crime scenes and scenes of police action for video and/or audio recording device evidence. Upon locating the presence of video and/or audio recording devices, members should exercise all means reasonably necessary to acquire this critical evidence. If successful in acquiring video and/or audio recordings, members shall book the recordings as evidence and document their actions in the narrative of the incident report.

If a member is unable to obtain this evidence, the member shall document the effort taken trying to obtain the evidence in the narrative of the incident report.

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

**SUMMARY OF DPA ADDED ALLEGATION #2:** The officer failed to properly supervise.

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

**FINDINGS OF FACT:** SFPD Incident Report dated April 27, 2018, showed the complainant was arrested for resisting arrest while in the holding cell at SFPD police station. The SFPD incident report does not document that there was video evidence available and that the SFPD reporting officer did not collect video footage as evidence. The report showed that the named officer was both the reviewer and approval officer for the incident report.

SFPD Supplemental Report dated October 28, 2018, completed reviewed and approved by the named officer, documented that there are surveillance cameras inside the holding cells that may have obtained footage of the complainant resisting officers prior to being taken to County Jail. The reporting officer stated he was unable and not trained on how to access and play surveillance footage from these cameras and was unable to access them on the day of the incident.

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The witness officer stated as the reporting officer he was responsible for collecting video evidence from the holding area at the police station and that at the time he did not collect the evidence, nor did he document it in the incident report. The witness officer stated he completed a supplemental report documenting the availability of video evidence the day before his interview with DPA.

The named officer admitted he was both the reviewing supervisor and approval officer on the incident and supplemental report. He agreed he was responsible for ensuring the video footage was preserved and documented in the incident report. He admitted the video footage from the holding cell was evidence of a crime. He confirmed that he did not receive a request from the witness officer to email DT to preserve video evidence from the holding cell. He stated it was his responsibility to send a request to the Department of Technology to save the video from deletion. The named officer said he did not send an email to DT.

SFPD Department Bulletin- 17-109: Booking Recording Device Evidence and Written Statements, documents:

Department members are required to check crime scenes and scenes of police action for video and/or audio recording device evidence. Upon locating the presence of video and/or audio recording devices, members should exercise all means reasonably necessary to acquire this critical evidence.

Supervisors shall ensure that members document the effort taken and the success (or lack of success) in obtaining video and/or audio evidence at a crime scene or scene of police action in every incident report.

DGO 1.04 Duties of Sergeants states “Require all assigned members to comply with the policies and procedures of the Department, and take appropriate action when violations occur. I . (2). H. Reports and Records: Review their subordinates arrests and reports for appropriateness and completeness.”

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

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**SUMMARY OF ALLEGATIONS #1 - 3:** The officers misrepresented the truth.

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

**FINDINGS OF FACT:** The complainant stated that he was illegally arrested by the named officers who relied on false information in order to secure a search warrant. He was arrested for manufacturing an illegal weapon but maintained that he had done nothing illegal.

The named officers relied on information from three confidential informants, two police officers and one civilian SFPD employee, in order to obtain the search warrant. The warrant was signed by a magistrate prior to execution. One of the named officers noted that he did not review the search warrant or statement for probable cause. He also denied making any specific recommendations about the overall investigation.

A “statement of probable cause,” which is the affidavit filed in support of the request for a search warrant, authored by one of the named officers, includes summaries of interviews with three informants. Informant number one stated that the complainant showed him a firearm that the complainant had built himself and resembled the Army M16 or possibly an AR-15 rifle. The complainant showed Informant number two photos of tools and parts of a rifle that the complainant was building, which appeared to the informant to look like an AR-15 rifle. The complainant later showed Informant number two the fully assembled gun. Informant number three was the only informant to provide evidence of illegality. This informant alleged that the complainant was building an “automatic weapon.” However, this informant also stated that the complainant personally told the informant that he was building an AR-15 rifle and had changed it into an “automatic weapon.” A magistrate reviewed the affidavit and signed the search warrant.

San Francisco Superior Court records indicate the complainant’s case was dismissed after the same magistrate determined there was insufficient probable cause for the search warrant. Counsel for the complainant filed a Motion to Traverse the Warrant. Counsel argued that the warrant was insufficient because, although three informants provided information about the complainant, only one alleged that the complainant was building an automatic weapon, and thus violating the law. The magistrate noted that the warrant relied on three informants, but only one provided information of illegality, and this was insufficient for probable cause. The Court therefore granted the Motion to Traverse the warrant.

A Motion to Traverse challenges the truth of the affidavit. Upon a showing that the search warrant affiant made statements that were deliberately false or in reckless disregard of the truth, and those statements are

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necessary to the finding of probable cause, the Fourth Amendment requires the Court to hold a hearing. (*Franks v. Delaware* (1978) 438 U.S. 154.)

Here, the Court did not hold a *Franks* hearing, and did not determine that the summaries of the informant interviews were inaccurate or that any of the evidence used to secure the warrant was false or in reckless disregard of the truth. Instead, the issue was whether the magistrate who signed the search warrant should not have done so based on the information provided. The court proceedings, coupled with DPA's investigation, revealed no evidence that the named officers misrepresented the truth.

There was insufficient evidence to prove or disprove the allegation.

**SUMMARY OF ALLEGATIONS #4 - 6:** The officers made an arrest without cause.

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

**FINDINGS OF FACT:** The complainant indicated he was illegally arrested by the named officers, who relied on false information and faulty informants in order to secure a search warrant.

The named officers stated that the complainant was arrested for a violation of the California Assault Weapons ban, as determined by the Department of Justice. They also stated the informants were reliable.

The chronological of investigation, written by one of the named officers, states that one of the weapons seized from the complainant was examined by an agent from the California Department of Justice. The chronological documents that the agent determined that the firearm was an "unregistered and illegal assault weapon." The chronological also documents that the arrest warrant was issued by the San Francisco District Attorney's office after review of the evidence.

Once the searches pursuant to the warrant were conducted and items were seized, the named officers, in collaboration with the California Department of Justice and the San Francisco District Attorney, determined there was sufficient evidence for an arrest. The California Department of Justice agent articulated the specific features of the firearm that made it illegal to possess. Thus, the SFPD, CA DOJ, and the DA all concluded that a crime had been committed, and that the complainant should be arrested.

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 #7:** The officer made rude comments.

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

**FINDINGS OF FACT:** The complainant indicated the named officer made rude comments to his son while executing a search warrant at his home, though he did not recall the details.

The named officer acknowledged saying, “not all policing work is like TV,” to the complainant’s son. The named officer said he responded to comments made by the complainant’s son during the execution of the search warrant; however, he denied that his response was rude or otherwise inappropriate.

DPA made multiple unsuccessful attempts to obtain a statement from the complainant’s son and his mother, who was also present for the execution of the warrant.

The statement that the named officer admitted to making did not rise to the level of misconduct. If there were other rude comments made, there was a lack of detail from the complainant and no input from other family members.

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

**SUMMARY OF ALLEGATION #8:** The officer searched a residence without cause.

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

**FINDINGS OF FACT:** The complainant stated the named officer relied on false information in order to secure and execute a search warrant on his home.

The named officer stated he was kept informed of the investigation because he was tasked with conducting surveillance leading up to the search. However, he said he did not review any of the evidence used to obtain the search warrant.

The statement of probable cause for the search warrant was written by another officer, and the warrant was signed by a judge. The named officer was minimally involved in the steps leading up to the search of the complainant’s home and was justified in relying on the signed search warrant that resulted from the work of other officers. An officer acting with objective good faith in reliance on a search warrant from a judge or magistrate and within its scope has committed no illegality. (*U.S. v. Leon* (1984) 468 U.S. 897, 920–921.) Thus, 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 #9:** The officer behaved inappropriately.

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

**FINDINGS OF FACT:** The complainant stated that the named officer interviewed individuals regarding allegations that he was making an illegal firearm. The complainant said that the named officer was trying to pressure one of these individuals to make false statements.

The named officer indicated he was assigned to investigate an allegation against the complainant while he was assigned to the Internal Affairs Department Criminal Unit. He denied asking any leading questions or taking issue with any of the information provided to him while interviewing the informants.

The individual interviewed by the named officer stated that he believed his answers were accepted as fact and there was no additional probing or attempting to elicit certain responses by the named officer.

The SFPD Internal Affairs interview of the individual was conducted by the named officer. The recording of the interview reveals that the named officer asked a number of questions about what the individual had witnessed. Among other questions, he asked: "Do you know if [the firearm] was semiautomatic?"; "Did he ever tell you that he plans to sell it?"; "Did you handle it at all?" The witness offered that he thought the weapon looked like an AR-15.

The DPA reviewed the audio recordings of two informants conducted by the named officer and did not find the questions particularly leading, or overly persuasive or suggestive.

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

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

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

**FINDINGS OF FACT:** The complainant stated that officers from a nearby station harassed and intimidated him by repeatedly showing up at his door, driving by him slowly in an intimidating manner, and jumping out of patrol cars and approaching him in a threatening manner. The complainant gave the last name of one particular officer who he said has harassed him by appearing at his door and demanding that he cooperate as a witness.

Multiple officers at the station share the same last name. They all denied ever responding to the complainant's address or knowing who the complainant is.

Despite multiple requests, the complainant did not come forward to provide an interview or any additional information.

The identity of the alleged officer could not be established.

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**SUMMARY OF ALLEGATIONS #1-2:** The officers failed to comply with Department General Order 5.04, Arrests by Private Persons.

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

**FINDINGS OF FACT:** The complainant stated that an intoxicated man in front of his building held the security gate open for him. Believing that the man did not live in the building, the complainant closed the gate, causing the gate to hit the man in the face, resulting in a small cut below the man's left eye/cheekbone area. The man later entered the building with a key and punched the complainant two times in his face. He called the police and reported that his neighbor assaulted him. He stated that the officers arrived and refused to make an arrest or take any action against his neighbor.

Department General Order 5.04, Arrests by Private Persons, states that whenever a private person summons an officer to take custody of an individual that the private person wants to arrest, if probable cause exists, officers shall accept the private person's arrest and book or cite the individual as appropriate. Additionally, if a in all instances involving requests for a private person's arrest, an incident report shall be prepared.

The named officers stated they determined a mutual assault occurred between the complainant and his neighbor. They acknowledged that the complainant requested his neighbor be arrested, while the complainant's neighbor did not want the complainant arrested. The named officers identified a resolution that didn't require anyone to be arrested, that resulted in the neighbors talking and shaking hands. The named officers admitted they did not prepare incident report.

Department of Emergency Management records show that the named officers responded to a call for assault/battery. The complainant reported that he was punched in the face. The named officers close the call as a "mutual combat." An incident report number was not generated for the incident.

Police Records show that the next day, the complainant visited a district police station and filed a battery report against his neighbor.

The body worn camera footage shows the complainant request a Citizen's Arrest and the named officers acknowledge that there was probable cause for an arrest.

The named officers were required to accept the arrest and prepare an incident report per the Department General Order. A preponderance of the evidence proved that the conduct complained of did occur, and that, using as a standard the applicable regulations of the Department, the conduct was improper.

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**SUMMARY OF ALLEGATIONS #3-4:** The officers behaved inappropriately and made inappropriate comments.

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

**FINDINGS OF FACT:** The complainant stated the named officers were dismissive towards him.

The named officers denied being dismissive towards the complainant. They stated they obtained statement from the complainant and his neighbor. Based on the statements given, they determined there was a mutual combat.

The BWC corroborates the named officers' statements.

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

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

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

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

**FINDINGS OF FACT:** The complainant stated the officer issued a citation without cause. The complainant stated he was looking for a parking space and the officer was right behind him, so he yielded to the officer by pulling over into the “Fireplug” spot. The officer told the complainant he couldn’t park there. The officer told the complainant a second time he could not park there and said, “You have to move.” The complainant stated he pulled out and stopped at the stop sign and then turned right “very slowly.” Once he made the right turn the officer activated his lights and pulled him over. The complainant acknowledged that he was unable to provide proof of insurance for the vehicle.

The named officer stated there was probable cause to issue the citation for violations of California Vehicle Code sections 22400-Impeding Traffic; and 16028(a) Proof of Insurance. The named officer stated he issued the complainant a citation for impeding traffic after observing the complainant’s vehicle blocking traffic in a red zone with a fire hydrant. The named officer stated he asked the complainant to move his vehicle to the alley so that the complainant’s vehicle and the patrol car wouldn’t block traffic. The officer stated he warned the complainant for parking at a fire hydrant, but he did not cite the complainant for this. The named officer stated the complainant drove his vehicle at 2 mph continuously after he told the complainant to move his vehicle. The complainant was unable to provide proof of insurance.

Court records show the complainant appeared in court and a bench trial was conducted. The court found the complainant guilty of violating California Vehicle Code sections 22400(a) and 16028(a), and the court imposed a fine for each violation.

The Body Worn Camera (BWC) recording shows the complainant drove very slowly. It shows the named officer conducted a traffic stop. The named officer informed the complainant he was impeding the flow of traffic, and the complainant became upset, saying he sees other people going very slow all the time and had never heard of someone getting a ticket for it. The recording shows the complainant searched for an unexpired proof of insurance, and later acknowledged he could not find one.

The BWC recording, the court disposition, and the complainant’s own admissions show that he violated both sections of the Vehicle Code and the named officer was justified in citing 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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**SUMMARY OF ALLEGATION #2:** The officer behaved inappropriately and made inappropriate comments.

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

**FINDINGS OF FACT:** The complainant stated he has vinyl lettering on his vehicle that says, “Deport Trump” and he believes the officer saw this and it made the officer angry. The complainant stated the officer was “very angry, livid, he was seething.” The complainant stated the officer approached his car and said, “Your eyes are like pin pricks”. The complainant construed the officer’s comment as an “aggression.”

The named officer denied the allegation. The named officer stated he commented to the complainant that his eyes looked “pinpoint” because they did. The officer stated the complainant spoke about himself in the third person and the officer thought the complainant might be under the influence of opioids or heroin, which is a threat to the public and himself.

The BWC recording shows the named officer acted in a professional manner throughout the contact.

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

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

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

**FINDINGS OF FACT:** The complainant stated he was arrested for having a child's teepee in a San Francisco Park. The complainant stated the teepee is approximately seven to eight feet tall. He also stated he had started a fire for warmth and that he was carrying a machete. The complainant stated the SFPD does not have jurisdiction over him because he is a Native American. He stated officers did not have the authority to arrest him. The complainant acknowledged he was not part of a federally recognized tribe.

The body worn camera (BWC) footage from the incident shows the complainant's arrest. Several officers attempt to convince the complainant to remove his teepee. The named officer explains that the complainant has violated numerous San Francisco Park Codes by lighting a fire and having a machete in the park. The named officer explains the complainant is going to be cited. The complainant agrees to sign the citation, but refuses to provide a valid ID. The complainant claims the officers will steal his ID if he provides it to them. The named officer explains the complainant will be arrested if he does not provide ID. The named officer asks for the complainant's ID numerous times. The complainant refuses to provide it. The named officer orders officers on scene to approach the complainant with extended range impact weapons (ERIW). The complainant lays on the ground and places his hands behind his back. The complainant is arrested. The complainant provided numerous documents to show the SFPD does not have jurisdiction over him because he is Native American. These documents describe procedures for federal agencies interacting with federally recognized tribes. They do not remove Native Americans from the SFPD's jurisdiction, and do not apply to the complainant because he is not part of a federally recognized tribe.

SF Park Code 4.01(b) states, in part: "No person shall, in any park without permission of the Recreation and Park Department...possess any instrument, appliance or substance designed, made or adopted for use primarily as a weapon, including, but not limited to...dirk knives, bowie knives or similar knives."

SF Park Code 4.01(e) states, in part: "No person shall, in any park without permission of the Recreation and Park Department...Make, kindle, maintain or in any way use a fire except at places provided, designated and maintained by the Recreation and Park Department for such use."

California Penal Code § 853.5 states, in part: "[I]n any case in which a person is arrested for an offense declared to be an infraction, the person may be released according to the procedures set forth by this chapter for the release of persons arrested for an offense declared to be a misdemeanor. In all cases...in which a person is arrested for an infraction, a peace officer shall only require the arrestee to present his or

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her driver's license or other satisfactory evidence of his or her identity for examination and to sign a written promise to appear contained in a notice to appear...Only if the arrestee refuses to sign a written promise, has no satisfactory identification, or refuses to provide a thumbprint or fingerprint may the arrestee be taken into custody."

The complainant committed two infractions by starting a fire and carrying a large knife within a city park. The named officer asked the complainant to provide valid ID after the complainant agreed to be cited. The complainant stated he had ID but refused to provide it to the named officer. The named officer ordered the complainant arrested.

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 #2-3:** The officers used unnecessary force.

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

**FINDINGS OF FACT:** The complainant stated that officers pointed firearms at him when he was arrested. He acknowledged that he was carrying a large knife. He acknowledged that he became belligerent with the officers.

The BWC footage from the incident shows the complainant is armed with a large knife and handcuffs. He threatens the officers with the handcuffs. He makes several threatening statements toward the officers. He screams at the officers throughout the incident. When ordered by a lieutenant, the named officers point firearms with less-lethal ammunition (ERIW) at the complainant. Officers shout, "less lethal!" and "red light!" The complainant lays on the ground and places his hands behind his back. He is arrested. No less lethal rounds were fired.

Department General Order (DGO) 5.01, Use of Force, states, in part: "The ERIW may be used on a subject who is armed with a weapon...that could cause serious injury or death. This includes, but is not limited to, edged weapons... When using the ERIW, an officer shall, if feasible: Announce to other officers the intent to use the ERIW by stating "Red Light! Less Lethal! Less Lethal!" All other officers at scene to acknowledge imminent deployment of ERIW by echoing, "Red Light! Less Lethal! Less Lethal!" Announce a warning to the subject that the ERIW will be used if the subject does not comply with officer commands; Give the subject a reasonable opportunity to voluntarily comply unless it would pose a risk to the community or the officer, or permit the subject to undermine the deployment of the ERIW."



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The complainant was armed with a large knife. He had threatened and screamed at the officers. The officers utilized the ERIWs because the complainant was an armed suspect. They provided the appropriate warnings and allowed the complainant enough time to comply.

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

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

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

**FINDINGS OF FACT:** The complainant stated he was driving with his wife. He stated his wife was tackled by SFPD officers during a traffic stop.

The BWC footage shows the complainant and his wife are pulled over by the named officer and his partner. They are pulled over because their car does not have a license plate. The complainant's wife tells the named officer he does not have the jurisdiction to pull them over. She refuses to roll down her window to speak to the named officer. The named officer's partner discovers the complainant is wearing a large knife. The complainant is taken from the car and handcuffed. The complainant's wife is asked to step out of the vehicle. She refuses. The named officer grabs her, pulls her from the vehicle, has her sit on the ground and handcuffs her. When allowed, she stands on her own while the named officer holds her arm. He asks her to sit of the curb several times. She refuses. The BWC shifts and the complainant's wife sits on the curb. She does not acknowledge any pain or injury.

In the incident report, the named officer stated that the complainant's wife refused orders to exit the vehicle. The named officer stated he used a control hold to pull the complainant's wife from the vehicle and use his body weight to take her to the ground. The named officer stated she did not complain of pain. There was no reportable use of force documented.

The complainant's wife stated that she did not comply with the officers because she believed they would rape her. She said both officers grabbed her and pushed her to the ground. She stated that the officers then picked her up by her handcuffs. She stated the named officer asked her to sit down. She stated she asked him why. She stated the named officer kicked her in the back of the knee, causing her knee to fold under her with excruciating pain. She stated that she screamed at the officer and it was not possible the officer did not know she'd been injured.

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DGO 5.01, Use of Force, states, in part: “When a subject offers some degree of passive or active resistance to a lawful order, in addition to de-escalation techniques and appropriate communication skills, officers may use physical controls consistent with Department training to gain compliance. A subject’s level of resistance and the threat posed by the subject are important factors in determining what type of physical controls or personal body weapons should be used.” The DGO defines passive resistance as when a subject, “Does not respond to verbal commands but also offers no physical form of resistance.” The DGO also states, “Any subject who has been injured, complains of an injury in the presence of officers, or complains of pain that persists beyond the use of the physical control hold shall be medically assessed by emergency medical personnel.”

The BWC footage shows the complainant’s wife refused to comply with the named officer when he asked her to exit the vehicle and to sit down. The named officer stated in his incident report that he used his bodyweight to make her sit down. The BWC footage shows she was not picked up by her handcuffs, did not scream, and was not in obvious pain.

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 #5-6:** The officers made an arrest without cause.

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

**FINDINGS OF FACT:** The complainant stated that he was removed from a vacant building for trespassing. He stated that he had been living there for sixty to ninety days. He stated he had squatter’s rights or that the SFPD did not have the jurisdiction to remove him. He stated he did not own the building and the individuals who asked him to leave had purchased the building.

The incident report and the BWC footage from the scene documents the named officers speaking with representatives for the company that owns the vacant property. They sign citizen arrest forms against the complainant and his wife for trespassing on their property.

California Code of Civil Procedure § 325 states, in part, “In no case shall adverse possession be considered established under the provision of any section of this code, unless it shall be shown that the land has been occupied and claimed for the period of five years.”

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The complainant alleges he had been squatting within the property for sixty to ninety days. He had no rights to the property.

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

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**SUMMARY OF DPA-ADDED ALLEGATION #1:** The officer failed to comply with Department Bulletin 17-156, Body Worn Camera Mute Function.

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

**FINDINGS OF FACT:** During its investigation, the DPA found the named officer muted his body-worn camera (BWC) during the incident.

The named officer responded to the April incident as a backup officer. He muted his BWC while on scene. He does not recall why he muted his BWC. He admitted to failing to document why he muted his BWC. The named officer acknowledged that he violated Department Bulletin (DB) 17-156.

The BWC footage confirms the named officer muted his BWC for approximately 30 minutes. The officer was on scene for 38 minutes and 52 seconds. There is no evidence showing the officer documented why he deactivated his camera while on scene.

DB 17-156, Body Worn Camera Mute Function, states, in part, "Once the BWC has been activated, members shall continue using the BWC until their involvement in the event has concluded to ensure the integrity of the recording, unless the contact moves in to an area restricted by this policy. Members shall deactivate the BWC in the following circumstances: 1. When discussing sensitive tactical or law enforcement information away from the citizen 2. After receiving an order from a higher ranking member 3. When recording at a hospital would compromise patient confidentiality 4. When gathering information from witnesses or community members, and the officer has a reasonable and articulable concern that a BWC would inhibit information gathering efforts. Members shall only use the mute feature with a specific articulable purpose. If a member deactivates (mutes) the audio during an event, the member shall document the reason(s) for terminating the audio recording in CAD, an incident report, written statement or memorandum."

The named officer failed to document the purpose for muting his BWC at the time of the incident.

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

**SUMMARY OF DPA-ADDED ALLEGATION #2:** The officer failed to comply with Department Bulletin 17-156, Body Worn Camera Mute Function.

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

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**FINDINGS OF FACT:** During its investigation, the DPA found the named officer muted his body-worn camera (BWC) during the incident.

The named officer acknowledged muting his BWC twice while responding to the incident. He stated that he muted once to call a lieutenant for tactical advice. He did not recall why he muted a second time, but he theorized it was because a juvenile was on scene and he did not want to capture her information. The named officer stated he did not document why he muted his BWC. The named officer admitted he did not comply with the documentation portion of DB 17-156.

The BWC documents the two times the named officer muted his BWC. The named officer's BWC is muted for approximately 53 minutes. He is on scene for an hour and three minutes. The BWC shows the officer mutes his BWC just before making a phone call and shortly after a juvenile is found on scene.

DB 17-156, Body Worn Camera Mute Function, states, in part, "Once the BWC has been activated, members shall continue using the BWC until their involvement in the event has concluded to ensure the integrity of the recording, unless the contact moves in to an area restricted by this policy. Members shall deactivate the BWC in the following circumstances: 1. When discussing sensitive tactical or law enforcement information away from the citizen 2. After receiving an order from a higher ranking member 3. When recording at a hospital would compromise patient confidentiality 4. When gathering information from witnesses or community members, and the officer has a reasonable and articulable concern that a BWC would inhibit information gathering efforts. Members shall only use the mute feature with a specific articulable purpose. If a member deactivates (mutes) the audio during an event, the member shall document the reason(s) for terminating the audio recording in CAD, an incident report, written statement or memorandum."

The named officer stated that he muted his BWC for appropriate reasons; however, he did not document his reasons for muting his BWC.

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

**SUMMARY OF DPA-ADDED ALLEGATION #3:** The officer failed to comply with Department General Order 10.11, Body Worn Camera.

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

**FINDINGS OF FACT:** During its investigation, the DPA found the named officer improperly shut off his body-worn camera (BWC) during the incident.

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The named officer acknowledged he turned on his BWC late while pulling the complainant over during the April incident. He believed he activated it when he saw the complainant had a large knife. However, he only activated when he searched the complainant before placing him in an SFPD cruiser. The named officer acknowledged he shut his BWC off shortly after. He shut his BWC off when writing a tow slip. The named officer states he activated his BWC again when he sat in an SFPD cruiser with the complainant. The named officer admitted he violated DGO 10.11, Body Worn Camera, for failing to document why he deactivated his BWC.

The named officer's BWC shows he activates his BWC as the complainant is in handcuffs and is being searched. He deactivates after placing the complainant in an SFPD cruiser and writing a tow slip. The named officer's BWC activates again when he is in the SFPD cruiser with the complainant. His BWC captured approximately 17 minutes of the incident. The named officer's partner activated his BWC for the entirety of the April incident. His footage runs over an hour. He captures the named officer pulling the complainant over, grabbing the complainant, removing a knife from the complainant, and handcuffing the complainant.

DGO 10.11, Body Worn Camera, states, in part: "All on-scene members equipped with a BWC shall activate their BWC equipment to record in the following circumstances: 1. Detentions and arrests 2. Consensual encounters where the member suspects that the citizen may have knowledge of criminal activity as a suspect, witness, or victim...Traffic and pedestrian stops...7. Uses of force...9. Conducting any of the following searches on one's person and/or property: a. Incident to an arrest...f. Vehicles...11. During any citizen encounter that becomes hostile 12. In any situation when the recording would be valuable for evidentiary purposes." Also, it states, in part: "Once the BWC has been activated, members shall continue using the BWC until their involvement in the event has concluded to ensure the integrity of the recording, unless the contact moves into an area restricted by this policy. Members shall deactivate the BWC in the following circumstances: 1. When discussing sensitive tactical or law enforcement information away from the citizen 2. After receiving an order from a higher ranking member 3. When recording at a hospital would compromise patient confidentiality 4. When gathering information from witnesses or community members, and the officer has a reasonable and articulable concern that a BWC

would inhibit information gathering efforts... If a member deactivates a BWC recording prior to the conclusion of an event, the member shall document the reason(s) for terminating the recording in CAD, an incident report, a written statement or a memorandum... If a member reactivates the BWC after turning the equipment off, the member shall document the reason(s) for restarting the recording in CAD, an incident report, a written statement or a memorandum"

The officer failed to activate his BWC when pulling the complainant over for a traffic stop, when initially questioning the complainant, when detaining the complainant, when removing the complainant's knife

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from his person, and when removing the complainant from his vehicle. He did not document his deactivation.

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

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**SUMMARY OF DPA-ADDED ALLEGATIONS #4-5:** The officers made inappropriate comments.

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

**FINDINGS OF FACT:** During its investigation, the DPA learned an officer may have shouted an inappropriate comment out the window of a moving SFPD cruiser.

The named officers acknowledged they were in the SFPD cruiser that the comment came from. They did not recall who made the comment. Both named officers denied making the comment.

A witness officer captured the comment on his body-worn camera (BWC). The witness officer did not know the officer who shouted the comment from the SFPD cruiser.

The witness officer's BWC shows an officer shouting an inappropriate comment from an SFPD cruiser. The comment is directed at the complainant's wife. It concerned how she was dressed and her ethnicity. The cruiser's number is captured by the BWC recording. The incident occurred in Ingleside. Ingleside station's Daily Equipment Sign-out and Sign-in Log shows the named officers were in the vehicle that the comment came from.

No witnesses were identified.

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

The comment shouted from an SFPD cruiser was demeaning toward the complainant's wife. It disrespected her ethnicity and her attire. The comment came from an SFPD cruiser. The named officers

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were inside the cruiser. Since neither officer fully recalled the incident, it could not be determined which officer made the comment.

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



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

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

**FINDINGS OF FACT:** The complainant stated the officers listened to the reportee's side of the story and did not believe him. The complainant stated he threw a cup of water at the reportee in self defense because he tried to attack him with a knife.

The named officers said they spoke to both parties. One of the named officers recalled the report of a knife, the other did not.

The BWC footage documents that the officers did not question the reportee as to the knife. However, the BWC documents that upon further questioning of the complainant, he was no longer certain that a knife was involved.

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

**SUMMARY OF ALLEGATIONS #3 - 5:** The officers failed to take required action.

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

**FINDINGS OF FACT:** The complainant stated he had a restraining order and he wanted the officers to serve his roommate. He said the officers refused to do so.

One of the named officers did not recall anyone mentioning a restraining order. Another named officer said he recalled the complainant mentioning a restraining order, but said one was never presented. He stated that, even if one had been presented, he would not have been required to serve it. The third named officer, a sergeant, stated SFPD members do not serve civil orders unless a person is being arrested for violating the order, or it involves domestic violence.

SFPD General Order 2.01, General Rules of Conduct, Rule 52, states, "Members shall not serve a subpoena, summons, or other paper in a civil action or render any assistance in such a case; however, when a crime is committed requiring an arrest, an arrest may be made even though the crime originated from a civil dispute ..."

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The named officers determined that a crime had not been committed, and if one had, it was committed by the complainant, not the reportee.

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 #6:** The officer behaved inappropriately.

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

**FINDINGS OF FACT:** The complainant stated the named officer was racist and discriminatory towards him and was looking for a reason to arrest him.

The named officer denied the allegation. The named officer said he responded to the call to back up the primary unit because he thought he heard that a knife was involved. The named officer said that the complainant was interrupting him and trying to make excuses for his actions. He acknowledged shushing the complainant. He said he was trying to explain to the complainant that throwing water on somebody is a battery and he could go to jail.

The BWC recordings document the officer shushing the complainant to be quiet, but also the complainant talking about other issues when questioned about the issue at hand.

General Order 5.17, Policy Prohibiting Biased Policing, states:

Department personnel may not use, to any extent or degree, actual or perceived race, color, ethnicity, national origin, religion, gender, age, sexual orientation, or gender identity in conducting stops or detentions, or activities following stops or detentions except when engaging in the investigation of appropriate suspect specific activity to identify a particular person or group.

There was no evidence that the named officer was acting in a racist or discriminatory manner. The named officer did not know the parties, and both parties were Latino.

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

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

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

**FINDINGS OF FACT:** The BWC footage documents that the reportee was not provided language services when the officer interviewed him at the scene.

The reportee said he did not recall if communication was an issue in this incident, but he confirmed that he speaks little English.

The named officer stated that he did speak to the reportee and did not provide language assistance because at the time he was getting preliminary information. He then stated that the reportee chose not to press charges against the complainant and said that if he had wanted to press charges that he would have used the language line. The named officer stated that, in reviewing DGO 5.20, he was required to provide language assistance.

Department of Emergency Management records document that the reportee called 911 and used a Spanish interpreter. The CAD also documents that that the dispatcher said the reportee is requesting a Spanish-speaking officer.

The BWC recordings document that the reportee has difficulty explaining what happened and understanding the named officer. The recording shows that the reportee tells the named officer that he speaks very little English and that he does not understand.

SFPD General Order 5.20, Language Access Services for Limited English Proficient (LEP) Persons, states:

When performing law enforcement functions, members shall provide free language assistance to LEP individuals whom they encounter ... When conducting general interviews, members should seek the assistance of a Qualified Bilingual Member, Qualified Civilian Interpreter, or other professional interpreter, or the language line whenever the member encounters an LEP person who requests an interpreter or is unable to communicate with or is experiencing difficulty communicating with the member.

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Although the reportee did not request an interpreter at the scene, he was clearly experiencing difficulty communicating with and understanding the named officer. In retrospect, the named officer recognized that he should have taken steps to provide language assistance.

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

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**SUMMARY OF ALLEGATIONS #1 - 4:** The officers entered a residence without cause.

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

**FINDINGS OF FACT:** The complainant stated that officers broke down the door of his house and entered when he was not home. The complainant did not understand why the officers entered his home.

The named officers stated that dispatch notified them of a female domestic violence victim inside a house who called 911 and said that her boyfriend had beaten her all day and locked her in a room with a padlock. Fearing for the victim's safety, the officers forced entry to the house to find her. The named officers stated that exigent circumstances justified the warrantless forced entry.

A witness officer stated that he was the supervisor of the named officers. The witness officer gave permission to force entry into the house.

The female victim in the house did not return calls to the DPA. However, the DPA obtained the audio recording of the 911 call. In the call, the victim can be heard whispering, crying, and saying that she is locked up and that a man has been beating her all day. She asks for police to break in to the house. She says that the man is her boyfriend, they got in a fight, and he beat her up. She says she needs medical attention. The dispatcher asks if she wants police to force entry and she responds, "Yes, please."

Photographs of the victim show bruising around her eyes and neck.

Department Bulletin 16-056, Entering Residences: Houses, Apartments, Hotels, including SRO Hotels, states that officers can enter residences without a warrant when "[T]here are exigent circumstances ..., such as the need to respond to an imminent threat to the safety of officers or other persons," and also, "officers have an objectively reasonable basis for believing that someone in the residence needs medical assistance."

The victim reported to law enforcement that she needed medical assistance, was in fear for her life, and was in urgent danger of further harm. The officers therefore reasonably concluded that exigent circumstances justified the warrantless entry.

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:** 08/13/18      **DATE OF COMPLETION:** 04/04/19      **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant stated that he went to a police station and asked the named officers for an incident report regarding a theft. The complainant stated the officers directed him to Police Headquarters and generally sent him on a “wild goose chase.”

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

Neither named officer could recall the incident with the complainant. No contemporaneous records of calls for service involving the complainant and a theft could be located. One of the named officers produced a letter from the complainant to the Commanding Officer of Southern Station in which the complainant specifically praised the named officer’s professionalism and helpfulness.

No witnesses were identified.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 09/27/18    **DATE OF COMPLETION:** 04/09/19    **PAGE#** 1 of 5

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

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

**FINDINGS OF FACT:** The complainants stated that a driver nearly hit them when they were walking on the street. When they attempted to take a photo of his license plate, the driver called police and lied about their actions. They stated that the named officer arrived, detained them, and then let everyone leave. The complainants stated that the named officer should have arrested the driver for making a false report and nearly running them over.

The named officer stated he and his partner responded to a call regarding a person with a knife. He said they were flagged down by the driver – the reporting party. The named officer stated he investigated the incident by speaking to all parties. He said that the driver told him that the complainants started yelling at him about being in the crosswalk. He stated the driver also told him that one of the complainants simulated that he had a weapon at his waist, but no threats were made. The named officer stated that no weapons were found, and he did not believe a crime had occurred, so the complainants were free to go.

Records from the Department of Emergency Management document that a caller reported that someone had just tried to attack him with a knife, though the knife was not seen.

The Body Worn Camera (BWC) recordings document that the named officer spoke to all parties.

The named officer thoroughly investigated a call regarding a person with a knife, and determined that there were no weapons, and that there had only been a verbal altercation, absent criminal threats.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 09/27/18    **DATE OF COMPLETION:** 04/09/19    **PAGE#** 2 of 5

**SUMMARY OF ALLEGATION #2:** The officer behaved inappropriately.

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

**FINDINGS OF FACT:** The complainants stated the officer was aggressive during the incident, made threats, and told one of them to, “shut-up and listen.”

The named officer stated that he was trying to explain the result of the investigation to the complainants and that they were free to go. However, he acknowledged that the complainants kept interrupting and talking over him, so after asking them to listen several times, he told one of them to “shut-up and listen.”

The BWC recordings show the complainants talking while the named officer is attempting to explain the result of the investigation. After telling them to listen several times, the named officer tells one complainant to “shut-up and listen.” The recordings show that the named officer then tells them his investigative conclusion and that they are free to leave. The recordings also document that the named officer did not make threats and was otherwise acting professionally.

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

The phrase “shut up” is generally uncivil, though in this case it was not intended to show discourtesy or disrespect, but to make it clear that he had a message to relay, and to allow him to relay that message. The officer’s conduct did not rise to a level of misconduct.

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



**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 09/27/18    **DATE OF COMPLETION:** 04/09/19    **PAGE#** 3 of 5

**SUMMARY OF ALLEGATION #3:** The officer used profanity.

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

**FINDINGS OF FACT:** The complainants stated that the officer used profanity towards one of them during the incident.

The officer denied the allegation.

The BWC recordings show that no profanity was used.

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

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

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

**FINDINGS OF FACT:** One of the complainants stated that while handcuffed and sitting down, the named officer kicked his foot with the tip of his foot to intimidate him.

The officer denied the allegation.

The BWC recordings show that this did not occur.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 09/27/18    **DATE OF COMPLETION:** 04/09/19    **PAGE#** 4 of 5

**SUMMARY OF ALLEGATION #5:** The officer failed to prepare an incident report.

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

**FINDINGS OF FACT:** The complainant stated he asked for a police report regarding the detention, because the reporting party lied, and he wanted to take him to court.

The named officer stated that a report for the incident was not required. He stated this was a verbal altercation, no injuries resulted, and no crime had been committed. He stated that the complainants were not handcuffed, moved more than a short distance, or detained for a prolonged period of time.

BWC recordings show that the complainants were detained but were then seated a few feet from where they were initially detained and released as soon as it was clear that no crime had been committed. The recordings show that the parties were making accusations against each other. One of the complainants asked for the reporting party's information, but neither asked for an arrest or report.

SFPD General Order 5.03, Investigative Detentions, states, "If you briefly detain a person where you stop him/her, or move a person a short distance for safety, convenience, or privacy, the person is not considered arrested or taken into custody. When releasing the person, you need not issue a Certificate of Release or prepare an incident report."

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

The complainants were not moved a great distance or detained for a long period of time. The complainants did not request a private person's arrest. Under these circumstances, the named officer was not required to write a report.

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:** 09/27/18    **DATE OF COMPLETION:** 04/09/19    **PAGE#** 5 of 5

**SUMMARY OF ALLEGATION #6:** The officer engaged in biased policing based on race.

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

**FINDINGS OF FACT:** The complainant stated the named officer was racist because he believed the reporting party and did not detain him. He stated that the reporting party was white, while he is Latino.

The named officer stated that the complainant's race had nothing to do with this incident. He stated that the reporting party flagged them down and pointed out the complainants. He also stated that they were investigating a person with a knife, and one of the complainants matched the description provided by dispatch. He noted that the description over dispatch was of two white males, but it also described one person with a black hat, brown jacket, and backpack.

The BWC recordings document that one of the complainants had a dark hat, dark jacket, and backpack.

There was no evidence that the named officer engaged in biased policing. He was justified in detaining the complainants based on the information provided by dispatch and the reporting party. The evidence proved that the act alleged in the complaint did not occur.

**SUMMARY OF ALLEGATION #7:** The officer issued an invalid order.

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

**FINDINGS OF FACT:** The complainants stated that a female witness approached and corroborated the complainants' version of events. The complainants said that the named officer told the woman to move along.

The officer denied the allegation.

The BWC recordings show that the named officer briefly interacted with a female bystander, but he did not tell her to leave or order her to move on.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 10/10/18    **DATE OF COMPLETION:** 03/29/19    **PAGE#** 1 of 4

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

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

**FINDINGS OF FACT:** The complainant said the named officers detained him without justification.

Department records showed that the named officers were in possession of a search warrant to search the complainant and his residence. Officers had probable cause to arrest complainant after finding an unregistered firearm during their search.

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

**SUMMARY OF ALLEGATIONS #3-4:** The officers searched the complainant without cause.

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

**FINDINGS OF FACT:** The complainant stated the named officers searched his person without cause during a detention.

Department records indicated that the named officers were in possession of a search warrant to search the complainant and his residence.

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:** 10/10/18    **DATE OF COMPLETION:** 03/29/19    **PAGE#** 2 of 4

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

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

**FINDINGS OF FACT:** The complainant said the named officer failed to provide him a copy of the purported search warrant before conducting a search. He acknowledged receiving a copy of the warrant on his release from jail.

The named officer stated he provided the complainant a copy of the search warrant and its return by placing them with his property items when he went into custody at County Jail.

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 #6:** The officer searched the complainant's residence without cause.

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

**FINDINGS OF FACT:** The complainant stated the named officer searched his residence without a search warrant. The complainant acknowledged receiving a copy of the warrant on his release from jail.

Department records showed that the named officers were in possession of a search warrant to search the complainant and his residence.

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:** 10/10/18    **DATE OF COMPLETION:** 03/29/19    **PAGE#** 3 of 4

**SUMMARY OF ALLEGATION #7:** The officer failed to provide a Miranda admonishment.

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

**FINDINGS OF FACT:** The complainant said the named officer provided him a Miranda admonishment only after he was in custody at the station during a recorded interrogation.

The named officer stated his partner read the complainant a Miranda admonishment when he was in custody and the named officer and his partner conducted a recorded questioning.

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

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

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

**FINDINGS OF FACT:** The complainant complained that the named officer arrested him for violating a domestic violence restraining order without cause. He acknowledged that there was a restraining order against him at the time.

The named officer stated that he arrested the complainant pursuant to a Department-wide electronic Special Victims Unit Crime Alert Notification, stating probable cause existed to arrest the complainant.

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:** 10/10/18    **DATE OF COMPLETION:** 03/29/19    **PAGE#** 4 of 4

**SUMMARY OF ALLEGATION #9:** The officer behaved and spoke inappropriately.

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

**FINDINGS OF FACT:** The complainant said the named officer harassed him sometime in April of 2017 when the named member told him that he thought officers would hear from him, followed by a statement suggesting that if he cooperated, they could “make this all disappear.” The complainant also stated that during a different arrest for violating a restraining order, the named officer told him he was a “domestic violence officer” when the complainant knew he worked for the narcotics division.

Department records showed that the named officer was assigned to the SFPD Narcotics Detail at the time of the incident, but when arresting the complainant for violating a restraining order was acting in response to a Department-wide Special Victims Unit crime bulletin. The unit to which an officer is assigned is irrelevant to the arrest of a wanted person. The alleged comment by the officer does not constitute misconduct.

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:** 10/12/18 **DATE OF COMPLETION:** 04/19/19 **PAGE#** 1 of 2

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

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

**FINDINGS OF FACT:** The complainant stated his vehicle was seized and the named officer would not release it back to him.

The named officer stated he is only authorized to release a vehicle to the registered owner. The complainant was not the registered owner. He stated he contacted the registered owner and informed him that if he wanted his vehicle released to the complainant, he would need to provide documentation and written authorization to the Department. The named officer stated the registered owner contacted the Department giving written permission to the named officer to release the vehicle to the complainant's girlfriend. The named officer stated the vehicle was released to the complainant's girlfriend.

San Francisco Department General Order 9.06, Vehicle Tows, states that when releasing a towed vehicle, officers must ensure that the person claiming the vehicle is the registered owner of the vehicle or a person authorized by the registered owner.

Police records show that the complainant was not the registered owner of the vehicle. The registered owner eventually submitted the requested documentation to the Department which enabled the named officer to release the vehicle to the complainant's girlfriend.

No 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.



**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 10/12/18 **DATE OF COMPLETION:** 04/19/19 **PAGE#** 2 of 2

**SUMMARY OF ALLEGATION #2:** The officer engaged in biased policing based on race.

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

**FINDINGS OF FACT:** The complainant stated the reason the named sergeant did not release the vehicle to him was based on the race of the complainant.

The named officer stated he did not initially release the vehicle to the complaint because the complainant was not the registered owner of the vehicle and the named officer did not have authorization from the registered owner to do so. The named officer stated he did not base his initial decision not to release the vehicle to the complainant on the complainant's race.

No witnesses were identified.

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

**SUMMARY OF ALLEGATION #3:** The officer seized property without justification.

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

**FINDINGS OF FACT:** The complainant stated his cellphone was seized by an unknown officer and was not returned to him.

The complainant failed to provide information regarding the cellphone.

The identity of the alleged officer could not be established, and no cell phone could be located in property records, tow inventory, or in any other paperwork associated with the case.

No witnesses were identified.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 10/22/18 **DATE OF COMPLETION:** 04/22/19 **PAGE#** 1 of 1

**SUMMARY OF ALLEGATIONS #1 - 5:** The officers used excessive force.

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

**FINDINGS OF FACT:** The complainant stated the named officers used excessive force when he was detained. He stated the named officers tackled him to the ground and punched him.

Body Worn Camera footage shows the complainant standing approximately 15 feet in front of the officers in an aggressive manner, holding a large vodka bottle in his hand. Named officer #1, who is pointing an ERIW at the complainant, asks him repeatedly to place the bottle down. The complainant refuses to comply and screams at the officers, "I'm ready to die" and "Shoot me." In an attempt to de-escalate the situation, named officer #1 attempts to engage the complainant in dialogue, where she is minimally successful. Unfortunately, the complainant continues to be non-compliant so named officers #2-4 tackle the complainant to the ground. The complainant resists by refusing to put his hands behind his back. Named officer #5 punches the complainant one time on his back after one of the named officers orders the complainant to stop biting. The complainant is handcuffed and then transported to the hospital.

SFPD documents also show the use of force was evaluated by a supervisor and he found the use of force to be reasonable.

The named officers tried multiple de-escalation techniques which were unsuccessful. The officers' use of force was reasonable and within the exact mandate of DGO 5.01(III)(A):

- A. USE OF FORCE MUST BE FOR A LAWFUL PURPOSE. Officers may use reasonable force options in the performance of their duties, in the following circumstances:
1. To effect a lawful arrest . . .
  2. To overcome resistance . . .
  3. To prevent the commission of a public offense.
  4. . . .
  5. To gain compliance with a lawful order.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 11/07/19    **DATE OF COMPLETION:** 04/25/19    **PAGE#** 1 of 2

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

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

**FINDINGS OF FACT:** The complainant stated that when the named officer wrote her a parking citation, the named officer was “over the top,” demeaning, and did not listen to her.

The named officer stated he was calm and professional with the complainant. The named officer also stated he listened to the complainant as she explained why she parked her car. The named officer further stated the complainant was excited and not happy about receiving a citation.

The witness officers corroborated that the named officer was polite and professional.

No independent witnesses were identified.

There was insufficient evidence to prove or disprove the allegation.

**SUMMARY OF ALLEGATION #2:** The officer engaged in bias policing based on race.

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

**FINDINGS OF FACT:** The complainant stated the named officer issued her a citation because she drove a nice car and that she is not Asian.

The DPA interviewed the named officer pursuant to DPA’s Biased Policing Investigation Protocol. The named officer denied he engaged in biased policing. The named officer stated he did not know the complainant’s race or ethnicity when he began writing the citation and asserted that race was not a factor in his actions.

Besides the complainant’s assertion, the DPA did not find any other evidence that the named officer targeted the complainant because she is not Asian.

A preponderance of the evidence proved that the act alleged in the complaint did not occur.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 11/07/19    **DATE OF COMPLETION:** 04/25/19    **PAGE#** 2 of 2

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

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

**FINDINGS OF FACT:** The complainant stated that she did not deserve a citation because she was parked illegally for a short period of time. The complainant admitted she parked at a red painted curb area that extended into the crosswalk. The complainant also did not dispute that her parked and unattended car blocked part of the crosswalk while she was inside a nearby bank.

The named officer stated that, while on bicycle patrol, he and other officers observed a parked and unattended car blocking a handicap ramp and a crosswalk area in violation of California Vehicle Codes § 22522, 21970. The named officer stated he had completed writing the citation when the complainant returned to her car and contacted him. The named officer stated he issued a citation to the complainant for a lesser violation -- having her vehicle on the sidewalk in violation of California Vehicle Code § 22500 (F).

Witness officers corroborated that complaint parked her car illegally.

The officers' visual observations of complainant's vehicle, parked as the complainant acknowledged, provided probable cause to issue the citation.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 11/14/18 **DATE OF COMPLETION:** 04/29/19 **PAGE#** 1 of 1

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

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

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

San Francisco Municipal Transportation Agency  
MUNI Security, Investigations & Enforcement  
1 South Van Ness Avenue, 8th Floor  
San Francisco, CA 94103

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 12/4/18    **DATE OF COMPLETION:** 04/03/19    **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant stated the officer removed him from a shelter for a second time.

The named officer and his partner could not recall the incident in question.

No witnesses were identified.

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

**SUMMARY OF ALLEGATION #2:** The officer behaved inappropriately.

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

**FINDINGS OF FACT:** The complainant stated the officer verbally harassed him for a third time.

The named officer and his partner could not recall the incident in question.

No witnesses were identified.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 12/11/18 **DATE OF COMPLETION:** 04/02/19 **PAGE#** 1 of 1

**SUMMARY OF ALLEGATION #1:** The officer drove improperly.

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

**FINDINGS OF FACT:** The complainant stated an officer almost killed him by driving into a bicycle lane without lights or sirens activated. He said the vehicle was going so fast and was so close to him as he rode his bicycle, that he felt the air wake. The complainant described the officer's vehicle as an SFPD SUV, and he linked to an online video of the incident.

The online video appeared to be shot from a bicycle's handle bars or a bicyclist's helmet camera. It shows the bicyclist proceeding through an intersection, when an SFPD SUV drives past him to his left, while passing a civilian vehicle further to his left, but in the far-right vehicle lane.

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

The identity of the alleged officer could not be established.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 11/27/18    **DATE OF COMPLETION:** 04/16/19    **PAGE#** 1 of 2

**SUMMARY OF ALLEGATION #1:** The named officer made an inappropriate comment.

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

**FINDINGS OF FACT:** The complainant stated the named officer, along with other agencies, visited his home in 2017. The complainant stated the named officer made a comment about his rich friend who had a yacht. After looking at the complainant's condo, the named officer stated, "Now the price is \$60,000.00."

The named officer stated he did not recall having any conversations with the complainant and that a lieutenant spoke to the complainant.

The complainant stated he wanted to know what the named officer meant when making the alleged comment. The comment in and of itself does not rise to inappropriate conduct, and it is more likely than not that the named officer did not make the comment.

A preponderance of the evidence proved that the named officer did not make an inappropriate comment.



**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 11/27/18 **DATE OF COMPLETION:** 04/16/19 **PAGE#** 2 of 2

**SUMMARY OF ALLEGATION #2:** The officer displayed a weapon without justification.

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

**FINDINGS OF FACT:** The complainant stated that SFPD was dispatched to his front door with shotguns drawn. The complainant stated that no guns were pointed at him.

The named officer stated he displayed a 40 mm Extended Range Impact Weapon (ERIW) which was slung around his neck. The officer did so because the call for service was regarding dangerous dogs, and if the dogs became aggressive, the officer would have a less lethal option available. The named officer stated that he did not intentionally point the ERIW at the complainant. The named officer stated that no one was carrying a shotgun on the date of the incident.

Three witness officers affirmed that none of the officers had a shotgun at the incident and they did not recall any officer pointing a firearm at the complainant.

SFPD Bulletin 15-255 states: "Drawing or exhibiting a firearm without intentionally pointing it at the person, such as the low ready position is not considered a reportable use of force..." In addition, the bulletin also states: "As a reminder, an (ERIW) Extended Range Impact Weapon is not considered a firearm."

The named officer was justified in carrying an ERIW into a location with potentially dangerous animals.

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:** 02/17/18    **DATE OF COMPLETION:** 04/09/19    **PAGE# 1 of 1**

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

**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 04/09/19.

**SUMMARY OF ALLEGATION #2:** The officer searched a cellphone without cause.

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

**FINDINGS OF FACT:** By mutual agreement of the complainant and the named officer, the complaint was mediated and resolved in a non-disciplinary manner on 04/09/19.

**SUMMARY OF ALLEGATION #3:** The officer failed to write an accurate incident report.

**CATEGORY OF CONDUCT:** ND      **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 04/09/19.