

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 01/22/18

DATE OF COMPLETION: 10/04/18

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

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

FINDINGS OF FACT: The complainant stated she was arrested without cause after she had used a hammer to break into a residence.

Department records show that the complainant was unhappy with her grandson who inherited the house she had broken into. The house was being rented out, and one of the tenants signed a private person's arrest form against the complainant for trespassing and vandalism. Pursuant to Department General Order 5.04, Arrests by Private Persons, the complainant was booked on the above-mentioned charges.

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 applied tight handcuffs.

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

FINDINGS OF FACT: The complainant stated she was placed in tight handcuffs. She did not tell the officers that the handcuffs were tight or causing her pain.

The named officer's body worn camera shows him placing the complainant in handcuffs and double-locking them. The BWC did not capture the complainant complaining about the handcuffs being too tight.

A preponderance of the evidence established that the complainant was not placed in tight handcuffs.

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

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SUMMARY OF ALLEGATIONS #4-5: The officers failed to properly process property.

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

FINDINGS OF FACT: The complainant said she had a pearl necklace, which was not returned upon her release from County Jail.

Body worn camera footage shows the complainant wore a white beads necklace when she arrested.

The complainant's San Francisco Property Inventory Arrest Record shows that the necklace was recorded and returned to the complainant upon her release. The complainant signed the form, acknowledging the receipt of the items listed in the Inventory Arrest Record.

The evidence proved that the named officers were not involved in the act alleged.

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

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

FINDINGS OF FACT: The complainant stated that someone took two of his smart phones. That person then turned the phones in at a police station. The complainant tried to get the phones but was unable to retrieve them because officers would not release them to him.

The DPA found that the phones were turned in and that an officer booked the property as “lost and found.” The property was in connection to a sexual assault investigation and the phones needed to be released by the station’s investigative team.

The DPA spoke with the interim head of the investigations team. He stated that the case was never assigned to an investigator and that the complainant was free to retrieve the phones at any time.

The DPA provided the name of the officer responsible for releasing the phones to the complainant, but the complainant never responded.

The identity of the officers who allegedly refused to release the smart phones could not be established.

The identity of the alleged officers could not be established.

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

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

FINDINGS OF FACT: The complainant stated that he tried to retrieve two of his phones in the possession of the SFPD. The complainant stated the officers he spoke to were rude and would not help.

The identity of the alleged officers could not be established.

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SUMMARY OF ALLEGATIONS #1: The officer detained an individual without justification.

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

FINDINGS OF FACT: The complainant stated that he observed a patrol vehicle almost hit a pedestrian crossing the street. Angry about the near collision, the complainant yelled at the officers. The officers got out of their patrol vehicle and detained him for public intoxication.

The named officer stated that he was inside a patrol car waiting at a traffic light when he heard the complainant yell at him and several people in a bus shelter. The bus patrons looked fearful and annoyed by the complainant's behavior. The named officer approached the complainant and the bus patrons walked away. He stated that the complainant violated California Penal Code 640(b)(2), Disturbing Another on a System Facility.

California Penal Code section 640(b)(2) applies only to acts committed on or in a public transportation facility or vehicle and prohibits playing unreasonably loud sound equipment or failing to comply with the warning of a transit official related to disturbing another person by loud or unreasonable noise.

Department General Order 5.03 states that an officer may briefly detain a person for questioning or request identification only if the officer has reasonable suspicion that the person's behavior is related to criminal activity.

Records show that the complainant was charged with PC 640(b)(2), Disturbing Another on System Facility.

The named officer's body-worn camera footage showed that the named officer detained and placed the complainant in handcuffs inside an empty bus shelter. However, PC 640(b)(2) did not apply because the complainant did not have sound equipment and there was no transit official at the scene.

The complainant should not have been detained or cited for violating PC 640(b)(2). A preponderance of the evidence proved that the named officer did not have reasonable suspicion that the complainant's behavior was related to criminal activity, and that using a standard the applicable regulations of the Department, the conduct was improper.

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SUMMARY OF ALLEGATION #2: The officer searched an individual without cause.

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

FINDINGS OF FACT: The complainant stated that an officer searched his pockets and found two daggers.

The named officer stated he searched the complainant's pockets because he refused to provide identification during a detention.

The named officer's body-worn camera footage shows that the named officer searched inside the complainant's pockets.

The Fourth Amendment states that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The detention was invalid, thus the named officer's search of the complainant to locate the complainant's identification was also invalid.

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 arrested an individual without cause.

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

FINDINGS OF FACT: The complainant stated he was arrested for having two small daggers in his pocket.

The named officer stated that he searched the complainant's pockets for identification and found two daggers inside the complainant's rear pocket.

The named officer's body-worn camera footage corroborates the named officer's statement.

The Fourth Amendment states that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The search was invalid, thus the named officer's arrest was also invalid.

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

SUMMARY OF ALLEGATION #4: The officer drove improperly.

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

FINDINGS OF FACT: The complainant stated that he witnessed an officer drive a patrol car in an unsafe manner. The officer was speeding and almost hit a pedestrian. The officer activated his siren only after narrowly missing the pedestrian.

The named officer did not recall driving above the speed limit, almost hitting a pedestrian, or activating his siren. The named officer's partners did not recall observing the named officer speed, almost hit a pedestrian, or activate the siren.

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 take required action.

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

FINDINGS OF FACT: The complainant stated that he had \$90.48 at the time of his arrest, but that only \$48.48 was returned upon his release from jail. The complainant did not keep the money envelope, which should have indicated the denominations of cash inside the envelope. Additionally, the complainant made inconsistent statements regarding the amount of cash in his possession at the time of his arrest.

The named officer stated that he inventoried and booked the complainant's cash, which amounted to \$48.59. He stated that his handwritten "4" is sometimes confused with his handwritten "9."

San Francisco Sheriff's Department records show that \$48.59 was booked for the complainant and \$48.59 was returned to the complainant.

The complainant made inconsistent statements regarding the cash amount. The officer's handwriting style for the numbers four and nine are similar. The evidence proved that the act alleged in the complaint did not occur.

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

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

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

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

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SUMMARY OF ALLEGATIONS #1: The officer behaved inappropriately.

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

FINDINGS OF FACT: The complainant stated that he heard people, possibly his neighbors, whispering and talking about him on the roof. The complainant stated he felt threatened, prompting him to call police. The complainant stated that the named officer was impatient and uninterested, telling him that it was not a crime for people to talk about him.

The named officer denied the allegation, stating that she calmly and patiently listened to the complainant's complaint. She stated that the incident and behavior described by the complainant was not related to criminal activity and that no further police action was necessary.

The evidence established that no crime was reported to the named officer. As such, the officer's action at the scene was 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 #1: The officer behaved inappropriately

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

FINDINGS OF FACT: The complainant stated that the named officer stopped him regarding a vehicle code violation. He stated that he was looking for his vehicle registration in his glovebox and when the officer saw his water spigot tool. He stated the named officer became excited and reached for his weapon. The complainant stated that the named officer did not draw his weapon or remove the weapon from the holster.

The named officer denied the allegation stating, the complainant pulled an adjustable metal wrench from his glovebox and turned toward him. He stated that he stepped back and placed his hand on his firearm, because the metal wrench could have been used as a weapon. He stated that he did not remove his firearm from his holster.

The water spigot tool located in the complainant's glovebox was a black, flat, metal tool with grooves and sharp edges. The tool was approx. 8 inches in length.

The evidence established that the named officer's action was proper.

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

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SUMMARY OF ALLEGATION #1: The officer improperly utilized police equipment.

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

FINDINGS OF FACT: The complainant stated the named officer had an affair with her husband, also an SFPD member. The complainant stated the named officer admitted to her that she had used SFPD equipment to carry on their affair and hide the affair from their families.

The named officer denied using department equipment for non-department purposes. She said she did not use her department issued cell phone during the affair. She only sent emails to the complainant and her husband from her personal email.

The complainant's husband stated he did not know how the named officer hid their affair from her family.

According to the SFPD's legal division, the named officer's department issued cellphone had not sent any calls or texts for over a year. Copies of emails sent by the named officer, and provided by the complainant, came from the named officer's personal email account.

SFPD General Order 10.07, Use of Cellular Phones, states, "Members shall comply with the following policies: 1) Calls shall be strictly limited to official police business."

General Order 10.08, Use of Computers and Peripheral Equipment, states, "Members may use Department owned and issued equipment, including computer equipment, for work related purposes only."

The investigation established that the named officer did not use her department issued cellphone or her department email for non-police business.

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

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SUMMARY OF ALLEGATION #2: The officer behaved inappropriately.

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

FINDINGS OF FACT: The complainant said the named officer had been harassing her for months, during an on-again, off-again affair with her husband, also an SFPD member. The complainant stated that the named officer called her and her husband a number of times, left inappropriate voicemail messages and sent inappropriate emails. The complainant stated that the named officer masked her phone number using a mobile phone application that made it appear that a different individual was calling. She stated that the named officer used the phone numbers of other SFPD officers to hide that she was calling her husband. The complainant stated she received a number of calls that she believed were from the named officer. She would call the numbers back to discover they were disconnected. She also believed her parents received similar calls from the named officer.

The complainant stated that on one date, she received thirteen calls from 1:29AM to 2:59AM. The calls came from random numbers, the complainant's husband's work number, and a phone number the complainant knew belonged to the named officer. The complainant said the named officer left two messages for her during that time. In the first, the named officer refers to the complainant's husband as her boyfriend and asks the complainant to let him know she called. Less than five minutes later, the named officer left a second voicemail, masking her number as the work cell number of the complainant's husband. The complainant stated that, in that message, the named officer told her to try calling the number back, and that she'd be surprised. The complainant said that the next day she called the named officer, and they got into an argument. She then had her husband call her, and he told her she was ruining his life and to stay away from him. Later that day, the named officer began texting the complainant. The complainant stated that the texts were threatening and, among other things, referenced the complainant's home address. The complainant stated that the named officer emailed her naked pictures of her husband. The complainant said she felt threatened by the named officer because she was a police officer and had access to police equipment.

The named officer admitted to having an affair with the complainant's husband. She said that the complainant called her and began interrogating her about the affair. The named officer stated that she learned the complainant's husband had been lying about her and saying that she was mentally unstable and the one trying to maintain a relationship. She stated that she sent the naked photographs of the complainant's husband, which he had originally sent to her, to demonstrate the true nature of the affair. She stated that the reason she made a number of calls to the complainant on one date was because she was worried about the complainant's husband's well-being. She also stated that she would call the

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SUMMARY OF ALLEGATION #2: (Continued)

complainant as a way to keep the complainant's husband accountable to her. The named officer admitted she called and emailed the complainant while on duty. She also admitted using various mobile phone applications to contact the complainant and her husband. She said the applications would either mask her number as a number in her phone's contacts or generate a false number. She acknowledged that, among others, she used at least one number from an uninvolved officer, as her number when she called the complainant's husband. The named officer claimed the complainant's husband encouraged her to do this, so they could hide the affair from the complainant. The named officer admitted texting the complainant but said she did not intend to threaten her with physical harm. She stated that the complainant threatened her first, and she simply responded. The named officer denied regularly calling the complainant or the complainant's parents.

The complainant's husband corroborated the claims made by the complainant. He stated he knew the named officer used applications to mask her number. He said that the named officer used these applications, not to hide their affair, but to attempt to speak to him after he told her he did not want to speak to her anymore.

Numerous call logs, phone bills, emails, and text chains were provided to the DPA by the complainant. A voicemail recording has the named officer's voice stating, "You should try calling this number back. You'd be surprised." Text messages show the complainant writing to the named officer, "Don't get me twisted. You'll get yours soon enough." The messages show the named officer responding: "We'll be ready for the repercussions because you have NO idea who the hell you're threatening ... Don't forget I know where you live. I've been there before ... You're going to try to threaten me. Just get ready for the fire back. Cuz I never sit back and let anyone fuck with me ..."

SFPD scheduling records show that the named officer was on duty during some of her communications.

No other witnesses were identified.

SFPD General Order 2.01 section 1, Attention to Duty, describes an officer's appropriate attention to duty. It states, "The basic mission of the San Francisco Police Department and its officers is to protect life and property, preserve the peace, prevent crime, enforce criminal laws and ordinances, and regulate non-criminal conduct as provided by law. While on duty, officers shall devote their entire time to the achievement of this mission within the context of their respective assignments."

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SUMMARY OF ALLEGATION #2: (Continued)

Section 9, Misconduct, describes officer misconduct as, “Any breach of peace, neglect of duty, misconduct or any conduct by an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is

prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action.”

By a preponderance of the evidence, the named officer violated Department policy. Even though her texts were in response to a threatening message from the complainant, as a member of the Department, she is held to a higher standard. Although the named officer said she did not intend to threaten physical harm, a reasonable person could easily interpret her texts as doing just that and would be concerned that they were coming from a law enforcement officer. The named officer also inappropriately used other phone numbers to mask her number. She harassed the complainant by repeatedly calling her and sending inappropriate messages by text and email. And, she did so, at times, while on duty. The complainant is a member of the public, who happens to be married to an SFPD member. The named officer’s conduct towards her reflected poorly on the Department.

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

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SUMMARY OF DPA-ADDED ALLEGATION #1: The officer improperly utilized police equipment.

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

FINDINGS OF FACT: The complainant stated that the named officer, her husband, was having an affair with another SFPD member. She stated that they used police equipment for inappropriate purposes, though her complaint was not against her husband. The DPA added this allegation because the substance of the complaint implicated the complainant's husband in addition to the member with whom he was having an affair.

The named officer admitted to using his SFPD-issued cellphone to facilitate his affair. He also admitted to driving his SFPD cruiser to meet with the other member and carry on their affair.

The SFPD member who was having an affair with the named officer stated the named officer used his department issued cellphone to hide their affair from the complainant.

SFPD General Order 10.07, Use of Cellular Phones, states, "Members shall comply with the following policies: 1) Calls shall be strictly limited to official police business."

General Order 10.10, Motor Fleet, states, "Members shall not use Department authorized vehicles to conduct personal business."

The named member admitted to using equipment in violation of Department policy.

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

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SUMMARY OF DPA-ADDED ALLEGATION #2: The officer failed to comply with Department Bulletin 16-186, Contact with Victims/Witnesses during on-going OCC Investigations.

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

FINDINGS OF FACT: The complainant contacted the DPA after she had received an email that appeared to be from her husband, but that she believed was from the named officer. The email accused the complainant of possibly having mental issues for all the false claims she made against the named officer and it accused her of wasting everyone's time.

The named officer admitted sending the email; however, she claimed that it was regarding a separate restraining order petition the complainant had filed against her.

The complainant's husband said he had provided the named officer with access to his email account, and he said that the named officer had written the email in question.

The email in question states that if anyone has mental issues it is the complainant. It states the complainant made false claims about the named officer and wasted everyone's time.

SFPD Bulletin 16-186, Contact with Victims/Witnesses during on-going OCC Investigations, states, in part, "Police Commission Resolution 1159-88 #3 states: 'Members who are the subject of a complaint filed with the OCC shall not contact the complainant or witnesses regarding the issues of the complaint.'"

The restraining order petition was based on the same underlying allegations by the complainant against the named officer as the DPA (formerly OCC) complaint. Regardless of whether the named officer was addressing the restraining order or the DPA complaint, her email violated DB 16-186.

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

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

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

FINDINGS OF FACT: The complainant's client was stopped by the named officer for impeding the flow of traffic. During the stop, the named officer suspected that the complainant's client was under the influence of alcohol and conducted field sobriety tests. The complainant alleged the named officer behaved and spoke inappropriately by being disrespectful, short-tempered and negative to his client. He further alleged that the named officer treated his client with scorn and prejudice by categorically asking if he speaks Cantonese or Mandarin.

The driver stated that the named officer was angry with him. He stated he was terrified of the officer. He stated the named officer yelled, intimidated him and accused him of playing games. He also stated that the named officer made him feel like he was a criminal.

The named officer stated he was professional but firm during the contact. He denied being disrespectful, negative or short-tempered. He acknowledged asking the complainant's client if he speaks Cantonese or Mandarin because of his Asian descent and stated that he wanted to make sure to call a bilingual officer to the scene if necessary. The named officer stated he wanted to ensure the driver understood his instructions and directions so that the field sobriety tests would capture the level of his intoxication, not the level of his understanding of English.

The named officer's partner stated that the named officer was professional, but at some point, raised his voice when he had to repeat instructions to the driver to take his hands from inside his pockets. She stated that the named officer was never disrespectful, short-tempered, nor displayed prejudice.

The Body Worn Camera (BWC) footage from the officers at the scene failed to support the complainant's allegations against the named officer. The BWC recordings showed there were times the named officer raised his voice, apparently due to the driver's repeated failure to follow instructions. The videos showed that during the initial part of the contact, the named officer told the driver to put his hands to his sides. The driver raised his hands sideways. The named officer told him to put his hands down to his sides, but the driver put his hands in his pockets, prompting the named officer to guide the driver's hands to the sides of his body. The BWC recordings showed that the driver repeatedly disregarded the instruction to follow the tip of a pen with his eyes, without moving his head. During the Breathalyzer test, the named officer instructed the subject to blow air into the Breathalyzer machine's tube. The subject repeatedly failed to blow enough air to the tube for the machine to give an accurate reading.

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SUMMARY OF ALLEGATION #1: (Continued)

The video showed the eventual blood alcohol test conducted at the police station and indicated the driver's blood alcohol level was above the legal threshold. The evidence proved that the act alleged in the complaint did not occur.

SUMMARY OF ALLEGATION #2: The officer towed a vehicle without justification.

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

FINDINGS OF FACT: The complainant alleged that the named officer towed his client's vehicle without justification.

The named officer and his partner at the scene stated that although the arrested driver pointed in a direction indicating the location of his parking space, the officers could not determine through a marking, parking space number or document which was his, and stated that there was no person on the scene to drive it away. The named officer further stated that there was confusion about the residence of the complainant, as the complainant provided an address as his destination that was different from the address on the vehicle registration.

Body Worn Camera (BWC) footage from the scene showed there was no one at the scene to receive the vehicle from the officers. At the time of the arrest, as can be seen on the BWC footage, the vehicle was in the narrow driving lane of an underground parking lot. The vehicle could not have been left in its position for 24 hours without causing a traffic hazard. The named officer's partner drove the vehicle to the street to provide access for a tow truck.

DGO 9.06, Vehicle Tows, states, in part, that officers may tow a vehicle driven by, or in the control of, a person arrested and taken into custody when:

- a. The vehicle is needed for evidence.
- b. The vehicle must be secured while obtaining a search warrant.
- c. The vehicle cannot be secured, AND cannot be released immediately to a person at the scene who is authorized by the arrestee.
- d. The vehicle is a traffic hazard, AND cannot be released immediately to a person at the scene who is authorized by the arrestee.
- e. The vehicle is not parked in a place that will be legal for at least 24 hours from the time of arrest.

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SUMMARY OF ALLEGATION #2:(Continued)

There is no requirement in the Department regulations that officers determine where to park a car that will avoid a tow, and park the vehicle in that location.

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:** PC **DEPT. ACTION:**

FINDINGS OF FACT: The complainant alleged that the named officer failed to take required action by failing to park the vehicle in his client's designated parking spot, thus avoiding a tow.

The named officer stated he could not locate the parking spot. He stated that there was no attendant or employee who could assist him, and there was no one at the scene authorized by the subject to receive the vehicle. The named officer further stated that upon checking the vehicle's information, it came back with an address different from what the driver had given.

Body Worn Camera footage from the scene showed there was no one at the scene authorized by the subject to receive the vehicle from the officers. At the time of the arrest, the vehicle was in the narrow driving lane of an underground parking lot. The vehicle could not have been left in its position for 24 hours without causing a traffic hazard.

Pursuant to DGO 9.06, the officers had reasons to rightfully tow the vehicle. Under the DGO, there was no duty on the part of the named officer to park the vehicle on the designated parking spot.

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

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SUMMARY OF ALLEGATION #4: The officer wrote an inaccurate incident report.

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

FINDINGS OF FACT: The complainant stated the officer inaccurately wrote that his client failed to walk heel to toe during the walk-and-turn test, was unable to touch the tip of his nose during the finger-to-nose test and was swaying from front to back.

The complainant's client stated that he could not recall if his tests results were satisfactory, but he believed he did well during the tests.

The named officer stated the entries in his report were accurate. He stated that the complainant's client missed steps, repeatedly touched below or above the tip of his nose with his finger and was unable to keep his balance during a portion of the tests in which he was to stand still. He also stated that when asked to estimate a 30-second period without counting aloud, the complainant estimated seven seconds was a period of 30 seconds.

The named officer's partner corroborated the named officer's contentions, stating that the complainant's client failed to pass several tests administered, and that the incident report was accurate.

The Body Worn Camera (BWC) recordings from the officers at the scene failed to support the complainant's allegations against the named officer. The BWC recordings showed he repeatedly failed to touch the tip of his nose with his finger, missed connecting his heel to toe during the walk and turn test, was unable to maintain his balance during the leg stand test and mentally estimated a seven-second period as 30 seconds.

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

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DATE OF COMPLAINT: 02/27/18 **DATE OF COMPLETION:** 10/15/18 **PAGE#** 5 of 6

SUMMARY OF ALLEGATION #5: The officer wrote an inaccurate citation.

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

FINDINGS OF FACT: The complainant alleged that the named officer wrote an inaccurate citation. The complainant stated the date located next to the officer's name was inaccurate.

The named officer stated he could not recall writing a citation for the incident. The citation showed it was prepared by a deputy from the San Francisco Sheriff's Department.

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

SUMMARY OF ALLEGATION #6: The officer filed a false charge.

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

FINDINGS OF FACT: The complainant stated the named officer wrote his client a bogus citation, falsely charging him with a violation he did not commit. The complainant stated there was no way for his client to have committed the violation because he was already in police custody when it happened. The complainant further stated that most of the entries on the citation were inaccurate.

The named officer stated he could not recall preparing the citation. He stated that after ending his contact with the complainant's client, he went directly to Tactical Division where he stayed to write his report until the end of his watch. He stated that the citation could have been a result of a computer glitch because a lot of the information stated are inaccurate, and his signature is improperly located on the citation.

The named officer's partner stated that she could not recall the named officer preparing a citation. The officer stated she did not know of any citation being generated or issued to the complainant's client.

The questioned citation is an electronic citation generated from an old system that is no longer used by the Department. It has information taken from a different traffic stop involving a different party. Because of its noticeable and glaring inaccuracies, there is possibility that a system glitch or error could have occurred in generating the citation.

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

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SUMMARY OF ALLEGATION #7: The officer behaved and/or spoke inappropriately.

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

FINDINGS OF FACT: The complainant alleged that the officer repeatedly ordered his client to take his hands out of his pockets even though his hands were at his side, outside his pockets.

The named officer stated the complainant's client kept placing his hands inside his pockets. The officer stated the complainant's client was never pat searched during the detention, so she did not know what was inside his pockets.

The Body Worn Camera (BWC) recordings from the officers at the scene showed that a few times during the contact, the complainant's client kept placing several of his fingers inside his pockets. Although it appeared to be unintentional and non-threatening, the complainant did technically defy the officers' orders to keep his hands out of his pockets, creating a potential officer safety issue.

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: 03/07/18 **DATE OF COMPLETION:** 10/15/18 **PAGE#** 1 of 2

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

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

FINDINGS OF FACT: The complainant stated that the named officer wrongfully arrested him for driving a stolen vehicle. The complainant stated that he was in lawful possession of the vehicle because he had a valid rental contract.

Department records indicated that the complainant did not provide the named officer with any documentation of a valid rental agreement. Department records also indicated that the named officer conducted a record check on the vehicle and discovered that it was reported stolen.

Outside agency records confirmed that the vehicle in the complainant's possession was reported stolen.

The rental company records indicated that the complainant had rented the vehicle and had not returned it on the agreed-upon date.

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 properly process the complainant's property.

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

FINDINGS OF FACT: The complainant stated that the named officer improperly booked his property, including his phone and laptop, with DPW.

The named officer stated that he properly processed the property in front of the complainant while his Body Worn Camera was activated. The named officer stated that after the property was inventoried and placed in a property bag, it was secured in the booking area. The named officer stated that the property was sent to County Jail with the complainant, where it would have been returned to him by the Sheriff's Department upon his release.

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Department records, including Body Worn Camera footage, confirmed that the complainant's phone and laptop were inventoried by the named officer in the complainant's presence. Department records indicated that this property was transported with the complainant and was received by a deputy at the County Jail.

Department records indicated that DPW picked up other miscellaneous property which had been inside the vehicle in the complainant's possession. Department records also indicated that the complainant was provided with a property receipt for the Bag and Tag items and was advised about how to obtain this property from DPW.

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

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

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

San Francisco Recreation & Parks Department
SF Park Patrol Rangers
501 Stanyan Street
San Francisco, CA 94117

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COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 04/03/18 **DATE OF COMPLETION:** 10/31/18 **PAGE#** 1 of 2

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

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

FINDINGS OF FACT: The complainant stated the named officer ordered him to leave a street corner because he was being disrespectful while passing out political literature. He said that the named officer accused him of selling drugs. He felt the named officer was trying to intimidate him for passing out political literature.

The named officer denied the allegation, stating that he had seen a known drug dealer pass something to the complainant, so he issued a warning. The named officer said he did not have enough information to detain or arrest the complainant, but he did tell him he should not be buying drugs.

The officer's partner arrived at the end of the interaction, and only witnessed the complainant walking up to the named officer and asking for his name and badge number.

No other witnesses were identified.

The named officer was willing to provide his identifying information and did not detain or arrest the complainant. It is more likely than not that his accusations regarding a drug transaction were based on the named officer's observations, and any order to the complainant about where he was standing was actually an order not to buy drugs there.

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

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

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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 the named officer made accusatory comments during the incident and also prevented him from seeing his name plate and badge number. He acknowledged that the named officer provided a name and badge number verbally, however.

The named officer denied the allegation. He stated that he provided his name and badge number verbally and did not prevent the complainant from looking at his name plate and badge. The named officer also said that he did give a warning about drug transactions as he had seen a known drug dealer hand something to the complainant.

The named officer's partner stated he witnessed the named officer provide his name and badge number to the complainant.

No other witnesses were identified.

The name and badge number provided to the complainant were accurate. The named officer was willing to provide his identifying information and did not detain or arrest the complainant. It is more likely than not that his accusations regarding a drug transaction were based on the named officer's observations, whether mistaken or not, and would not constitute misconduct.

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

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

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

FINDINGS OF FACT: The complainant stated she should not have been arrested but admitted to violating a Temporary Restraining Order when she reached outside her window and cleared branches from her neighbor's yard.

The co-complainant stated the complainant was arrested for violating a Temporary Restraining Order when she cleared branches from their bathroom window for the installation of a security camera. The co-complainant stated 10 SFPD officers, three police cars, and a patrol wagon arrived outside their home and the named officer, without permission, entered the complainant's home, handcuffed and arrested her.

The named officer stated she responded to a stay-away order violation call at the complainant's house. She stated another officer directed her to arrest the complainant.

The officer who directed the named officer to arrest the complainant stated he arrived on the scene after the initial officers contacted the complainant. After evaluating the nature of the scene and gathering all the information at hand, including the restraining order on file, he advised the complainant that she violated the restraining order that her neighbor had placed against her. He also advised her that she was under arrest for the violation.

A witness stated he saw the complainant reaching out of her window with garden shears (hedge clippers and tree branch cutter) and cutting branches on his property. His wife called 911 and asked the officers to respond to their property for a restraining order violation. When the named officer arrived, the witness showed her a video of the complainant cutting the branches and verified the validity of the Temporary Restraining Order.

Body Worn Camera (BWC) footage shows the named officer speaking to the witness and viewing a video of the complainant cutting the branches. The named officer calls SFPD and another officer confirmed with SF Sheriff's Department that the restraining had been served on the complainants. At the same time, the complainant walks out of her house, and the named officer tells the complainant her name, and tells her that they are there to talk to her about the incident. The complainant informs the named officer that she did not call the police and stands up, saying she needs to record this event. The officer tells her she needs to remain where she is, and that the incident was being recorded on her BWC. The complainant told the named officer that she was served with the restraining order the night before. When the named officer asked the complainant what happened, the complainant stated, "You bet I did! The police told me that I

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am allowed to cut anything on my property.” The complainant further states she cut three branches from her property. The named officer explains to the complainant that she violated the restraining order by reaching into the neighbor's backyard and cutting the branches. The witness officer explains to the complainant the parameters of the restraining order and advises her that she has violated the restraining order and is going to be arrested.

The Temporary Restraining Order against the complainants stated the complainants must stay at least 50 yards away from, the protected persons, and three yards away from the witnesses' house.

Penal Code section 166 or 273.6 states “arrest required if the order is violated. If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person.”

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 and spoke inappropriately.

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

FINDINGS OF FACT: The complainant stated that when the named officer drove her to County Jail #1, she played loud music and drove fast. Once at County Jail #1, the complainant stated the named officer searched her and made her take off her toe spreaders. She alleged that the named officer told the complainant her toe spreaders were “drugs,” and then the named officer crushed them under her boot.

The named officer stated she transported the complainant to SF County Jail #1 driving in a safe manner, obeying traffic lights and street signs. The named officer stated she did not recall telling the complainant to take off her toe spreaders and did not tell her they were drugs.

BWC footage shows during transportation the named officer listening to music at a low volume. The complainant tells the named officer to turn off the music, and the named officer told the complainant she listens to music when she drives. The complainant responds and says, “I can't stand it, it makes me car sick.” The complainant asks her if this is how she treats people who pay her taxes. There was no indication from the video that the named officer was driving erratically or in an unsafe manner.

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

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DATE OF COMPLAINT: 04/13/18 **DATE OF COMPLETION:** 10/26/18 **PAGE#** 3 of 4

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

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

FINDINGS OF FACT: The complainant stated the named officer placed her in the back of a police car with her hands handcuffed behind her back. The complainant felt the named officer should not have handcuffed her because she was a senior citizen and had health problems. The complainant further stated the named officer locked her dogs up, preventing them from having access to water.

The co-complainant stated the complainant requested both her jacket and glasses from the named officer, but she refused to provide them. He stated the named officer placed the complainant in the back of the police car with her hands cuffed behind her back. The co-complainant stated the complainant told the named officer that she had back problems, but the named officer ignored her. The co-complaint further stated the named officer left their dogs locked up without water.

The named officer stated she placed handcuffs on the complainant and checked for proper degree of tightness. She stated that once the complainant was in the police car, she complained the handcuffs were digging into her wrists. A witness officer explained to the complainant about the placement of the handcuffs. The named officer stated the complainant did not make any further complaints regarding the handcuffs during transportation or at County Jail #1. The named officer further stated the complainant had a jacket and hat on during their interaction and transport. Officers at the scene retrieved what the complainant initially asked for, which was her wallet, cell phone, and keys. The complainant only asked for her glasses after her residence was locked and secured. The named officer stated she explained to the complainant they would not be able to go back into her home after officers secured it.

Another officer who was present at the arrest stated he did not recall the complainant complaining of pain due to handcuffs being placed too tightly. She also did not tell him she was in pain anytime on the scene or that the named officer placed the handcuffs on too tightly. This officer stated he did not observe the named officer refuse to allow the complainant to get her jacket and glasses. This officer further stated that when transporting an elderly person, an officer should take into consideration the current state of health of the elderly person, if they have any current injuries or medical conditions and if the elderly person needs any medication. From what he observed, the named officer did follow the considerations when arresting and transporting the complainant.

Another officer who was present during the incident said officers should always take special consideration when arresting and transporting any persons. This officer said, to the best of his knowledge, the named officer always attempts to give special consideration when arresting and transporting persons.

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SUMMARY OF ALLEGATION continued:

BWC footage shows the named officer politely asking the complainant to walk down the stairs, and when the complainant refuses to move, the named officer places handcuffs on the complainant and escorts her down the stairs. The complainant tells the named officer that she wants to call her husband, get her ID and that her dogs are outside. The named officer tells the complainant they would call her husband and get her items from inside her house and secure it. The named officer carefully conducts a pat-down search and tells the complainant that it is easier to get into the car backward. The complainant complains about the handcuffs, and the named officer tells her they are required to place the handcuffs behind her back. The named officer asks the complainant if she would like the officers to bring her backpack with them. The complainant does not answer the question and instead asks the named officer to fill up her water bottle. The named officer tells her they will get her some water at the jail. The complainant continues to argue regarding her arrest and tells the named officer "I really believe in my heart, that something in life will happen to show you your cruelty; to me as a person, as a dignified human being, as a citizen of San Francisco, I want to tell you that your cruelty to me is wrong."

An officer who was at the scene asks the complainant if her dogs are vicious and if she would like her dogs inside the house or outside the house. The complainant tells another officer that she would like the dogs exactly as she has left them. This officer then reiterates to the complainant that they will leave the dogs exactly as she left them and will ensure the back gate is closed. As the named officer begins to transport, the complainant says she needs to get her glasses and white backpack. The named officer tells her that she cannot get the items because the complainant's residence has already been secured.

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

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

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DATE OF COMPLAINT: 04/24/18 **DATE OF COMPLETION:** 10/23/18 **PAGE#** 1 of 3

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

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

FINDINGS OF FACT: The complainant stated that he was walking with his friends from one bar to another. The complainant stated that he was walking on the sidewalk outside of the police station when the named officer detained him for no reason.

The named officer stated that he was returning to the police station when he saw the complainant stumbling in the roadway. The named officer stated that he detained the complainant because he was in the middle of the roadway and appeared to be intoxicated. The named officer stated that the complainant's gait was unsteady and had slow, slurred speech. The named officer stated that he could smell the odor of alcohol coming from the complainant.

A witness officer stated that the complainant appeared to be intoxicated. The witness officer stated that the complainant had a strong odor of an alcoholic beverage on his breath and required balance assistance as he walked the complainant into the station.

A witness stated that he did not know why the officer stopped the complainant. The witness stated that it was unclear as to whether the officer stopped the complainant simply because he was in the way as the officer was trying to pull in, or whether the officer identified something else about the complainant for which to stop 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 conducted a pat search and a search of the complainant's personal property without cause.

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

FINDINGS OF FACT: The complainant stated that the named officer searched his pockets and went through his property for no reason.

The named officer stated that he did not conduct a pat search or a full search of the complainant at the scene. The named officer stated that he conducted a detention search of the complainant's property inside the booking area of the station per department procedure.

Department records show that the complainant was detained and taken to the station for public intoxication.

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 arrested the complainant without justification.

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

FINDINGS OF FACT: The complainant stated that he was walking with some friends from one bar to another. The complainant stated that he was walking on the sidewalk outside of the police station when the named officer detained him and then arrested him for no reason.

The named officer stated that he did not arrest the complainant. The named officer stated that he explained to the complainant that he would just be in the detention facility for four hours.

Department records indicated that the complainant was detained for public intoxication.

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

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SUMMARY OF ALLEGATION #4: The officer made inappropriate comments.

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

FINDINGS OF FACT: The complainant stated that the named officer made fun of his socks.

The named officer stated that he asked the complainant to take off his socks prior to entering the detention cell per department procedure. The named officer stated that the complainant didn't want to take off his socks. The named officer stated that the complainant told him he was trying to embarrass him by asking him to remove his socks. The named officer stated that he did not make fun of the complainant's socks.

No witnesses were identified.

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

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DATE OF COMPLAINT: 05/02/18 **DATE OF COMPLETION:** 10/24/18 **PAGE#** 1 of 1

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

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

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

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

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SUMMARY OF ALLEGATION #1: The officers harassed the complainant.

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

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

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 the DPA's jurisdiction. This complaint was partially referred 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: 05/05/17 **DATE OF COMPLETION:** 10/09/18 **PAGE#** 1 of 21

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

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

FINDINGS OF FACT: The Department of Police Accountability (DPA) initiated an investigation of an Officer-Involved Shooting, in which the named officer used deadly force against an individual, hereinafter referred to as “suspect,” who was armed with a knife. The suspect had, in the presence of responding officers, repeatedly stabbed a civilian employee of a retail food business, prompting the named officer to discharge his firearm once, which resulted in the death of the armed suspect.

Records from the Department of Emergency Management (DEM)

Records from the San Francisco Department of Emergency Management (DEM) showed that a miscellaneous call for assistance was made at a fast food restaurant. An SFPD unit composed of two officers arrived and broadcast their exact location. Shortly thereafter, an officer broadcast that shots were fired. Officers on the scene could be heard shouting for someone to get on the ground.

Numerous officers responded to the scene and a perimeter was established. The officers that were in the restaurant rendered immediate medical assistance to the suspect by initiating the Cardiopulmonary Resuscitation (CPR) procedure. A couple of ambulances were called to the scene with the paramedics onboard being advised to review the CAD and listen to the designated radio channel. Despite the officers’ and paramedics’ effort to keep the suspect alive, the latter expired within minutes of being shot. An officer broadcast that the incident was an officer-involved shooting. The stabbing victim, who suffered knife wounds to his head and neck, was placed in an ambulance and transported to the San Francisco General Hospital.

Incident Report No. 170362512

The incident report showed two officers on bicycles were patrolling close to the location of the incident when one of them heard a unit making an emergency broadcast. The officer also heard the officer who made the “emergency broadcast”, yell at someone to drop a weapon and shortly thereafter, broadcast that shots were fired.

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The officers responded to the scene and saw the named officer with his firearm drawn, held at a low-ready position. One of the responding officers saw the named officer's partner placing the suspect in handcuffs and the stabbing victim standing near the restaurant's restroom. Additional officers arrived and rendered aid to the suspect by conducting CPR. Supervisors responded to the scene and confirmed the named officer had discharged his firearm. The named officer was removed from the restaurant and, after delivering the answers to the required public safety questions, was transported to a police station. The named officer and his partner were ordered to surrender their body worn cameras.

Paramedics arrived and took over rendering first aid to the suspect. The knife used by the suspect in stabbing the victim, was located near a drinking fountain and secured as evidence. The victim, who suffered a fractured sinus and stab wounds on the back of his head and back, was transported to a hospital for treatment. After some time, a senior officer broadcasted that the suspect had expired.

Civilian Witnesses

Witness #1, the stabbing victim (hereinafter referred to as "Victim"), was working alone at the restaurant when the incident occurred. The witness was preparing food for a line of customers when the suspect entered the restaurant and ordered a sandwich. He asked the suspect to fall in line, but the suspect just laughed at him. When it was the suspect's turn to be served, the victim prepared him a sandwich and asked for payment, but the suspect laughed again and made no effort to pay for the food.

The victim then placed the sandwich on the counter out of the suspect's reach and began serving other customers. The suspect then walked to the end of the counter, opened a low door, entered the food preparation area, and started punching the witness. The suspect grabbed a knife that was lying on top of the counter and stabbed the witness several times. The victim recalled being stabbed in the face, head and back. He also recalled being stabbed in the neck, but said the knife kept bending, and that it did not penetrate his neck. The victim recalled that the suspect stabbed him at least 5 times.

With blood all over his face, the victim screamed for help. At one point, the victim felt somebody grabbing and dragging him out from behind the counter. The victim then heard a gunshot. When he opened his eyes, he saw the suspect either lying or kneeling on the floor. Officers dragged the victim out of the restaurant. An ambulance later transported him to a hospital.

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The victim recalled the suspect entering the restaurant with two open cans of beer. He thought the suspect was mentally unstable, recalling that he was laughing without any apparent reason, talking to himself and to the restaurant's wall. He also thought the suspect was intoxicated, saying he smelled alcohol from the man's breath. The witness remembered the suspect going after him with a knife as he was being dragged out from behind the counter. He also recalled officers repeatedly saying "Stop!" before hearing the shooting.

Witness #2 said he was across the street from the restaurant when he saw a woman screaming for police assistance. The witness saw the woman run inside the restaurant, throw something at someone and run back out. He recalled thinking someone was in a fight, so he crossed the street and looked into the restaurant.

He saw the suspect punching and stabbing the victim behind the counter and against a wall. He went inside and screamed at the suspect to stop, but the suspect dazedly looked at him and continued stabbing and tormenting the victim. Witness #2 saw blood coming from the victim. He observed a young male go behind the counter to help the victim, but that man hesitated after the witness warned him that the suspect had a knife. The witness hit the suspect in the head with a metal bread pan, but it had no apparent effect on the suspect.

Shortly thereafter, he saw a skinny white male run to the suspect and try to take away his knife. Witness #2 saw officers rushing into the restaurant and tell the suspect to stop and drop his weapon numerous times. The witness saw the skinny white male and the victim move from behind the counter, followed by the suspect, who was still holding the knife in his hand. Witness #2 saw the suspect running toward the officers and then going after the victim. The witness heard the officers again order the suspect to stop, but the suspect refused to comply. The witness saw one of the officers shoot the suspect as he came from behind the counter and turned to his right, just a few feet from the responding officers. He saw the suspect drop to the floor. Witness #2 said officers started performing CPR on the suspect until medical personnel arrived.

The witness saw the suspect stab the victim several times. He said he heard the officers repeatedly advise the suspect to stop and drop the knife, but the suspect refused to comply. The witness said it appeared to him that the suspect was not trying to kill the victim, as he did not appear to be stabbing him with great force, hitting him with the knife just hard enough to break the skin and draw blood. The witness speculated that the suspect may have been inviting the use of force by police.

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Witness #3, a restaurant customer, was in the restaurant to pick up her lunch. She and her coworker observed the suspect acting agitated. Witness #3 observed the suspect with two alcoholic beverages. She saw the suspect refuse to pay for the sandwich he ordered and saw the “sandwich maker” (Victim) place the sandwich on a shelf. As the restaurant worker prepared her order, she saw the suspect unlock the swinging door located at the end of the counter and begin striking the victim with his hands in the victim’s head and shoulder area.

Witness #3 ran outside for help and saw two officers across the street. After alerting the officers, she followed them to the restaurant but stayed outside, because a crowd of people had begun to gather, blocking the doorway. The witness said from outside the restaurant, she saw a man inside the restaurant try to separate the suspect from the victim. As the crowd began to grow, the witness could no longer see what was happening inside the restaurant. She heard a gunshot and shortly thereafter, additional officers began to arrive.

The witness stated she did not see a knife but observed blood on the suspect and on the restaurant employee’s face. She did not see how the officers shot the suspect and did not hear the words spoken before the shot was fired. She believed the whole incident unfolded in about four minutes and she was left with the impression that the suspect was mentally ill.

Witness #4 was with Witness #3 in the restaurant, ordering food, when she noticed the suspect agitated and pacing back and forth. She saw him with two cans of beer that he placed on top of a table. As the restaurant worker prepared their food, she saw the suspect try to unlock the door at the end of the counter and saw the restaurant worker stop the man from going behind the counter.

The witness described the suspect stepping back, drinking his beer and pacing around the restaurant. After a while, she saw him again unlock the door to the food preparation area, enter and attack the victim. The witness saw the victim and the suspect go to the floor as the attack continued. Upon seeing blood on the victim, she ran outside and called 911. She started shouting for help and saw two male officers walking across the street. She yelled to catch their attention. The officers walked toward her and entered the restaurant. She was about to follow the officers into the restaurant, but Witness #3 stopped her by the doorway. She then heard a gunshot. After a few minutes, she saw additional officers and an ambulance arrive.

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The witness neither saw a knife nor the suspect stabbing the victim. She did not see how the victim was rescued from the suspect because she was outside looking for help when it happened. She did not have conversation with the officers before the shooting and did not hear what the officers said when they engaged the suspect. The witness did not see who shot the suspect and what happened to him thereafter because she remained outside and never entered the restaurant again.

Statement of Witness Officer #1

The officer stated he and the named officer were responding to an incident across the street from the involved restaurant when one of its employees approached them and said something about a fight taking place in the restaurant. The officer did not recall if the employee mentioned a weapon. He and the named officer hurried into the restaurant and saw the victim being stabbed with a knife in the back behind the counter. He observed the victim with blood all over his face and back and said the victim was distraught. The officer said he thought the victim was going to die.

The officer stated he and the named officer drew their handguns, announced themselves as police officers and repeatedly yelled at the suspect to drop the knife. Their commands were loud enough for the assailant to hear, but he refused to comply. At one point, the officer said a second male employee went behind the counter and tried to separate the victim away from the suspect. The three began running out from behind the counter toward the officers. The second male employee was the first to exit the counter, followed by the victim and the suspect. The suspect was chasing the victim with a knife in his hand, holding the knife over his head, trying to stab the victim. The officers continued to give orders to drop the knife, but the suspect did not respond.

The officer stated the victim and the male employee ran toward his direction as the suspect followed them. He recalled that at one point, after all three had ran passed the named officer, the named officer shot the suspect one time, hitting him in his lower back area. The suspect fell to the ground and dropped the knife. The officer stated the suspect grabbed a chair and attempted to throw it at him. He then handcuffed the suspect and began first aid, applying direct pressure to his wound.

The officer stated no one was in the named officer's line of sight when the named officer shot the suspect. He stated that approximately 15 to 20 seconds had elapsed from the time they entered the restaurant and pulled their handguns to the moment the named officer shot the suspect. The officer stated they had no time to de-escalate the situation and that the only time they had was to give commands to drop the knife.

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The officer stated they were not able to develop a tactical plan to deal with the situation because they were only given minimal information about a “fight”, and had no idea how serious it was until they entered the restaurant. Witness Officer #1 stated that they immediately told dispatch they needed additional officers. Witness Officer #1 stated the named officer had his baton and chemical spray but did not utilize them because the suspect had a knife. He believed neither baton nor chemical spray would have been a reasonable use of force given the situation. He said there was no other way to resolve the situation but to shoot the suspect.

Statement of Named Officer

The named officer was working with his partner (Witness Officer #1) on the day of the incident. While responding to an unrelated vandalism call in an establishment located across the street from where the incident occurred, a female urgently approached him and told him to go to the restaurant. The female did not give much detail about what was happening inside the restaurant but appeared overly frantic and not in her normal state of mind.

The named officer looked toward the restaurant and saw a group of people gathering outside. As he walked over to see what was going on, a female frantically exited the restaurant and said, “Why can’t he stop stabbing him?” The named officer stated that as he approached the sidewalk nearest to the restaurant, he could see a male attacking the victim behind the counter. He observed the victim with blood covering his face. He looked at the address of the restaurant and immediately made an emergency radio broadcast (Code 33) at his location.

As the named officer was about to enter the door, a male with tattoos covering much of his body entered ahead of him and ran straight to the food preparation area, toward the victim and the suspect. The named officer entered the store and saw the suspect stabbing and beating the victim. He pulled out his handgun and walked toward the end of the counter, near a swinging door. He yelled at everyone to get on the ground, but no one responded. He then observed the tattooed male pull the victim away from the suspect. All three men started rushing toward the swinging half-door at the end of the counter. To avoid getting run over and to maintain distance, he backed up a little as he saw the victim run out and turn toward the customer area at the front of the counter. Then he saw the suspect, with a knife in his hand, rushing toward him. He thought the suspect would attack him, so he repeatedly told the suspect to drop the knife or he would shoot. However, the suspect, who was fixated on the victim, turned to follow the victim, holding his knife in a stabbing motion.

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The named officer stated the suspect never reacted to any of his repeated orders to drop the knife. He could not say if the suspect understood or was aware of the situation, but the officer knew that if he did not act to stop the suspect, he would stab the victim again. The named officer stated that in a split-second, he noticed that the suspect was in his line of fire, between him and a wall. He then fired a single shot and hit the suspect in the lower back area. The named officer stated the suspect released the knife from his grip and fell to the floor. The named officer then broadcasted, "Shots fired!" and called for an ambulance.

The named officer stated he did not have time to de-escalate the situation, as he was facing a suspect actively engaged in an attack on a civilian. He stated that only a matter of seconds had passed from the time he pulled out his handgun to the time he shot the suspect. Based on what was happening, he had no other means to resolve the situation.

Physical and Forensic Evidence

Physical evidence, including one "WIN 40 Auto" cartridge casing collected at the scene and examination of the named officer's handgun, established that the named officer fired a single round from his Department-issued Sig Sauer P226 .40 Caliber handgun.

A knife with a white handle, coated with blood, was recovered near the drinking fountain area near where the suspect fell.

Photographs taken of the victim showed he sustained lacerations on his head, face and other parts of his body.

Photographs of the suspect showed he sustained one gunshot wound to the lower right back. An Assistant Medical Examiner (AME) conducted an autopsy and determined that the suspect's cause of death was a gunshot wound to the back. The bullet entered on his lower back and exited on his right medial abdomen. The bullet's trajectory was forward. A large piece of bullet jacket and a deformed bullet were found in the front wall of his abdomen. Blunt force injuries were found on the suspect. He sustained a laceration on his scalp and few small abrasions on his chest, abdomen and back, small abrasions and contusions on his extremities. The presence of cannabinoids in his body was noted in the autopsy report.

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Restaurant's Surveillance Video Footage:

Footage from the restaurant's surveillance video camera, which had no audio recording capability, showed the suspect pacing back and forth inside the restaurant holding a can. The surveillance footage showed a few customers were standing in front of the food preparation counter. Some were waiting for their turn while others were being served by the victim, who was behind the counter. At one point, the suspect opened the side door of the counter and attempted to enter the restricted area where the victim was situated. The victim stopped him and guided him outside the counter. Minutes later, the suspect opened the side door again and started assaulting the victim. The suspect grabbed a knife that was on top of the counter and used it against the victim. A couple of customers tried stopping the assault, but the suspect continued with his attack on the victim. Soon thereafter, a male in a black sleeveless shirt entered the counter and grabbed the victim away from the suspect. As the two were rushing out of the counter, the named officer entered the restaurant, drew out his handgun and pointed it toward the suspect. The suspect followed the victim and the male with a knife in his hand. The named officer shot the suspect as he exited the side door, chasing the victim and the male. The suspect fell to the floor on his back, threw a chair toward the victim, while he laid on the floor on his side. The named officer's partner then placed the suspect in handcuffs behind his back.

Body-Worn Camera Footage (BWC):

The Body-Worn Camera (BWC) video footage from Witness Officer #1 shows the named officer standing close to the counter's side door with his handgun drawn and pointed forward. The victim and the male who had helped him could be seen rushing out from behind the counter, followed by the suspect. Immediately after the three had exited the side door, the named officer shot the suspect. The suspect fell to the floor and threw the knife that was in his right hand. As the officer's BWC was activated just as the event was unfolding, the video images of the shooting were captured in the BWC's "buffering" mode, which does not record audio and thus did not capture anything said by the officers.

Analysis and Conclusion

California Penal Code §835(a) states:

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

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

San Francisco Police Department General Order 5.01, Use of Force, revised on December 21, 2016, states, in part:

USE OF FORCE

The San Francisco Police Department's highest priority is safeguarding the life, dignity and liberty of all persons. Officers shall demonstrate this principle in their daily interactions with the community they are sworn to protect and serve. The Department is committed to accomplishing this mission with respect and minimal reliance on the use of force by using rapport-building communication, crisis intervention, and de-escalation tactics before resorting to force, whenever feasible. This Department General Order builds upon the Supreme Court's broad principles in *Graham v. Connor* (1989) 490 U.S. 386 and is more restrictive than the constitutional standard and state law. The Law Enforcement Code of Ethics requires all sworn law enforcement officers to carry out their duties with courtesy, respect, professionalism and to never employ unnecessary force. These are key factors in maintaining legitimacy with the community and safeguarding the public's trust.

This order establishes policies and reporting procedures regarding the use of force. The purpose of the policy is to guide an officer's decisions regarding the use and application of force to ensure such applications are used only to effect arrest or lawful detentions or to bring a situation under legitimate control and assist the Department in achieving its highest priority. No policy can anticipate every conceivable situation or exceptional circumstance which officers may face. In all circumstances, officers are expected to exercise sound judgment and critical decision making when using force options. It is the policy of the Department to review rigorously every instance in which a firearm is discharged, including exceptional circumstances, on a case by case basis to evaluate all facts to determine if the discharge is within policy. (See DGO 3.10.)

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I. POLICY

- A. **SAFEGUARDING HUMAN LIFE AND DIGNITY.** The authority to use force is a serious responsibility given to peace officers by the people who expect them to exercise that authority judiciously and with respect for human rights, dignity and life.

- B. **ESTABLISH COMMUNICATION.** Communication with non-compliant subjects is often most effective when officers establish rapport, use the proper voice intonation, ask questions and provide advice to defuse conflict and achieve voluntary compliance before resorting to force options.

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

- D. **PROPORTIONALITY.** When determining the appropriate level of force, officers shall, when feasible, balance the severity of the offense committed and the level of resistance based on the totality of the circumstances known to or perceived by the officer at the time. It is particularly important that officers apply proportionality and critical decision making when encountering a subject who is armed with a weapon other than a firearm.

- E. **CRISIS INTERVENTION.** When feasible, Crisis Intervention Team (CIT) trained officers shall respond to calls for service involving individuals in mental or behavioral health crisis pursuant to the CIT Department General Order 2016 version, or as amended.

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- F. **DUTY TO INTERVENE.** When in a position to do so, officers shall intervene when they know or have reason to know, that another officer is about to use, or is using, unnecessary force. Officers shall promptly report any use of unnecessary force and the efforts made to intervene to a supervisor.

- G. **FAIR AND UNBIASED POLICING.** Members shall carry out their duties, including the use of force, in a manner that is fair and unbiased pursuant to Department General Order 5.17.

- H. **VULNERABLE POPULATIONS.** The use of force against vulnerable populations – including children, elderly persons, pregnant women, people with physical and mental disabilities and people with limited English proficiency – can undermine public trust and should be used as a last resort, when all other reasonable means have been exhausted.

II. DEFINITIONS:

- A. **FEASIBLE.** Capable of being done or carried out to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

- B. **IMMEDIATE THREAT.** An immediate threat is considered to exist if a suspect has demonstrated actions that would lead one to reasonably believe that the suspect will continue to pose a threat if not apprehended without delay. A person is an immediate threat if the officer reasonably believes the person has the present intent, means, opportunity and ability to complete the threat regardless of whether the threatened action has been initiated.

- C. **MINIMAL AMOUNT OF FORCE NECESSARY.** The lowest level of force within the range of objectively reasonable force that is necessary to effect an arrest or achieve a lawful objective without increasing the risk to others.

- D. **PERSONAL BODY WEAPONS.** An officer's use of his/her body part, including but not limited to hand, foot, knee, elbow, shoulder, hip, arm, leg or head by means of high velocity kinetic energy transfer (impact) to gain control of a subject.

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- E. **REASONABLE FORCE.** An objective standard of force viewed from the perspective of a reasonable officer, without the benefit of 20/20 hindsight, and based on the totality of the circumstances known to or perceived by the officer at the time.

- F. **REPORTABLE FORCE.** Any use of force which is required to overcome subject resistance to gain compliance that results in death, injury, complaint of injury in the presence of an officer, or complaint of pain that persists beyond the use of a physical control hold. Any use of force involving the use of personal body weapons, chemical agents, impact weapons, extended range impact weapons, vehicle interventions, and firearms. Any intentional pointing of a firearm at a subject.

- G. **SERIOUS BODILY INJURY.** A serious impairment of physical condition, including but not limited to loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and serious disfigurement.

- H. **VITAL AREAS OF THE BODY.** The head, neck, face, throat, spine, groin and kidney.

III. CONSIDERATIONS GOVERNING ALL USES OF FORCE

- 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, detention, or search.
 - 2. To overcome resistance or to prevent escape.
 - 3. To prevent the commission of a public offense.
 - 4. In defense of others or in self-defense.
 - 5. To gain compliance with a lawful order.
 - 6. To prevent a person from injuring himself/herself. **However, an officer is prohibited from using lethal force against a person who presents only a danger to himself/herself and does not pose an immediate threat of death or serious bodily injury to another person or officer.**

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B. USE OF FORCE EVALUATION. The United States Supreme Court in *Graham v. Connor* (1989) 490 U.S. 386 held that an officer's use of force must be objectively reasonable under the totality of circumstances known to the officer at the time. This General Order builds upon the broad principles in *Graham* by adding additional factors upon which an officer's use of force shall be evaluated. This General Order is more restrictive than the constitutional standard and state law. Officers must strive to use the minimal amount of force necessary.

1. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than 20/20 hindsight, and without regard to the officer's underlying intent or motivation.
 2. Factors for evaluating the use of force include but are not limited to:
 - a. The severity of the crime at issue;
 - b. Whether the suspect posed an immediate threat to the safety of the officers or others;
 - c. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight;
 - d. Whether the use of force is proportional to the threat;
 - e. The availability of other feasible, less intrusive force options;
 - f. The officer's tactical conduct and decisions preceding the use of force;
 - g. Whether the officer has reason to believe that the subject is mentally ill, has a physical, developmental or cognitive disability, is emotionally disturbed or is under the influence of alcohol or drugs;
 - h. Whether there was an opportunity to warn about the use of force prior to force being used, and if so, was such a warning given;
 - i. Whether there was any assessment by the officer of the subject's ability to cease resistance and/or comply with the officer's commands;
 - j. Specialized knowledge, skills, or abilities of subjects;
 - k. Prior contact;
 - l. Environmental factors, including but not limited to lighting, footing, sound conditions, crowds, traffic and other hazards; and
 - m. Whether the subject's escape could pose a future safety risk.
- Not all of the above factors may be present or relevant in a particular situation, and there may be additional factors not listed.

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

1. Attempt to isolate and contain the subject;
2. Create time and distance from the subject by establishing a buffer zone (reactionary gap) and utilize cover to avoid creating an immediate threat that may require the use of force;
3. Request additional resources, such as Crisis Intervention Team (CIT) trained officers, Crisis/Hostage Negotiation Team, or Extended Range Impact Weapon;
4. Designate an officer to establish rapport and engage in communication with the subject;
5. Tactically re-position as often as necessary to maintain the reactionary gap, protect the public, and preserve officer safety; and
6. Continue de-escalation techniques and take as much time as reasonably necessary to resolve the incident, without having to use force, if feasible.

Other options, not listed above, may be available to assist in de-escalating the situation.

Supervisors who become aware of a situation where an officer is using de-escalation techniques shall monitor the radio communications and evaluate the need to respond to the scene.

D. **CRITICAL DECISION-MAKING MODEL.** Using a critical decision-making model, officers shall collect information, assess the threats and risk, consider police powers and the Department's policies, identify options and determine the best course of action, and review and re-assess the situation.

E. **UNLAWFUL PURPOSES.** Penal Code Section 149 provides criminal penalties for every public officer who "under color of authority, without lawful necessity, assaults or beats any person." An assault and battery committed by officers constitute gross and unlawful misconduct and will be criminally investigated.

F. **SUBJECT ARMED WITH A WEAPON – NOTIFICATION AND COMMAND.** In situations wh

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ere a subject is armed with a weapon, officers and supervisors shall comply with the following:

1. **OFFICER’S RESPONSIBILITY.** Upon being dispatched to or on-viewing a subject with a weapon, an officer shall call a supervisor as soon as feasible.
2. **SUPERVISORS’ RESPONSIBILITIES.** When notified that officers are dispatched to or on-view a subject armed with a weapon, a supervisor shall as soon as feasible:
 - a. Notify DEM, monitor radio communications, respond to the incident (e.g., “3X100, I’m monitoring the incident and responding.”);
 - b. Notify officers, absent a “Code 33” or other articulable reasons why it would be unsafe to do so, to use time, distance and/or other de-escalation tactics (as defined in Section III.C.1-6), if appropriate;
 - c. Upon arrival, where appropriate, the supervisor shall assume command, and ensure appropriate resources are on-scene or are responding.

IV. LEVELS OF RESISTANCE

- A. **COMPLIANT.** Subject offers no resistance.
- B. **PASSIVE NON-COMPLIANCE.** Does not respond to verbal commands but also offers no physical form of resistance.
- C. **ACTIVE RESISTANCE.** Physically evasive movements to defeat an officer’s attempt at control including bracing, tensing, running away, verbally or physically signaling an intention to avoid or prevent being taken into or retained in custody.
- D. **ASSAULTIVE.** Aggressive or combative; attempting to assault the officer or another person, verbally or physically displays an intention to assault the officer or another person.
- E. **LIFE-THREATENING.** Any action likely to result in serious bodily injury or death of the officer or another person.

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V. LEVELS OF FORCE.

Officers shall strive to use the minimum amount of force necessary to accomplish their lawful purpose.

- A. **LOW LEVEL FORCE.** The level of control necessary to interact with a subject who is or displaying passive or active resistance. This level of force is not intended to and has a low probability of causing injury.

- B. **INTERMEDIATE FORCE.** This level of force poses a foreseeable risk of significant injury or harm, but is neither likely nor intended to cause death. Intermediate force will typically only be acceptable when officers are confronted with active resistance and a threat to the safety of officers or others. Case law decisions have specifically identified and established that certain force options such as OC spray, impact projectiles, K-9 bites, and baton strikes are classified as intermediate force likely to result in significant injury.

- C. **DEADLY FORCE.** Any use of force substantially likely to cause serious bodily injury or death, including but not limited to the discharge of a firearm, the use of an impact weapon under some circumstances, other techniques or equipment, and certain interventions to stop a subject's vehicle (see DGO 5.05, Response and Pursuit Driving.)

VI. FORCE OPTIONS.

The force options authorized by the Department are physical controls, personal body weapons, chemical agents, impact weapons, extended range impact weapons, vehicle interventions, K-9 bites and firearms. These are the force options available to officers, but officers are not required to use these force options based on a continuum. While deploying a particular force option and when feasible, officers shall continually evaluate whether the force option may be discontinued while still achieving the arrest or lawful objective.

- A. **TOOLS AND TECHNIQUES FOR FORCE OPTIONS.** The following tools and techniques are not in a particular order nor are they all inclusive.

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Verbal Commands/Instructions/Command Presence

- Control Holds/Takedowns
- Impact Weapons
- Chemical Agents (Pepper Spray, OC, etc.)
- K-9 Bite
- Vehicle Intervention (Deflection)
- Firearms
- Personal Body Weapons
- Impact Projectile

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G. **FIREARMS AND OTHER DEADLY FORCE.** It is the policy of this Department to use deadly force only as a last resort when reasonable alternatives have been exhausted or are not feasible to protect the safety of the public and police officers. The use of firearms and other deadly force is the most serious decision an officer may ever make. When safe and feasible under the totality of circumstances, officers shall consider other objectively reasonable force options before discharging a firearm or using other deadly force.

1. **HANDLING, DRAWING AND POINTING FIREARMS.**

- a. **HANDLING FIREARMS.** An officer shall handle and manipulate a firearm in accordance with Department-approved firearms training. An officer shall not manually cock the hammer of the Department-issued handgun to defeat the first shot double-action feature.
- b. **AUTHORIZED USES.** An 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. When an officer determines that the threat is over, the officer shall holster his or her firearm or shoulder the weapon in the port arms position pointed or slung in a manner consistent with Department approved firearms training.
- c. **DRAWING OTHERWISE PROHIBITED.** Except for maintenance, safekeeping, inspection by a superior officer, Department-approved training, or as otherwise authorized by this order, an officer shall not draw a Department issued firearm.

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- d. POINTING A FIREARM AT A PERSON. The 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.
- e. REPORTING. When an officer intentionally points any firearm at a person, it shall be considered a reportable use of force. Such use of force must be reasonable under the objective facts and circumstances.

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

- a. PERMISSIBLE CIRCUMSTANCES. Except as limited by Sections VI.G.2.d. and e., an officer may discharge a firearm or use other deadly force in any of the following circumstances. The circumstances below (2.a.i-iv) apply to a discharge of a firearm or application of deadly force:
 - i. In self-defense when the officer has reasonable cause to believe that he or she is in immediate danger of death or serious bodily injury; or
 - ii. In defense of another person when the officer has reasonable cause to believe that the person is in immediate danger of death or serious bodily injury. However, an officer may not discharge a firearm at, or use deadly force against, a person who presents a danger only to him or herself, and there is no reasonable cause to believe that the person poses an immediate danger of death or serious bodily injury to the officer or any other person; or
 - iii. To apprehend a person when both of the following circumstances exist:
 - The officer has reasonable cause to believe that the person has committed or has attempted to commit a violent felony involving the use or threatened use of deadly force; AND
 - The officer has reasonable cause to believe that a substantial risk exists that the person will cause death or serious bodily injury to officers or others if the person's apprehension is delayed; or
 - iv. To kill an animal posing an immediate threat.

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v.

Officers shall reassess the situation, when feasible and safe, to determine whether the subject continues to pose an active threat.

- b. **VERBAL WARNING.** If feasible, and if doing so would not increase the danger to the officer or others, an officer shall give a verbal warning to submit to the authority of the officer before discharging a firearm or using other deadly force.
 - c. **REASONABLE CARE FOR THE PUBLIC.** To the extent feasible, an officer shall take reasonable care when discharging his or her firearm so as not to jeopardize the safety of the public or officers.
 - d. **PROHIBITED CIRCUMSTANCE.** Officers shall not discharge their firearm:
 - i. As a warning; or
 - ii. At a person who presents a danger only to him or herself.
 - e. **MOVING VEHICLES.** An officer shall not discharge a firearm at the operator or occupant of a moving vehicle unless the operator or occupant poses an immediate threat of death or serious bodily injury to the public or an officer by means other than the vehicle. Officers shall not discharge a firearm from his or her moving vehicle.
3. **RENDERING OR REQUESTING MEDICAL AID.** Following the use of deadly force, officers shall render or request medical aid if needed or requested by anyone as soon as reasonably possible.

The following chart illustrates how a suspect's resistance/actions can correlate to the force applied by the officer:

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Subject's Actions	Description	Possible Force Option
Compliance	Subject offers no resistance	<ul style="list-style-type: none"> • Mere professional appearance • Nonverbal actions • Verbal requests and commands • Handcuffing and control holds
Passive non – compliance	Does not respond to verbal commands but also offers no physical form of resistance	<ul style="list-style-type: none"> • Officer's strength to take physical control, including lifting/carrying • Pain compliance control holds, takedowns and techniques to direct movement or immobilize
Active resistance	Physically evasive movements to defeat an officer's attempt at control, including bracing, tensing, running away, verbally, or physically signaling an intention to avoid or prevent being taken into or retained in custody	<ul style="list-style-type: none"> • Use of personal body weapons to gain advantage over the subject • Pain compliance control holds, takedowns and techniques to direct movement or immobilize a subject
Assaultive	Aggressive or combative; attempting to assault the officer or another person, verbally or physically displays an intention to assault the officer or another person	<ul style="list-style-type: none"> • Use of devices and/or techniques to ultimately gain control of the situation • Use of personal body weapons to gain advantage over the subject
Life-threatening	Any action likely to result in serious bodily injury or death of the officer or another person	<ul style="list-style-type: none"> • Utilizing firearms or any other available weapon or action in defense of self and others to stop the threat • Vehicle intervention (Deflection)

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The evidence establishes that the suspect was committing a serious and violent crime, actively engaging in stabbing the victim with a knife when the named officer entered the restaurant and contacted him. The evidence established that suspect posed an imminent danger of death or serious bodily injury to the victim and people inside the restaurant, including the named officer and his partner. The named officer did not have sufficient time to establish a rapport or de-escalate the situation, beyond yelling orders to drop the knife. Even though he repeatedly warned the suspect to stop and put down his weapon, the suspect refused to comply, leaving the named officer with very limited time to act. The evidence showed only few seconds elapsed from the time the officer drew his firearm to the moment he shot the suspect.

The evidence, in the form of testimony from the responding officers and witnesses, suggests the suspect may have been mentally unstable and was behaving bizarrely. However, the named officer had no opportunity to investigate the suspect's condition or call for other resources to address the situation. He had had no prior contact with the suspect and was not supplied with sufficient information from witnesses to create a profile of the suspect before engaging him. The urgency of the situation prompted him to act fast, otherwise, the victim likely could have been killed or seriously injured.

The evidence established that it was not feasible for the named officer to use any less intrusive force. The suspect was armed with a knife and was repeatedly cutting and stabbing the victim. The named officer had reason to believe the victim was in imminent danger of death or serious bodily injury. The officer's use of deadly force, as delineated in the Department's Use of Force policy, was therefore reasonable and proportional to the amount of threat or danger perceived. The evidence also established that right after the use of deadly force, officers immediately rendered medical assistance to the suspect. Paramedics were also called to the scene.

The recently revised Department General Order 5.01 on the Use of Force anticipates a situation much like what evidence shows transcribed before the named officer in this incident. As the policy dictates, officers are required to assess a situation and decide on the appropriate level of force, given the circumstances surrounding the need for such force. The named officer was presented with a situation that called for the need to stop an active threat of death or great bodily injury to himself, other officers and members of the public. As the rapidity of the incident dictated, the named officer had no options but to implement the use of deadly force as a first, and last, resort.

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: 06/04/18 **DATE OF COMPLETION:** 10/01/18 **PAGE#** 1 of 5

SUMMARY OF ALLEGATIONS #1 - 7: The officers searched a residence without cause.

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

FINDINGS OF FACT: The complainant stated her home was searched in relation to an incident with her son's father, who was the subject of the search. The complainant stated every part of her home was searched, although the subject is not on her lease, and some of the areas searched were unrelated to his presence. The complainant acknowledged that the subject of the search was at her home daily to watch their son.

One of the named officers, a sergeant, stated that the subject of the warrant was wanted for a crime in which he allegedly displayed a firearm. The named officer said he was able to determine that the subject had used the complainant's address, and then was able to arrest the subject coming out of the residence. The named officer said that a search warrant was obtained for the complainant's home to search for and seize the still outstanding firearm. The other named officers indicated they were briefed on the reason for the search by the sergeant, who solicited their help in executing the search warrant.

In the Statement of Probable Cause and Chronological of Investigation, the named sergeant documented the accusation by a female that the subject of the warrant assaulted her and pointed a semi-automatic handgun at her, while threatening to shoot her. The documents further indicate that the subject was a validated member of a criminal street gang and had an extensive record, including weapons convictions. The Statement and Chronological also document that the named sergeant spoke to the property manager at the complainant's complex, who said she had seen the subject at the premises before. They also document the arrest of the subject outside of the complainant's house. The signed search warrant commands officers to search the complainant's home for, "Firearm(s), ammunition, and firearm paraphernalia," among other items. The Return to Search Warrant documents that the named officers seized a men's jacket, an ID Card issued to the subject of the warrant, and a ballistic vest.

The Body Worn Camera (BWC) footage shows the named sergeant explaining to the complainant that they used a key obtained from the subject to open her door, rather than kick the door down.

The named sergeant presented facts about the alleged crime, as well as facts about the subject and his connection to the complainant's home, to a magistrate. That magistrate then signed a search warrant based on adequate probable cause. 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 - 14: The officers intentionally damaged property.

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

FINDINGS OF FACT: The complainant stated that during the search of her home, the named officers damaged her home and she could hear items being moved and shifted throughout. She specifically noted that officers stepped on and cracked her plastic shoe boxes, and they also broke off the tops to some of her perfumes.

All of the named officers denied intentionally damaging the complainant's property.

The complainant failed to submit the requested photos of the damaged items.

The BWC footage does not capture any officers damaging any of the complainant's property.

The photos taken by the named officers do not show any damaged items.

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

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DATE OF COMPLAINT: 06/04/18 **DATE OF COMPLETION:** 10/01/18 **PAGE#** 3 of 5

SUMMARY OF ALLEGATIONS #15: The officer behaved inappropriately.

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

FINDINGS OF FACT: The complainant stated the named officer was very rude and unprofessional during a search of her home. She said that she was wearing her bra, and the named officer would not let her put a top on; that he would not let her get her glasses to read the search warrant; and that he only informed her later that she was being recorded.

The witness officers indicated the named officer was courteous and professional throughout the search.

The complainant's daughter, who was also at the house at the time, said that the named officer acted unprofessionally.

The BWC footage shows the complainant was given a shirt to put on within two minutes of the named officer's entry to the home. The footage shows the named officer apologizing for the circumstances under which they were meeting, explaining what the search would entail, and answering all of the complainant's questions. It shows the named officer informing the complainant that she was being recorded, and the complainant becoming upset that she was not read her rights before being asked questions while being recorded. The BWC footage then shows the named officer telling her that she is not under arrest. The footage shows the complainant asking to see the warrant, and the named officer providing it to her. It then shows her asking for her glasses, and a witness officer retrieving them and handing them to her. The footage shows the complainant asking for a blanket for her son, and the named officer telling her, "of course," and asking a witness officer to retrieve one for her. The BWC footage captures the complainant becoming upset with the named officer at multiple times during the execution of the warrant, and eventually telling the named officer she is unhappy with how he handled the search.

SFPD General Order 2.01, General Rules of Conduct, requires officers to treat the public with courtesy and respect. General Order 10.11, Body Worn Cameras, states, "When feasible, members should inform individuals that they are being recorded. However, state law allows members to record communications that he or she could lawfully hear or record ... Members are not required to obtain consent from members of the public prior to recording when the member is lawfully in the area where the recording takes place."

The named officer was patient, courteous and professional throughout the incident.

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

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SUMMARY OF ALLEGATIONS #16: The officer failed to properly process property.

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

FINDINGS OF FACT: The complainant stated that the named officer seized a ballistic vest during a search of her home as though it belonged to the subject, even though she told him repeatedly, it belonged to her. The complainant also said her cell phone was seized from the subject during his arrest.

The named officer stated he seized the ballistic vest because the subject is a convicted felon, and is not allowed to have it. The named officer stated that it was found in a closet in the room where the subject dwelled and where many men's jackets were found.

A witness officer indicated he discovered the ballistic vest and asked the named officer whether it was something they should seize. The witness officer indicated the named officer informed him they should take the vest for safekeeping.

The Incident Report documents that a cell phone was taken from the subject at a police facility. The report documents that a "Male vest with Kevlar weave with additional insert over the center of the chest," was seized at the complainant's home from the master bedroom closet. The subject's criminal record, as noted in the Chronological of Investigation, includes a conviction for at least one violent felony.

According to the San Francisco Police Department Search Warrant guide, "it is permissible for the searching officers to seize any items that are recognizable as contraband or evidence of a crime, if found while searching items pursuant to the warrant." Penal Code Section 31360(a) indicates, "A person who has been convicted of a violent felony... who purchases, owns, or possesses body armor ...is guilty of a felony...."

It was reasonable for the named officer to believe the ballistic vest belonged, or was possessed by, the subject, making it contraband subject to seizure. The phone was not seized during the search but from the subject himself, and the complainant did not allege he had it without her permission. The phone, then, would also have been legitimately booked when the subject was 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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DATE OF COMPLAINT: 06/04/18 **DATE OF COMPLETION:** 10/01/18 **PAGE#** 5 of 5

SUMMARY OF ALLEGATIONS #1 - 3: The officers failed to comply with DGO 10.11, Body Worn Cameras.

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

FINDINGS OF FACT: The named officers were involved in a search of the complainant's home.

The first and second named officers stated that the sergeant in charge instructed only the lead unit to activate their BWC's. The first named officer stated that, because of this, he never activated his BWC. The second named officer said he eventually did activate his BWC when he became involved in the search. The third named officer, when asked why SFPD Legal indicated there was no BWC footage from him for this incident, stated he did activate his BWC and there should be footage available. He explained it was labeled with the case number not the CAD, and that might be the reason why it was not found or provided.

The sergeant in charge stated he instructed all the uniformed officers to activate their BWC's during the search. He denied instructing that only the lead unit should activate their cameras.

A letter from SFPD Legal to the DPA indicates that there was no available BWC footage for the first named officer. BWC footage from the second named officer begins 30 minutes after entry into the complainant's home, based on the time stamp. It begins as the named officer is standing in the complainant's living room. A BWC log of the third named officer's video uploads following the search shows that his recording was uploaded, but it was ID'd with an unrelated CAD number and included an unrelated Incident Report number in its title.

SFPD General Order 10.11, Body Worn Cameras, states, "All on-scene members equipped with a BWC shall activate their BWC equipment to record in the following circumstances ... Detentions and arrests ... When serving a search or arrest warrant ..." It states, "When uploading recordings to the computer server, members shall identify each BWC recording with the incident report number, CAD number or citation number ... to ensure the recording is accurately retained and to comply with local, state and federal laws."

The complainant and her children were detained while the named officers were engaged in serving and executing a search warrant. All of the named officers should have activated their BWC's from the beginning of their search and uploaded their recordings with the appropriate CAD number or Incident Report number. A preponderance of the evidence proved that the conduct complained of did occur, and that, using as a standard the applicable regulations of the Department, the conduct was improper.

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

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

FINDINGS OF FACT: The complainant stated that since February 2018, she has contacted a District Police Station and left messages asking that the named officer contact her about filing a police report. She said that the named officer has not responded.

The named officer stated that she received the messages and responded, leaving a voicemail message with the complainant. The named officer said, in her message, she explained the complainant's options for filing a police report.

The complainant was never able to speak with the DPA investigator, despite repeated attempts. It is more likely than not that the named officer did receive at least some of the messages from the complainant, and left her a voicemail message with appropriate information.

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

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

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

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

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

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COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 06/01/18 **DATE OF COMPLETION:** 10/12/18 **PAGE#** 1 of 4

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

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

FINDINGS OF FACT: The complainant stated that while attending a party, she had a disagreement with an employee of a restaurant and was asked to leave. She said she complied, and while seated in a rideshare vehicle with her 4-year-old daughter, the named officer arrested her for public intoxication and child endangerment, both charges she refuted.

The named officer stated she arrested the complainant when she observed that the complainant was intoxicated and unable to care for herself or her daughter. The officer stated the complainant had red eyes, slurred speech and smelled of alcohol. The officer also stated that the complainant did not have a child seat for her daughter.

The named officer's partner stated that the complainant was yelling profanities at her child and was physically and verbally abusive toward the restaurant's employees. The officer stated the complainant had slurred speech, was extremely combative, smelled strongly of alcohol and provided no safety seat for her daughter.

A sergeant present at the arrest stated that the complainant exhibited symptoms of intoxication and was unable to care for herself. The sergeant further stated that the complainant was verbally abusive toward her daughter and was unable to care for her due to intoxication.

A manager of the restaurant stated that he observed the complainant to be extremely intoxicated. He recalled one of his servers delivered the complainant a bottle of wine. He also stated that the complainant and her friends consumed other bottles of wine they had brought to the restaurant. The manager stated he recalled the complainant yelling, cursing and being extremely belligerent. He stated that he followed the complainant outside and saw her berating her daughter. He stated that the complainant used profane and abusive language in speaking to her daughter.

Another manager in the restaurant stated that the complainant exhibited signs of intoxication, and when he asked her to leave due to her abusive behavior toward employees, she struck him, knocking out a contact lens. He recalled the complainant used profane, derogatory words to her daughter.

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SUMMARY OF ALLEGATION #1: (Continued)

The complainant's friend, who was present at the party, stated that she did not witness the complainant's altercation with the restaurant employee. She knew of no alcohol served at the party and did not see the complainant drinking. She denied seeing anything inappropriate in the complainant's behavior toward her daughter. The witness, however, stated that later in the contact, she saw an officer carrying a safety seat for the child.

Body Worn Camera (BWC) footage from the officers who responded to the incident showed the complainant yelling, cursing, and crying during her detention, showed her slurring her words, and repeatedly using profanity and derogatory statements to and about officers.

Regarding the charge of endangering her daughter, Section 273(a) PC states:

“Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.”

The evidence showed the complainant endangered her daughter by being intoxicated and engaging in a physical altercation in front of the child. The witnesses to the complainant's behavior indicated that the officers learned of abusive, profane comments and a slur issued by the complainant to her daughter. Additionally, the evidence showed the complainant put her daughter in a vehicle with no required safety seat.

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 #2-5: The officers misused their authority.

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

FINDINGS OF FACT: The complainant alleged the officers misused their authority by conspiring to have her arrested and take her daughter away. The complainant further stated that one of the named officers, who is the father of her child, used the incident as leverage against her in their child custody case.

Two of the named officers, the arresting unit, denied having contact with the child's father during the incident.

Records of Department-issued cell phones showed the officers never called the child's father during the incident.

The child's father stated that he had nothing to do with the complainant's arrest. He stated that a sergeant at the scene notified him about the arrest and arranged for him to pick up his daughter.

The sergeant stated he spoke with the child's father about the need to pick up his daughter.

A preponderance of the evidence established that the named officers were not involved in the act alleged.

SUMMARY OF ALLEGATION #6: The officer misused his authority.

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

FINDINGS OF FACT: The complainant alleged the officers misused their authority by conspiring. The complainant stated the officer obtained an Emergency Protective Order (EPO) without reason and authority.

The officer stated that calling for an EPO is a routine procedure in a case of child endangerment.

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SUMMARY OF ALLEGATION #6: (Continued)

Department General Order 6.09, Domestic Violence, states, in part:

“3. EMERGENCY PROTECTIVE ORDERS. An Emergency Protective Order (EPO) is a type of Civil Court Protective Order. Members may obtain an EPO any time reasonable cause exists for a member to believe that an adult or child is in immediate and present danger of domestic violence, child abuse, stalking, child abduction, family violence or elder abuse (not including financial abuse) by a family or household member. EPOs remain in effect for five (5) court days and up to seven (7) calendar days. An EPO can only be issued by an on-call Superior Court Judge. On-call Superior Court judges are available 24 hours a day.

a. EPO PROCEDURES. Members shall determine if the circumstances surrounding the incident warrant application for an EPO. Members shall not base their decision on whether or not the victim wants an EPO. Members shall complete the most current version of the Application for Emergency Protective Order form.”

The DGO allows officers to secure EPOs when they deem necessary. The evidence showed the complainant had possibly exposed her child to danger by being intoxicated and engaging in a verbal and physical altercation in the presence of the child. The evidence also showed that officers learned that she had berated her child profanely and failed to provide her a safety seat while in a vehicle.

A preponderance of the evidence established that the named officer was not involved in the act alleged.

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DATE OF COMPLAINT: 06/06/18 **DATE OF COMPLETION:** 10/23/18 **PAGE#** 1 of 2

SUMMARY OF ALLEGATIONS #1: The officer behaved inappropriately.

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

FINDINGS OF FACT: The complainant stated that the named officer chastised him for calling 9-1-1 on his landlord's son.

Records from the Department of Emergency Management (DEM) show that the complainant called 9-1-1 and reported that two subjects were trying to break into his house, prompting dispatch to broadcast the call as an "A" priority call.

The named officer's Body Worn Camera (BWC) shows the named officer counseling the complainant about his 9-1-1 call when he knew that one of the subjects was his landlord's son. The BWC failed to support the complainant's allegation that the named officer behaved inappropriately at the scene.

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

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

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

FINDINGS OF FACT: The complainant stated that he asked the named officer to cite the subjects for trespassing and attempted forcible entry, but the officer refused.

Department records show that the incident was civil in nature and that the named officer documented her investigation in an incident report as required.

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

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

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

FINDINGS OF FACT: The complainant stated the incident report had inconsistencies and the property manager's name was misspelled.

The named officer's BWC footage corroborates the accuracy of the incident report.

The property manager stated that he reviewed the incident report and the incident report was accurate.

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

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

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

FINDINGS OF FACT: The complainant, who did not witness the incident, stated that her friend saw a homeless man being detained.

Records from the Department of Emergency Management (DEM) show that DEM received a 911 call regarding a petty theft. The reporting party identified the man in question as the suspect, prompting the named officers to detain the man.

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

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

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Officers Jose Calvo-Perez #4259 and Jassen Dongon #2270

SUMMARY OF ALLEGATIONS #3-4: The officers used unnecessary force.

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

FINDINGS OF FACT: The complainant stated that her friend told her that the homeless man was punched while being placed in handcuffs.

The named officers denied punching the suspect.

A sergeant who responded to the scene stated that the suspect was not injured and did not complain of pain.

The reporting party stated that he only saw the officers approach the suspect.

The suspect did not come forward.

No other witnesses came forward.

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

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DATE OF COMPLAINT: 06/21/18 **DATE OF COMPLETION:** 10/11/18 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION: The officer made inappropriate comments.

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

FINDINGS OF FACT: The complainant stated that she was the victim of a sexual assault. She stated that the named officer made her feel like the sexual assault was her fault and told her that she “wanted it.”

The named officer stated that he conducted an in-person interview with the complainant regarding an allegation of a sexual assault. He stated that the complainant was argumentative, uncooperative and appeared to be under the influence of alcohol during the interview. The named officer stated that the complainant refused to answer clarifying questions and requested to leave during the interview. The named officer stated that on a later date he called the complainant and advised her of the disposition of the case. He stated that she was upset with the disposition. The named officer stated he was professional and courteous during both of his contacts with the complainant. He stated that he did not place blame on the complainant or tell her that she “wanted it.”

Witness officers who were present during the named officer’s in-person interview with the complainant stated that the named officer was professional and respectful towards the complainant. Witness officers stated that the complainant was uncooperative and became agitated during the interview, but the named officer remained calm and patient.

A recording of the in-person interview confirms that the complainant refused to answer questions, requested to leave multiple times, and generally refused to cooperate. The recording also reveals the named officer displaying a courteous and professional manner.

There were no witnesses to the named officer’s telephone contact with the complainant. That interaction was not recorded.

Department records indicated that the complainant was uncooperative with responding officers, with medical personnel and with the named officer during the investigation. Department records indicated that the complainant refused to answer questions and refused to participate in critical stages of the investigation.

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

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DATE OF COMPLAINT: 06/20/18 **DATE OF COMPLETION:** 10/12/18 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The SFPD behaved inappropriately.

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

FINDINGS OF FACT: The complainant, who only provided his first name, stated insurance salespersons who had connections with the Department conducted sales presentations at district stations during work hours. The complainant did not provide any additional information.

The complainant provided insufficient information to allow DPA to further investigate his complaint.

**DEPARTMENT OF POLICE ACCOUNTABILITY
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DATE OF COMPLAINT: 06/25/18 **DATE OF COMPLETION:** 10/05/18 **PAGE#** 1 of 1

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

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

FINDINGS OF FACT: An anonymous complainant wrote that the district station was not doing enough to enforce laws against a ring of bicycle chop shops in the neighborhood. The complainant wrote that, on a specific date, individuals were using police barricades to block off an area and were spraying bicycle parts on a public sidewalk and on a public mural. The complainant wrote that he has reported this issue, but the problem persists.

The captain of the district station stated that whenever there is a report of a “chop shop” brought to the attention of Homeless Outreach Officers, they are dispatched immediately and attempt to identify bicycles by their serial numbers or describe them to dispatch to see if there are reports of matching stolen bicycles. He also stated that regular patrol officers also investigate such matters. He acknowledged that City law limits what officers can do when encountering people on the street in possession of bicycles or bicycle parts. He also stated that at the time of the specific call identified by the complainant, his officers were very busy on calls classified as more serious by dispatch.

An officer that responded to the call identified by the complainant stated that he and his partner attempted to locate the police barricades, painting booth, and involved suspects, but none could be found.

His partner stated that she did not recall the incident, but added, “During my career I have responded to numerous complaints regarding bicycle parts and blocked sidewalks, and I am diligent in investigating crimes while remaining observant of the rights of the Homeless population.”

Records from the Department of Emergency Management document a call created at 12:36:54 regarding individuals spray painting bicycle parts behind police barricades. The reporting party called again at 15:23:49. The records show that the call was on hold for several hours and no one was dispatched until 00:24:32 the next morning. The call was closed as “ADV” or advised.

There is insufficient evidence to either prove or disprove that the district station was not doing enough to enforce laws against a ring of bicycle chop shops in the neighborhood.

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

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DATE OF COMPLAINT: 06/19/18 **DATE OF COMPLETION:** 10/11/18 **PAGE#** 1 of 2

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

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 10/09/18.

SUMMARY OF ALLEGATION #2: The officer used excessive force during a detention.

CATEGORY OF CONDUCT: UF **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 10/09/18.

SUMMARY OF ALLEGATION #3: The officer failed to follow tow procedures.

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 10/09/18.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 06/19/18 **DATE OF COMPLETION:** 10/11/18 **PAGE#** 2 of 2

SUMMARY OF ALLEGATION #4: The officer made an inappropriate comment.

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 10/09/18.

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DATE OF COMPLAINT: 06/29/18 **DATE OF COMPLETION:** 10/01/18 **PAGE#** 1 of 1

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

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

FINDINGS OF FACT: The complainant stated the named officer had been harassing him for years. He stated she always had him detained for psychiatric evaluations (5150 detention) because he is a veteran and suffers from PTSD.

The incident report connected to the complainant's most recent 5150 detention states the complainant was detained because he was making numerous, rambling, harassing phone calls to 911 dispatchers, suffers from PTSD, is an alcoholic, has threatened to kill police officers in the past, and had just stated "he is a marine and could kill police officers" to a 911 dispatcher. The related CAD states the complainant was hostile and had been drinking. The CAD audio of the complainant speaking with dispatch records the complainant stating, "I'm a marine. If I'm gonna kill police, I'll kill them. Do you understand what I just said?" The responding officers' body worn cameras (BWC) show officers explaining the reasons for the 5150 detention to the complainant, including the threats and past 5150 detentions.

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

The complainant has made multiple complaints against the named officer with the DPA. The evidence showed that the named officer was not involved with the complainant's recent 5150 detention, and that detention was deemed proper. There is no evidence of the named officer harassing the complainant.

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

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DATE OF COMPLAINT: 07/02/18 **DATE OF COMPLETION:** 10/30/18 **PAGE#** 1 of 1

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

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

FINDINGS OF FACT: The complainant stated that the named officer responded to his call for police assistance regarding a restraining order violation. He stated that at the end of the contact, the named officer gave him a follow-up card with the incident report number. He stated that when he went to SFPD to obtain a copy of the incident report, the incident report did not exist. The complainant stated that he needed copies of his incident reports, because he was filing another restraining order against the person who harassed him.

The named officer denied the allegation, stating that he provided the complainant a Computer Aided Dispatch (CAD) number which documented the incident. He stated that his investigation revealed there was no restraining order on file and no crime occurred. He stated also that the complainant did not ask him to write an incident report. He stated that the complainant told him that he would go back to court to get a new date for another hearing.

Court Records show that the complainant did not have restraining order on file.

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

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

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

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

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DATE OF COMPLAINT: 07/10/18 **DATE OF COMPLETION:** 10/17/18 **PAGE#** 1 of 1

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

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

FINDINGS OF FACT: The complainant stated that he parked his vehicle on the street during street cleaning hours, but after the street cleaner had passed. He stated that the named officer wrongfully cited him because the street cleaner had already cleaned the street when he parked his car.

The named officer stated that the complainant's vehicle was parked during street cleaning hours. The named officer stated that the complainant's vehicle was the only vehicle parked on the street at the time, the street did not look clean, there were no markings on the street and the street was not wet. The named officer stated that he did not know whether the street cleaner had passed, but the circumstances indicated to him that it had not.

A witness officer stated that it did not appear that the street cleaner had cleaned the street at the time the named officer issued the citation. The witness officer stated that there were no lines on the street indicating that the street cleaner had been there.

Fieldwork conducted at the location of the incident revealed that there were posted "No Parking" signs for street cleaning during the day and time the citation was issued.

Department records indicated that the named officer issued the parking citation during the posted street cleaning hours.

San Francisco Transportation Code section 7.2.22, Street Cleaning Parking Restrictions, states that the "prohibition shall not apply to a vehicle which is Parked during the days and hours the Parking is prohibited after the street sweeper has already passed the place where the vehicle is Parked."

There was insufficient evidence to either prove or disprove that the street sweeper had already passed when the complainant parked his vehicle.

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

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DATE OF COMPLAINT: 08/03/18 **DATE OF COMPLETION:** 10/11/18 **PAGE#** 1 of 1

SUMMARY OF ALLEGATIONS #1-2: The officers failed to write an incident report.

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

FINDINGS OF FACT: The complainant stated he had a dispute with a cab driver. He said he eventually paid the fare, but the driver left with his wallet still in the car. The complainant stated that he called the cab company and was told that the driver already had other passengers and denied having the wallet in his car. The complainant did not believe this and called 911 to report that his wallet had been stolen. The complainant stated that the named officers responded but would not take a report. He said that the named officers informed him this was a civil matter, and if he made a report, it would not be investigated.

The named officers stated that although the call was categorized as a theft, the complainant also said he left his wallet in the cab, so they believed no crime was committed.

A preponderance of the evidence established that the incident in question was a civil matter. As such, the officers' action of not generating a police report was proper.

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

SUMMARY OF DPA-ADDED ALLEGATIONS #1-3: The officers failed to comply with DGO 10.11, Body Worn Cameras.

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

FINDINGS OF FACT: SFPD General Order 10.11, Body Worn Cameras, requires officers to activate their BWC equipment, in part, when investigating a crime.

A preponderance of the evidence established that the incident in question was a civil matter. As such, there was no requirement for the officers to activate their BWC equipment.

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

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DATE OF COMPLAINT: 08/03/18 **DATE OF COMPLETION:** 10/26/18 **PAGE#** 1 of 3

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

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

FINDINGS OF FACT: The complainant stated the named officers came to her home and questioned her for an hour without telling her why they were there. The complainant found the ordeal stressful and said it exacerbated her heart condition.

The named officers said they went to the complainant's home to conduct a welfare check at the request of Adult Protective Services (APS). The named officers indicated they were concerned with some of the things the complainant said during the check, so they conducted a mental health evaluation and spoke to an SFPD officer who knows her, prior to leaving. One of the named officers explained that the complainant, "exhibited signs of dementia," and he wanted to, "investigate further to ensure that she was properly cared for or could take care of herself." The other named officer said he was concerned that the complainant did not have a working refrigerator and "was not making sense," so they called PG&E and an officer who knows the complainant, in order to assure her safety.

The officer contacted by the named officers stated that she has made multiple well-being checks on the complainant. She said the complainant is elderly, lives alone, and has only one living relative overseas. She confirmed that she spoke to one of the named officers about the complainant on the date of this incident.

A witness indicated the complainant called him and said she was having an emergency because an electrical box in her home was "smoking." He said he and a supervisor called police, because it sounded as though there was an emergency. The witness indicated a named officer contacted him during the welfare check, and he said she was doing well and there was no emergency intervention required.

The Body Worn Camera (BWC) footage shows the named officers arriving at the complainant's home, as she tells them that she had an issue with some electrical equipment in her garage. The footage shows that the complainant lets the named officers enter her home and leads them to her garage. The footage shows the named officers explain that they do not notice an odor from the equipment. The complainant then

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emphatically demands that the named officers leave her home, but they refuse. The footage shows the named officers going further into the complainant's home, looking through her kitchen and various rooms. They help the complainant call PG&E and ask why her refrigerator is unplugged. One of the named

officers calls APS, and then calls an officer identified by the complainant. The footage shows the named officers attempting to assess the complainant's mental health by asking her several questions. The complainant seems offended by the questions and asks the named officers to leave again. The footage

shows that the complainant's home appears clean and well-maintained. The complainant herself does not seem to be disheveled or disoriented, though she sometimes has trouble communicating.

Well-being checks fall under the "community caretaking" exception to the normal rules governing law enforcement searches. Courts use a balancing test to judge whether such a search was permissible. Relevant issues include the seriousness of the situation, the reliability of the information demonstrating the need for a search, and whether the intent of the officers was to further a community caretaking objective.

The named officers were sent to the complainant's home because APS had concerns about her well-being. The named officers relied on information from APS, as well as the fact that the complainant had been detained in the past for a psychological evaluation.

A preponderance of the evidence established that the named officers did not behave inappropriately as alleged.

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

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DATE OF COMPLAINT: 08/03/18 **DATE OF COMPLETION:** 10/26/18 **PAGE#** 3 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:** S **DEPT. ACTION:**

FINDINGS OF FACT: The complainant stated the named officer came to her home and questioned her for an hour without telling her why he was there. While the named officer activated his BWC, the named officer did not in violation of DGO 10.11.

The named officer acknowledged he did not activate his BWC although it was required. He noted he conducted a 5150 evaluation during his encounter with the complainant.

San Francisco Department General Order 10.11, Body Worn Cameras, requires officers to activate body worn cameras in a variety of instances, including while conducting 5150 evaluations.

The named officer should have activated his BWC during his evaluation of the complainant.

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

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DATE OF COMPLAINT: 08/08/18 **DATE OF COMPLETION:** 10/30/18 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The SFPD failed to comply with DGO 7.04.

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

FINDINGS OF FACT: By mutual agreement of the complainant and a representative of the station, the complaint was mediated and resolved in a non-disciplinary manner on October 23, 2018

SUMMARY OF ALLEGATION #2: The SFPD behaved and spoke inappropriately.

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

FINDINGS OF FACT: By mutual agreement of the complainant and a representative of the station, the complaint was mediated and resolved in a non-disciplinary manner on October 23, 2018

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SUMMARY OF ALLEGATION #1: The officer(s) behaved inappropriately.

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

FINDINGS OF FACT: The complainant stated that police threatened and harassed him after he sued a San Francisco university in 1979.

After multiple requests, the complainant failed to provide DPA with any specific information in order to help identify specific incidents or officers.

Department records reflected no incidents involving SFPD and the complainant, except for one incident that was previously investigated.

No witnesses were identified.

The complainant failed to provide additional requested evidence.

SUMMARY OF ALLEGATION #2: The officer(s) entered a residence without cause.

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

FINDINGS OF FACT: The complainant failed to provide additional requested evidence.

SUMMARY OF ALLEGATION #3: The officer(s) used excessive force.

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

FINDINGS OF FACT: The complainant failed to provide additional requested evidence.

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DATE OF COMPLAINT: 08/15/18 **DATE OF COMPLETION:** 10/12/18 **PAGE#** 1 of 1

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

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

FINDINGS OF FACT: The anonymous complainant observed an altercation between two drivers in civilian clothing, one of whom told the other he was a police officer. The complainant said after blocking the other driver from moving, a man got out of his car, yelled and threatened an elderly man in the other car, flashed something from his wallet, claiming he was an officer. When the complainant threatened to call the police, the man claiming to be a police officer sped away. The complainant provided DPA with two possible license plate numbers but failed to respond to DPA efforts to conduct a further interview.

DMV records did not result in a match of the supplied license plates with any SFPD officer or with the Department.

An officer identification poll sent to the district station where the incident occurred failed to result in the identification of an involved officer.

The identity of the alleged officer could not be established.

SUMMARY OF ALLEGATION #2: The officer threatened a person.

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

FINDINGS OF FACT: The anonymous complainant observed an altercation between two drivers in civilian clothing, one of whom told the other he was a police officer. The complainant said after blocking the other driver from moving, a man got out of his car, yelled and threatened an elderly man in the other car, flashed something from his wallet, claiming he was an officer. When the complainant threatened to call the police, the man claiming to be a police officer sped away. The complainant provided DPA with two possible license plate numbers but failed to respond to DPA efforts to conduct a further interview.

The identity of the alleged officer could not be established.

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

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

FINDINGS OF FACT: This is a DPA initiated Officer-Involved Shooting (OIS) investigation mandated under Proposition D passed by the voters in November 2016, which requires the DPA to investigate all such incidents. The DPA investigation focused exclusively on evaluating whether the named officer complied with SFPD policies and procedures, training and tactics.

Two officers were detailed to a Halloween event when they were approached by a man who pointed out a vehicle and told them there was something suspicious going on in it. The two officers approached, found three people standing around the car and one person seated in the back seat of the car. The officers repeatedly ordered the male subject, seated in the back seat, out of the car. The male subject eventually exited the car with a handgun and immediately shot and wounded the first officer. A gun fight ensued between the named officer and the male subject with both men discharging their firearms. The first officer was struck in the right hand and right abdomen. The first officer drew his firearm, but it was shattered by one of the bullets while he was holding it. The male subject was shot in the left pelvic area by the named officer. The injured officer and the male subject were transported to the hospital for treatment. The first officer's Body Worn Camera (BWC) was knocked off during the shooting, but later recovered. The other individuals near the suspicious vehicle fled the area on foot and later carjacked a taxi at gunpoint. These individuals were never identified or apprehended. A handgun was recovered at a separate location. The male subject's handgun was recovered at the scene near his body. The investigation confirmed that the first officer did not fire his weapon.

The DPA interviewed nine officers, including the named member, and sent Member Response Forms to six other officers who responded to the scene. Eight of the nine officers interviewed arrived on scene after the shooting. The injured officer was not interviewed by the DPA because he remains on medical leave due to his injuries and is unavailable to be interviewed. However, the injured officer was interviewed at the hospital shortly after the incident by investigators from SFPD Homicide, Internal Affairs, and the District Attorney's Office Independent Investigations Bureau (IIB). The interview was recorded and DPA reviewed the video of the injured officer's interview. The officer's statements are consistent with the named officer's and witness' statements.

The male subject was not interviewed by DPA because his attorney advised his client would not be available for an interview due to pending criminal charges.

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Records from the Department of Emergency Management (DEM)

Records from the Department of Emergency Management (DEM) show DEM receiving numerous calls from residents who reported hearing shots. A 911 caller reported hearing shots and seeing the shooter. Another caller reported hearing a loud male and female, then gunshots. The primary unit officers notified dispatch they were taking on a suspicious vehicle. DEM was then notified “*have 1 he locked himself in veh*”. The first officer notified dispatch, “*408 I’ve been hit.*” Multiple units responded to the scene.

Civilian Witnesses

Witness #1 stated he was in his second story apartment and heard several “enormous explosions.” He thought they were fireworks. He went to his bay window and looked outside and first saw an officer lying on the ground, trying to get up. He said the officer was “writhing” on the street, and there was blood. He then saw a man in a reddish jacket (not sure of the color, but it was not the same police uniform the officer was wearing) walking “deliberately” southbound on the sidewalk and past the officer on the ground. It did not look like the man had anything in his hands. The witness looked in the direction the man was walking and saw another person kneeling in the street where there was also blood. The witness stated he clearly heard something to the effect of, “Drop the weapon,” loud and clear. Then a second barrage of shots were fired and the man kneeling in the street appeared to go down.

Witness #2 stated he saw three individuals in and near a car, and he believed they were trying to steal the car. The witness said he confronted them, and then went to look for police officers. He eventually found two officers and led them to the vehicle. The witness said that a male and female who had been in the car walked away, while a third individual remained in the car. The officers ordered him out of the car several times, and then the subject opened a door, pulled a gun out of his waist area, and shot the first officer at point blank range a couple of times. The officer went down to the ground. The subject then engaged in exchange of gunfire with the named officer. The witness said that the subject was hit and went down.

Witness #3 stated he was driving up the street and saw a male wearing a black or dark blue pea coat, white t-shirt, and dark/black baseball hat with his arms outstretched. The subject appeared to be moving around. The witness stated he heard gunshots and assumed they were coming from the subject. He stated the subject was in front of an open door to a vehicle and when he passed the vehicle he also saw a subject on the ground.

Witness #4 stated she was woken up by the sound of two male voices outside. She could not hear what they were saying, but it was something about a car. A couple of minutes later she heard another group walk by and they exchanged Halloween greetings. She got up and went into a front room, looked out a window and saw a man with dark short hair, wearing a red jacket, standing on the sidewalk in front of a

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staircase. The witness said she heard an authoritative voice say three or four times, “keep your hands up. I need to see your hands.” She also heard, “if you have weed in there, it’s not worth going to jail for.” It sounded like an officer to her. He was speaking forcefully but not “panicky.” She then saw a dark flash from the driver side of a vehicle, saw “sparks,” and heard “pop, pop.” The witness said she got down and ran to the back of her house toward her husband, so they could call police. It sounded like 3 shots, then she heard 3 or 4 more, and a couple after that. She did not recall hearing any car alarms, but about 5 minutes later heard a horn sound coming from the vehicle.

Witness #5 is the husband of witness #4. The witness stated he woke up due to a car horn repeatedly honking and a male voice speaking authoritatively outside his bedroom window, which faces the street. The voice, which the witness attributed to a police officer, was telling an unknown person or persons they would be arrested if they did not produce keys to a vehicle. The officer repeatedly stated, “Put your hands where I can see them,” “It’s not worth it,” and “Step away from the vehicle.” The witness stated he and his wife were concerned they were referring to something involving their personal vehicle, so they walked to the front room bay windows to get a better view. As his wife opened the blinds, he was standing two to three feet behind her and heard three to four gunshots emanating from below the window. He grabbed his wife and dove to the floor. During a brief pause in the gunfire, they both ran to the rear of the house where they continued to hear gunfire for another 20-30 seconds. The witness thought he heard at least 14 shots. He did not witness any of the participants in the shooting.

Witness #6 stated he was inside his house near his front window when he heard someone yelling “Get out of the car” multiple times, and then he heard honking. He looked out his window and saw three subjects outside of a vehicle. He could not tell if the subjects were police officers, male, or female; and he could not provide a further description due to the lack of lighting in the area.

Statement of Named Officer

The named officer stated that he and his partner were on foot patrol in their assigned area when they were approached by a citizen who told them he believed somebody was breaking into a car up the street. The citizen walked both officers to the location. The named officer observed a car parked near a tree. The car was parked on the east side of the street and there were three people standing on the sidewalk next to the car and a person was sitting in the passenger side back seat, with the door open and his legs out of the car. The named officer said his partner walked towards the car. The three people on the sidewalk backed away from the car trying to show they were not associated with the car. The officers asked who the car belonged to. The officers did not see any broken windows or anything unusual, so they initially thought there was no merit to the vehicle break-in reported by the citizen. The male subject in the back seat closed the rear passenger door and locked himself in the vehicle.

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The named officer said he shined his flashlight into the car and saw some rolling papers and marijuana on the male subject's lap. He ordered the male subject to get out of the car. He then observed the people on the sidewalk walking away southbound. The named officer stated that he and his partner decided to focus on the male subject in the car. He refused to get out of the car and told officers he didn't have the keys, so he couldn't get out of the car. They were both ordering him to get out of the car and he did not comply. The named officer stated he could see the male subject moving inside the vehicle. His partner circled around to the driver side of the vehicle. The named officer was on the sidewalk side and circled to the front of the car to try and get a license plate number. The subject in the car made his way from the back seat to the front seat. The named officer then went to the back of the car and observed there was no license plate. He advised dispatch. He was able to see the subject in the car fiddling with the ignition. He thought the subject was going to try and leave. His partner remained on the driver side of the vehicle next to the driver window. He heard the car horn start honking and thought the subject in the car was pressing the horn. Then he thought that one of the individuals who was walking away had used a key fob, causing the honking. The named officer said, at that point, he was thinking about how he and his partner were going to get the subject out of the car. He thought they possibly had a stolen car, but regardless, it had no license plates and warranted further investigation.

The named officer and his partner ordered the subject out of the car multiple times. He said he then heard three loud pops. Initially, he didn't think it was gunshots. He thought, perhaps, it was his partner breaking the window. The named officer said he then saw that the subject was out of the car and had fired a couple of rounds. The subject then pointed his gun at him over the roof of the car and started firing. The named officer said he ducked, drew his handgun at some point, and began firing back at the subject. He tried to back away southbound while the subject was chasing him and firing at him. He stepped out into the street and went around another car to get cover, then tripped and fell. The subject was still there. The named officer stated he tried to get up, fell again and tumbled. The subject was still firing at him. The named officer stated his gun was empty, so he had to reload. When he reloaded his gun magazine, it did not seat properly and fell to the ground. He grabbed another magazine, reloaded and fired back at the subject. He could see the subject kneeling and ordered the subject to get on the ground. He didn't hear any more gunshots. Then he started calling for help and other units arrived. Arriving officers approached the subject with guns drawn and put the male subject in handcuffs. The subject was laying on his right side. The subject's weapon was in the street right behind him.

The named officer stated he did not give any warning to the suspect before firing his weapon at him. The subject fired first. The named officer stated he discharged his firearm because he feared for his life and his partner's safety.

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Statement of Witness Officer #1

Witness Officer #1, the named officer's partner, stated that a male directed him and his partner to a car that he said was being robbed. He said that he saw other individuals in and near the car, but they walked away when they approached. He stated that the subject remained inside the car with the windows closed and doors locked. He stated that he and his partner ordered the subject out of the car, but that the subject moved around in the car as if he was trying to find a way to escape and claimed he could not comply because the doors were locked. As he was positioned near the left rear door of the car, the subject kind of kicked the door open. He said he heard "pop, pop" and realized the subject was shooting at his stomach. The officer stated he did not see the subject's gun, but he did see the muzzle flashes at this point. He said that the subject then got out of the car and engaged with the named officer outside of the car. He stated that he must have instinctively grabbed his gun, and he remembered seeing a bullet go through his hand and he dropped his gun. The officer stated that he was not sure if that bullet was from the subject or the named officer returning fire. He said he did not think he was able to fire any shots. The only time he saw the subject's gun was when he was engaging with the named officer. The officer said he started to move away, but quickly realized he needed to help his partner. He said he found his gun on the ground near the rear of the car, but it appeared to be damaged. At that point, the subject appeared to give up and fall to the ground.

Other Witness Officers

Witness officers that arrived immediately after the shooting said they found a person on the ground, presumed to be the suspect, who was bleeding. The officers corroborated the fact that there was a gun on the ground, a few feet away from the suspect, and its slide was locked to the rear. Some of the arriving witness officers provided medical aid to the injured officer, while others provided medical aid to the suspect.

Physical and Forensic Evidence

The named officer's BWC recording begins in buffering mode, so does not include audio. It shows that he was attempting to reload his firearm, while behind a car. He then moves to the right of the car and points his firearm, and possibly fires. He goes back behind the car briefly, then reemerges and points his gun. He activates his camera and a person is on the ground in front of him, moaning. Another individual is standing and pacing, several yards away. The recording shows the named officer communicating with dispatch and continuing to point his weapon at the individual on the ground. Other officers arrive. The named officer can be seen applying handcuffs to the person on the ground, with the help of another officer. The recording shows officers tending to an injured officer. The recording also shows the named officer asking about the "909." A bystander speaks to him and describes a male and female leaving the

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scene. The named officer reports two outstanding suspects to another officer. He then says he's the one who "shot the dude," and the officer he is speaking with tells him to be quiet. The recording shows that the named officer is removed from the area and asked about the outstanding subjects. He provides a description of a male and female, then is removed from the area. His recording is five minutes and 36 seconds long.

Surveillance video from the area is grainy and dark but shows figures with flashlights approach a car and move around it, shining the lights into the vehicle. The video shows the left, rear car door open as the headlights begin to flash. A figure standing near the door collapses and another figure jumps out and appears to get into a gun fight with another figure, who goes behind another nearby car to get cover, but moves out to fire his firearm. The figure who had jumped out of the car, eventually falls to the ground, while the person who collapsed at first, gets up and moves across the street, then back again. Several other individuals begin to arrive at this point in the video.

The Firearm Information Report confirms the subject's weapon was a Smith & Wesson SW9F, 9 caliber, slide locked back/empty, with its serial number "Scratched Off." The first officer's weapon was not fired. The named officer's weapon was a Sig Sauer P226, .40 caliber, Loaded, with 9 cartridges.

SFPD and SF District Attorney Investigations

DPA reviewed the Homicide Detail case file, Internal Affairs case file, numerous recordings, crime scene report, Chronological of Investigation, and photographs. The records indicated that the named officer provided Homicide an initial statement about the incident, then was able to watch his BWC recording and surveillance video, before a more detailed interview.

A Supervisory Use of Force Evaluation was completed by a sergeant on the date of the incident. The sergeant concluded the reason for the use of force was in defense of others or in self-defense. The report was approved by a lieutenant and captain.

The SFPD Return to Duty Panel for the named officer resulted in a recommendation from the Chief of Police a week after the incident that he be returned to his regular assignment.

The District Attorney completed a review of the incident and issued a declination findings letter on July 26, 2018, declining to file criminal charges against the two involved officers. It stated, "We did not examine nor are we offering any opinions on non-criminal collateral issues such as officers' compliance with internal SFPD policies and procedures, their training or tactics, or any issue related to civil liability."

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Analysis and Conclusion

San Francisco Police Department General Order 5.01, Use of Force, revised on December 21, 2016, states in part:

The San Francisco Police Department's highest priority is safeguarding the life, dignity and liberty of all persons.

...

I. POLICY

A. **SAFEGUARDING HUMAN LIFE AND DIGNITY.** The authority to use force is a serious responsibility given to peace officers by the people who expect them to exercise that authority judiciously and with respect for human rights, dignity and life.

B. **ESTABLISH COMMUNICATION.** Communication with non-compliant subjects is often most effective when officers establish rapport, use the proper voice intonation, ask questions and provide advice to defuse conflict and achieve voluntary compliance before resorting to force options.

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

D. **PROPORTIONALITY.** When determining the appropriate level of force, officers shall, when feasible, balance the severity of the offense committed and the level of resistance based on the totality of the circumstances known to or perceived by the officer at the time. It is particularly important that officers apply proportionality and critical decision making when encountering a subject who is armed with a weapon other than a firearm.

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...

II. DEFINITIONS:

A. **FEASIBLE.** Capable of being done or carried out to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

B. **IMMEDIATE THREAT.** An immediate threat is considered to exist if a suspect has demonstrated actions that would lead one to reasonably believe that the suspect will continue to pose a threat if not apprehended without delay. A person is an immediate threat if the officer reasonably believes the person has the present intent, means, opportunity and ability to complete the threat regardless of whether the threatened action has been initiated.

C. **MINIMAL AMOUNT OF FORCE NECESSARY.** The lowest level of force within the range of objectively reasonable force that is necessary to effect an arrest or achieve a lawful objective without increasing the risk to others.

...

E. **REASONABLE FORCE.** An objective standard of force viewed from the perspective of a reasonable officer, without the benefit of 20/20 hindsight, and based on the totality of the circumstances known to or perceived by the officer at the time.

...

G. **SERIOUS BODILY INJURY.** A serious impairment of physical condition, including but not limited to loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and serious disfigurement.

...

III. CONSIDERATIONS GOVERNING ALL USES OF FORCE

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, detention, or search.

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2. To overcome resistance or to prevent escape.
3. To prevent the commission of a public offense.
4. In defense of others or in self-defense.
5. To gain compliance with a lawful order.
6. To prevent a person from injuring himself/herself. However, an officer is prohibited from using lethal force against a person who presents only a danger to himself/herself and does not pose an immediate threat of death or serious bodily injury to another person or officer.

B. USE OF FORCE EVALUATION. The United States Supreme Court in *Graham v. Connor* (1989) 490 U.S. 386 held that an officer's use of force must be objectively reasonable under the totality of circumstances known to the officer at the time. This General Order builds upon the broad principles in *Graham* by adding additional factors upon which an officer's use of force shall be evaluated. This General Order is more restrictive than the constitutional standard and state law. Officers must strive to use the minimal amount of force necessary.

1. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than 20/20 hindsight, and without regard to the officer's underlying intent or motivation.
2. Factors for evaluating the use of force include but are not limited to:
 - a. The severity of the crime at issue;
 - b. Whether the suspect posed an immediate threat to the safety of the officers or others;
 - c. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight;
 - d. Whether the use of force is proportional to the threat;
 - e. The availability of other feasible, less intrusive force options;
 - f. The officer's tactical conduct and decisions preceding the use of force;
 - g. Whether the officer has reason to believe that the subject is mentally ill, has a physical, developmental or cognitive disability, is emotionally disturbed or is under the influence of alcohol or drugs;
 - h. Whether there was an opportunity to warn about the use of force prior to force being used, and if so, was such a warning given;
 - i. Whether there was any assessment by the officer of the subject's ability to cease resistance and/or comply with the officer's commands;

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- k. Prior contact;
- l. Environmental factors, including but not limited to lighting, footing, sound conditions, crowds, traffic and other hazards; and
- m. Whether the subject's escape could pose a future safety risk.

Not all of the above factors may be present or relevant in a particular situation, and there may be additional factors not listed.

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

- 1. Attempt to isolate and contain the subject;
- 2. Create time and distance from the subject by establishing a buffer zone (reactionary gap) and utilize cover to avoid creating an immediate threat that may require the use of force;
- 3. Request additional resources, such as Crisis Intervention Team (CIT) trained officers, Crisis/Hostage Negotiation Team, or Extended Range Impact Weapon;
- 4. Designate an officer to establish rapport and engage in communication with the subject;
- 5. Tactically re-position as often as necessary to maintain the reactionary gap, protect the public, and preserve officer safety; and
- 6. Continue de-escalation techniques and take as much time as reasonably necessary to resolve the incident, without having to use force, if feasible.

Other options, not listed above, may be available to assist in de-escalating the situation.

...

IV. LEVELS OF RESISTANCE.

A. COMPLIANT. Subject offers no resistance.

B. PASSIVE NON-COMPLIANCE. Does not respond to verbal commands but also offers no physical form of resistance.

C. ACTIVE RESISTANCE. Physically evasive movements to defeat an officer's attempt at control including bracing, tensing, running away, verbally or physically signaling an intention to avoid or prevent being taken into or retained in custody.

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D. ASSAULTIVE. Aggressive or combative; attempting to assault the officer or another person, verbally or physically displays an intention to assault the officer or another person.

E. LIFE-THREATENING. Any action likely to result in serious bodily injury or death of the officer or another person.

V. LEVELS OF FORCE.

Officers shall strive to use the minimum amount of force necessary to accomplish their lawful purpose.

A. LOW LEVEL FORCE. The level of control necessary to interact with a subject who is or displaying passive or active resistance. This level of force is not intended to and has a low probability of causing injury.

B. INTERMEDIATE FORCE. This level of force poses a foreseeable risk of significant injury or harm, but is neither likely nor intended to cause death. Intermediate force will typically only be acceptable when officers are confronted with active resistance and a threat to the safety of officers or others. Case law decisions have specifically identified and established that certain force options such as OC spray, impact projectiles, K-9 bites, and baton strikes are classified as intermediate force likely to result in significant injury.

C. DEADLY FORCE. Any use of force substantially likely to cause serious bodily injury or death, including but not limited to the discharge of a firearm, the use of an impact weapon under some circumstances, other techniques or equipment, and certain interventions to stop a subject's vehicle (see DGO 5.05, Response and Pursuit Driving.)

...

VI. FORCE OPTIONS.

...

G. FIREARMS AND OTHER DEADLY FORCE. It is the policy of this Department to use deadly force only as a last resort when reasonable alternatives have been exhausted or are not feasible to protect the safety of the public and police officers. The use of firearms and other deadly force is the most serious decision an officer may ever make. When safe and feasible under the totality of circumstances, officers shall consider other objectively reasonable force options before discharging a firearm or using other deadly force.

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...

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

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

- i. In self-defense when the officer has reasonable cause to believe that he or she is in immediate danger of death or serious bodily injury; or
- ii. In defense of another person when the officer has reasonable cause to believe that the person is in immediate danger of death or serious bodily injury. However, an officer may not discharge a firearm at, or use deadly force against, a person who presents a danger only to him or herself, and there is no reasonable cause to believe that the person poses an immediate danger of death or serious bodily injury to the officer or any other person; or
- iii. To apprehend a person when both of the following circumstances exist:
 - The officer has reasonable cause to believe that the person has committed or has attempted to commit a violent felony involving the use or threatened use of deadly force; AND
 - The officer has reasonable cause to believe that a substantial risk exists that the person will cause death or serious bodily injury to officers or others if the person's apprehension is delayed ...

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In this instance, the named officer and his partner were investigating a possible theft. When they first made contact with the subject, the named officer and his partner were not aware of any weapons in the car or of the subject's criminal history. There was no indication before the subject displayed his weapon and fired, that the subject was planning to, or capable of, shooting at the officers. The named officer believed he was investigating a possible car break in.

The evidence of the officers' communications with the subject before the shooting, as described by witnesses, established that they spoke authoritatively and were lawfully ordering the subject to get out of the car. One of the officers communicated to the subject that it was not worth going to jail over a small amount of marijuana. There is no evidence that the officers were overly aggressive or acting in a way that might provoke a violent reaction.

The evidence established that the subject was the first to draw a weapon, becoming an immediate threat and exhibiting a life-threatening level of resistance. The subject escalated the situation and used deadly force against the officers, forcing the named officer to take action to stop the threat and save his own life and the lives of others. Although it was just after midnight, his actions threatened a number of people, besides the officers, as they took place on Halloween night in an area that is a destination for those celebrating, with many public destinations still open and crowded within the adjacent one to two blocks. And while there are many bars, restaurants, and shops nearby, the immediate area is a dense residential area, with people's homes overlooking the location. Video evidence examined showed several pedestrians and automobiles moving about the area just before, during, and just after the shooting.

When the named officer began shooting, the subject had already shot and made contact with his partner and was now shooting at him at close range. The named officer drew his firearm and began to run to create distance between him and the subject. Neither alternatives to deadly force nor the issuing of a warning were feasible as the subject was firing at officers on a public street and had initiated the gunfire quickly and without warning. In under three minutes, the named officer and his partner reported to dispatch that they were investigating a suspicious vehicle, had one locked in a car, and that an officer had been shot.

The named officer's response of firing back was proportional to the threat, and objectively reasonable under the totality of the circumstances known to the named officer at the time.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 08/24/18 **DATE OF COMPLETION:** 10/02/18 **PAGE#** 1 of 1

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

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

FINDINGS OF FACT: The complainant stated he reported a crime to the named officer, who provided him with an Incident Report number, but when the complainant went to Southern Station three days later and asked for the report he was told that the Incident Report did not exist. The complainant concluded that the named officer did not write a report.

SFPD Records showed that Incident Report does exist and was completed by the named officer's partner on the day it was reported.

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

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COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 08/06/18 **DATE OF COMPLETION:** 10/19/18 **PAGE#** 1 of 1

SUMMARY OF ALLEGATION #1: The San Francisco Police Department failed to properly investigate.

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

FINDINGS OF FACT: The complainant stated officers did not take action to investigate and remove the person that was harassing and threatening her at the shelter.

The supervisor at the shelter stated the complainant had problems with everyone. He stated there is no record of police responding for an incident on the date provided by the complainant.

Department of Emergency Management (DEM) records show that DEM received a 911 call regarding a trespasser, but the reporting party told dispatch that police response was no longer needed.

The evidence proved that the act alleged did not occur.

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COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 08/25/18 **DATE OF COMPLETION:** 10/09/18 **PAGE #1 of 1**

SUMMARY OF ALLEGATION #1: The officer behaved inappropriately.

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

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

SUMMARY OF ALLEGATION #2: The officer drove improperly.

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: 10/26/17 **DATE OF COMPLETION:** 10/31/18 **PAGE#** 1 of 3

SUMMARY OF ALLEGATION #1: The officer intentionally damaged property.

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

FINDINGS OF FACT: The complainant stated that the named officer slashed a tent belonging to a homeless person.

The named officer said he was working with DPW to ensure their safety while cleaning the sidewalks. He asked people encamped on the sidewalk to collect their possessions and move along so DPW could clean. He stated that he observed an unoccupied tent with no residents in its vicinity. The named officer said that when a mattress was moved he located two BB guns under it. He subsequently cut open the tent to further examine the guns. The named officer stated that he then moved a box spring and located a stolen loaded .45 caliber handgun. The named officer said that he cut open the tent to safely recover potential evidence, and he believed this was the safest way to retrieve the firearm.

The named officer stated that he has been counseled and retrained by a higher-ranking officer about his actions during these incidents.

A higher-ranking officer stated that the named officer has been retrained on better techniques for recovering evidence without the use of a knife. The higher-ranking officer stated that the named officer has been successful since the retraining.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 10/26/17 DATE OF COMPLETION: 10/31/18 PAGE# 2 of 3

SUMMARY OF ALLEGATION #2: The officer behaved inappropriately.

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

FINDINGS OF FACT: The complainant stated she witnessed the named officer working with DPW to clear a homeless encampment. The complainant stated the officer was annoyed because it was close to the end of his shift. The officer told the encampment residents that they had 45 minutes to pack their belongings and move along. One of the residents had a herniated disc in his back was moving slowly because of his injury, and the named officer threatened to arrest him for not moving his tent. The complainant stated that the resident was not offered any resources to assist him.

The named officer stated that he had been on the scene with DPW for well over an hour before the complainant arrived at the encampment, and he remained at the call for approximately four hours total. The named officer stated the encampment consisted of only one tent and one resident. The officer said the resident pretended to break down his housing over the course of almost four hours but did not take any affirmative steps to do so during that time. The officer said that DPW workers saw the resident simply sitting or lying down in his tent. The officer also stated he was not nearing the end of his shift; rather, he was on duty for over four additional hours following this incident. The officer stated he offered resources to the resident multiple times, but the resident refused them. The officer also denied he ever ordered the encampment resident to move along, but he instead cited him for illegal lodging. The officer did not recall the resident saying he had back problems and recalled that he handled the resident carefully and with respect.

No witnesses were identified.

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

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DATE OF COMPLAINT: 10/26/17 **DATE OF COMPLETION:** 10/31/18 **PAGE#** 3 of 3

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

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

FINDINGS OF FACT: The complainant stated that an officer approached a homeless encampment and told the residents to leave. The officer used force when the residents were not resisting and then threw one of them into a paddy wagon, where he hit his head.

A poll sent to the police station came back with negative results.

The identity of the alleged officer could not be established.

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

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

FINDINGS OF FACT: The complainant stated that an officer approached a homeless encampment and told the residents to leave. The officer used force when the residents were not resisting, then removed the memory card from the phone of another resident who was recording his actions. The officer then broke the phone.

A poll sent to the station came back with negative results.

The identity of the alleged officer could not be established.

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DATE OF COMPLAINT: 08/31/18 **DATE OF COMPLETION:** 10/31/18 **PAGE#** 1 of 1

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

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

FINDINGS OF FACT: The complainant stated that he repeatedly called 911 and reported a noise complaint and no officers showed up to the scene.

Records from the Department of Emergency Management (DEM) show that the complainant's call was repeatedly placed on "HOLD." When the complainant's call was finally dispatched to an SFPD unit, the officers arrived on scene in less than four minutes. Records also show that the complainant told dispatch that he did not want to speak with the officers.

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

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DATE OF COMPLAINT: 09/11/18 **DATE OF COMPLETION:** 10/29/18 **PAGE#** 1 of 1

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

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

FINDINGS OF FACT: The complainant stated she approached an officer to ask if he could help her get into her apartment because she was locked out. The officer told the complainant to call a locksmith. The complainant then left.

While the identity of the named officer could not be established, the officer referring the complainant to a locksmith was appropriate.

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: 09/12/18 **DATE OF COMPLETION:** 10/22/18 **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 stated an officer on a motorcycle stopped him after he jaywalked across a street. The complainant stated the officer said, “Would you like it if I slapped you?”

A search of Department records failed to identify an officer who matched the description provided by the complainant, who was on duty on a motorcycle at the time identified by the complainant.

An officer identification poll was sent to the district station where the incident occurred. The effort failed to identify an involved officer.

The identity of the alleged officer could not be established.

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DATE OF COMPLAINT: 12/01/17 **DATE OF COMPLETION:** 10/24/18 **PAGE#** 1 of 9

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

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

FINDINGS OF FACT: The officer is no longer employed by the department and is no longer subject to discipline.

SUMMARY OF ALLEGATION #2: The officer failed to properly maintain radio contact.

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

FINDINGS OF FACT: The officer is no longer employed by the department and is no longer subject to discipline.

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

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

FINDINGS OF FACT: The officer is no longer employed by the department and is no longer subject to discipline.

SUMMARY OF ALLEGATION #4: The officer failed to comply with DGO 5.02, Use of Firearms.

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

FINDINGS OF FACT: The officer is no longer employed by the department and is no longer subject to discipline.

**DEPARTMENT OF POLICE ACCOUNTABILITY
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SUMMARY OF ALLEGATION #5: The officer failed to comply with DGO 5.05, Emergency Response and Pursuit Driving.

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

FINDINGS OF FACT: The officer is no longer employed by the department and is no longer subject to discipline.

SUMMARY OF ALLEGATION #6: The officer failed to properly maintain radio contact.

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

FINDINGS OF FACT: The Department of Police Accountability (DPA) initiated an investigation in which a named officer used deadly force against an unarmed individual (“decedent”). The decedent was the suspect in a crime and fled the scene in a vehicle. The named officer and his partner engaged in a vehicle pursuit with the decedent. The pursuit ended with both the decedent’s vehicle and the officers’ patrol car stopped at a dead end. The decedent exited his vehicle and moved towards the officers. One of the officers fired a single shot, killing the man.

Records from the Department of Emergency Management (DEM)

Audio from the Department of Emergency Management (DEM) shows that the named officers did not identify themselves and their location at any time. The first radio communication from their unit identifier comes only seconds before the shooting occurred.

Statement of Named Officer #1

Named Officer #1 had recently graduated from police academy. He stated that because he lacked a trained radio ear, he did not hear the dispatcher broadcast several important pieces of information. Named Officer #1 stated he was unable to announce their location on the radio because he was busy spotting for the second named officer. He believed it was more important to help Named Officer #2 drive safely than to get on the radio and broadcast to other officers. Named Officer #1 also stated he did not want to tie up radio traffic.

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SUMMARY OF ALLEGATION continued:

Statement of Named Officer #2

Named Officer #2 stated he does not remember if he or Named Officer #1 notified dispatch that they were headed to an assignment. Named Officer #2 did not remember if they radioed at all that they were going out on patrol. He stated that if they did not, it was because there was so much radio traffic that he did not want to tie the radio up. Named Officer #2 also said he believed he and the other named officer put out information on the radio, but it was not captured in the audio from the DEM.

Analysis and Conclusion

DGO 1.03 states that officers shall remain in constant radio contact. Neither officer communicated their unit identifier and location with dispatch when they went into service. The officers had differing accounts of what happened. The second named officer stated that he believed he went on the radio to give dispatch information, but there is no record of such a communication. Both officers stated that they did not want to tie up radio traffic. The officers' failure to maintain radio communications put them both in an unsafe situation. Their omissions also obscure some of the important purposes of maintaining radio communication – to provide a record that is reviewable in hindsight to determine the actual course of events, to document accountability, or, as in this case, to avoid potentially fatal errors. The officers' differing accounts further cloud any accounting of the events leading up to the fatal shooting. Department regulations require that, at the very least, the officers should have radioed their unit identifier to dispatch and describe their location and destination.

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

SUMMARY OF ALLEGATION #7: The officer failed to properly follow vehicle pursuit policy.

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

FINDINGS OF FACT: The Department of Police Accountability (DPA) initiated an investigation in which the suspect in a crime fled the scene in a vehicle. The named officer and his partner engaged in a vehicle pursuit wherein they failed to adhere to Department pursuit policy. The pursuit ended with both the decedent's vehicle and the officers' patrol car stopped at a dead end. The decedent exited the vehicle and moved towards the officers. The named officer's partner fired a single shot, killing the man.

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SUMMARY OF ALLEGATION continued:

Records from the Department of Emergency Management (DEM)

There is no indication in the audio recordings or the printed CAD transcript that the officers identified themselves and called in a Code 33 when they engaged in a high-speed pursuit.

Statement of Named Officer #1

Named Officer #1 had recently graduated from police academy. He stated that because he lacked a trained radio ear, he was unable to use the radio very well. Named Officer #1 stated that he was unable to announce their location on the radio because he was busy spotting for Named Officer #2. He believed it was more important to help his partner drive safely than to get on the radio and broadcast to other officers. Named Officer #1 also stated that he did not want to tie up radio traffic.

Statement of Named Officer #2

Named Officer #2 stated that he engaged in a pursuit as the primary pursuit vehicle. He noticed there was a secondary vehicle behind him. He stated that he was concentrating on driving and was not able to safely use the radio. He also said that he assumed the secondary unit would handle the radio communications. Named Officer #2 stated that he instructed Named Officer #1 to inform dispatch when he believed the suspect was going to abandon his vehicle and flee on foot.

Analysis and Conclusion

DGO 5.05 states that when a “unit initiates a pursuit, the unit shall communicate to DEM that it is in a pursuit and request a “Code 33.” The DGO requires that an officer's initial broadcast of a pursuit shall contain the following information: 1) Unit designation and description of the pursuing unit, if it is not a marked patrol sedan; 2) The suspected law violation(s) or reason for the pursuit; and 3) Location, direction of travel, and speed of pursuit.

In this instance, neither officer communicated basic, required information when they engaged in the vehicle pursuit. Named Officer #1 stated that he was “spotting” for the other named officer and could not safely communicate over the radio. Named Officer #1 also mentioned that he is a novice at radio communications. Named Officer #2 stated that he was concentrating on driving and that communicating on the radio would not be safe. However, engaging in a high-risk vehicle pursuit without communicating

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SUMMARY OF ALLEGATION continued:

is also extremely unsafe. DGO 5.05 states, “Communications from the pursuing unit(s) to DEM are essential. It is imperative that the pursuing unit(s) provide DEM with all information necessary for initial and ongoing supervisory evaluation of the pursuit.”

Named Officer #2 also stated that he expected the secondary unit to handle communications once he had engaged as the primary pursuit vehicle. There is nothing in DGO 5.05 about the secondary unit taking over communications for a primary unit; neither is there any ambiguity regarding the instruction that when a “unit initiates a pursuit, the unit shall communicate to DEM that it is in a pursuit and request a Code 33.” While this incident occurred in a matter of seconds, Named Officer #2 could have made the decision to terminate the pursuit because they were unable to perform basic safety measures required by department regulations. Alternately, Named Officer #2 should have thought twice before embarking on a vehicle pursuit partnered with a trainee who obviously did not possess the requisite radio skills to fulfill the requirements of the DGO.

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

SUMMARY OF ALLEGATION #8: The officer failed to properly supervise.

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

FINDINGS OF FACT: The Department of Police Accountability (DPA) initiated an investigation in which a named officer used deadly force against an unarmed individual (“decedent”). The decedent was the suspect in a crime and fled the scene in a vehicle. The named officer and his partner engaged in a vehicle pursuit with the decedent. The pursuit ended with both the decedent’s vehicle and the officers’ patrol car stopped at a dead end. The decedent exited his vehicle and moved towards the officers. Named Officer #1, who was on his fourth day of field training, fired a single shot, killing the man. The DPA found that the officers committed several errors: they did not maintain radio communication, they did not follow Department pursuit policy, and they failed to activate their body-worn cameras. Named Officer #2 was the Named Officer #1’s field training supervisor.

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SUMMARY OF ALLEGATION continued:

Statement of Named Officer #1

Named Officer #1 stated that he arrived at his shift early to get his equipment ready. While he was getting ready, a high-priority call came over the radio. Named Officer #2 told Named Officer #1 to get in the car because they were going out on the call, despite their shift not having yet begun. The officers then engaged in a pursuit of the suspect. Named Officer #2, who was the supervising officer, gave very little guidance to Named Officer #1, his recruit officer.

Statement of Named Officer #2

Named Officer #2 stated that he had been the field training officer for the recruit officer for the three days prior to this incident. When the officers were getting ready for their shift, a high priority call came in and Named Officer #2 told his recruit to get into the car because they were going to take a report. Named Officer #2 stated that he wanted to offer some training during a high priority call. The officers got into a pursuit and Named Officer #2 decided to become the primary pursuit vehicle. As the pursuit was about to end, Named Officer #2 told the recruit that he believed the suspect was going to exit his vehicle and flee on foot. Named Officer #1 unholstered his gun, and when the decedent ran towards them he shot and killed the man. Named Officer #2 stated that he did not know that Named Officer #1 had his gun out.

Analysis and Conclusion

In his position as a field-training officer, the named officer was directly responsible for the actions of his recruit officer. The named officer received a 40-hour training on the duties of a field-training officer in 2014 and a 24-hour follow-up training in 2016. The training material used by the SFPD Academy teaches officers who are going to be FTOs that they are “considered a supervisor of trainee” and are “responsible for performance of subordinates.” Potential FTOs are also trained when to step in and when to let a trainee perform. Finally, the training materials exhort, “Responsibility truly remains with the supervisor.”

A subject matter expert stated that field-training officers are instructed that they are 100 percent in a supervisory role over their recruit. Should something occur that appears to be serious or potential misconduct, the FTO is required to step in and prevent it from happening. Although there is no specific DGO that spells out the responsibilities of an FTO, SFPD follows the state of California’s POST training

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SUMMARY OF ALLEGATION continued:

guidelines. Those POST training guidelines state that FTOs are the supervisors of their recruits, and thus are responsible for their actions: “Field Training Officers (FTOs) have significant additional responsibilities over and above their law enforcement duties when assigned to train a new officer. In addition to performing in an exemplary manner, while trainees closely watch, FTOs must slow their pace to review the purpose and detail of every new encounter.”

The officers in this matter failed to perform basic police functions meant to preserve the safety of officers as well as the public, and to limit Department liability. As the field training officer, the named officer was responsible for correcting these mistakes or slowing down the encounter. In this situation, the named officer should have corrected the recruit officer’s mistakes immediately or else terminated their involvement in a high-risk, felony, vehicle pursuit. Also, as a supervising officer, it was the duty of the named officer to model appropriate conduct even under the most stressful conditions.

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

SUMMARY OF ALLEGATION #9: The officer failed to take a required action.

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

FINDINGS OF FACT: The Department of Police Accountability (DPA) initiated an investigation in which a named officer used deadly force against an unarmed individual (“decedent”). The decedent was the suspect in a crime and fled the scene in a vehicle. The officers responded and initiated a pursuit. The pursuit ended with both the decedent’s vehicle and the officers’ patrol car stopped at a dead end. The decedent exited his vehicle and moved towards the officers. The named officer’s partner fired a single shot, killing the man. Neither of the officers activated their body-worn cameras during the pursuit as required by Department policy.

Statement of Named Officer #1

Named Officer #1 stated that he turned on his body-worn camera after he fired his gun at the decedent. The camera’s 30-second buffering period captured the shooting but not the pursuit that occurred prior.

Statement of Named Officer #2

Named Officer #2 stated that he did not activate his body-worn camera when he initiated a pursuit, because he was concentrating on safely maneuvering the vehicle. Named Officer #2 stated that when the

**DEPARTMENT OF POLICE ACCOUNTABILITY
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SUMMARY OF ALLEGATION continued:

pursuit ended and the shooting occurred, he attempted to turn on his body-worn camera but failed. Named Officer #2's body worn camera was never activated during the incident.

Analysis and Conclusion

DGO 10.11 states that all on-scene members equipped with a body-worn camera shall activate their body-worn camera equipment to record during a vehicle pursuit. Neither officers activated their body-worn camera when they entered into this vehicle pursuit. While the named officer explained that he was paying attention to the road and could not turn on his body-worn camera, that statement does not negate his responsibility to do so. Vehicle pursuits inherently involve risky driving, yet DGO 10.11 is still explicit about activating the camera during them. Furthermore, the named officer was required to activate his body-worn camera when he engaged with the suspect, as well as when a shot was fired, yet he did not.

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

SUMMARY OF ALLEGATION #10: The officer failed to properly supervise.

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

FINDINGS OF FACT: The Department of Police Accountability (DPA) initiated an investigation in which a named officer used deadly force against an unarmed individual ("decedent"). The decedent was the suspect in a crime and fled the scene in a vehicle. When the call went out regarding the fleeing suspect, a field training officer asked his supervisor, the named officer, if he could respond to the call with his recruit trainee. The named officer agreed. The FTO and his trainee engaged in a vehicle pursuit that ended with both the suspect's vehicle and the officers' patrol car stopped at a dead end. One of the officers fired a single shot, killing the man.

Statement of Officer #1

The first officer stated that he got to work early for his shift as a recruit officer so that he could prepare his equipment and be ready for the day. While he was getting ready, a high priority call came over the radio and his field training officer told him to get in the car because they were leaving. While in the car, the

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SUMMARY OF ALLEGATION continued:

recruit officer realized they could not access the on-board computer because they could not sign in to the system before their shift started. The recruit officer could still use his radio but had trouble understanding everything that was going on. The two officers then got into a pursuit that ended with a fatal officer involved shooting.

Statement of Officer #2

The second officer stated that he was working with his recruit officer before their shift so that they could be prepared for the day. While the recruit officer was getting ready, a high priority call came over the radio. The second officer asked his supervisor, the named officer, if he could take his recruit out on the call. The named officer approved. The second officer told his recruit to get in the car because they were leaving to go take a report at the original scene of the crime. While in the car, the officers were unable to use their computer because they could not sign into the system before their shift had started. The second officer was able to monitor his radio. The two officers then got into a pursuit that ended with a fatal officer involved shooting.

Statement of Named Officer

The named officer stated that he was the supervisor of the other two officers when a high-priority call came in over the radio. One of the officers asked the named officer if he could take his recruit out on the call. The named officer acknowledged giving his consent. He stated that he approved of the two officers going out on the call prior to the start of their shift because the call would require a lot of officers. The named officer stated that he trusted the field-training officer with his recruit because he believed the FTO was an experienced officer who would do the right thing. The named officer stated that it is common to send officers off before their shift if needed and that a radio is all they require to maintain communications. The named officer commented that an on-board computer is just a luxury.

Conclusion

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: 09/12/18 **DATE OF COMPLETION:** 10/18/18 **PAGE#** 1 of 1

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

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

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

San Mateo County Sheriff's Office
Bureau of Professional Standards
400 County Center
Redwood City, CA 94063

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 12/11/17 **DATE OF COMPLETION:** 10/01/18 **PAGE#** 1 of 1

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

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

FINDINGS OF FACT: The complainant was involved in a child visitation dispute with his ex-girlfriend. The complainant and his ex-girlfriend shared a bedroom in a household with nine other relatives. The complainant reported a burglary of his bedroom at the same time his ex-girlfriend reported him for concealing their son and depriving her lawful visitation rights. The complainant accused the named officer of ignoring his report of a burglary.

The named officer said he initially prepared one incident report including the child concealment and the burglary identifying both parties and their respective accusations against one another. However, superiors directed him to bifurcate the crimes and prepare separate reports.

Department records show that the named officer prepared both crime reports as directed by superiors and included in each report the other report number, as a related case for investigators to follow up and on which they could take appropriate action based on additional information or evidence.

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: 09/18/2018 **DATE OF COMPLETION:** 10/31/18 **PAGE#** 1 of 1

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

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 09/24/18 **DATE OF COMPLETION:** 10/29/18 **PAGE#** 1 of 1

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

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

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

San Francisco Public Library
100 Larkin Street
San Francisco, CA 94102

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 09/25/18 **DATE OF COMPLETION:** 10/10/18 **PAGE#** 1 of 1

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 09/26/18 **DATE OF COMPLETION:** 10/30/18 **PAGE#** 1 of 1

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

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

FINDINGS OF FACT: By mutual agreement of the complainant and the named officers, the complaint was mediated and resolved in a non-disciplinary manner on October 26, 2018.

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

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

FINDINGS OF FACT: By mutual agreement of the complainant and the named officers, the complaint was mediated and resolved in a non-disciplinary manner on October 26, 2018.

SUMMARY OF ALLEGATIONS #5-6: The officers applied tight handcuffs.

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

FINDINGS OF FACT: By mutual agreement of the complainant and the named officers, the complaint was mediated and resolved in a non-disciplinary manner on October 30, 2018.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 09/28/18 **DATE OF COMPLETION:** 10/01/18 **PAGE#** 1 of 1

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 10/01/18

DATE OF COMPLETION: 10/04/18

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

CATEGORY OF CONDUCT:

FINDING:

IO-1/SFPD IAD

DEPT. ACTION:

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 12/22/17 **DATE OF COMPLETION:** 10/05/18 **PAGE#** 1 of 2

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

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

FINDINGS OF FACT: The complainant, who wished to remain anonymous, stated she works at a school. Police were called to the school and an officer grabbed one of the students by his collar and lifted him off his feet and asked him why he was trying to be tough. The complainant stated that she had a video but refused to provide it.

The named officer stated he was called to the school because there was a rumor of a gun on campus. When he arrived, there were a lot of students out in the yard. A school employee pointed out two boys who were suspected of having a gun. The named officer went to pat down the boys for weapons when one of the boys started getting angry. The boy then walked aggressively towards the school employee as though he was going to assault her. The named officer grabbed the boy by the shoulders and moved him away from the employee. The named officer denied picking the boy up by the collar and lifting him off his feet. The officer stated that he asked the student why he was trying to be tough because the student was not known to have aggressive tendencies.

A witness officer stated that there was no force used during the encounter.

Another school employee who witnessed part of the encounter stated that there was no force used.

A preponderance the evidence established that the named officer did not grab one of the students by his collar and lift him off his feet.

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

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COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 12/22/17 **DATE OF COMPLETION:** 10/05/18 **PAGE#** 2 of 2

SUMMARY OF ALLEGATION #2: The officer handcuffed someone without justification.

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

FINDINGS OF FACT: The complainant stated that an officer handcuffed two students for no reason. The complainant stated that she had a video but refused to provide it.

The named officer conducted a pat search of two students after receiving a rumor that there was a gun on campus. The named officer stated that he never handcuffed the students.

A witness officer stated he did not see any handcuffing. A school employee who witnessed part of the encounter stated that he did not remember any handcuffing.

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

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

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

FINDINGS OF FACT: The DPA alleged that a named officer should have written an incident report after an encounter with two boys at a high school. The complainant had alleged that there was force used and that the students were put in handcuffs.

The DPA was unable to review the body-worn camera footage due to the presence of several juveniles; however, after interviewing the officers and a witness, the DPA concluded that there was no force involved and that the students were never handcuffed. While there was a search for weapons, it was based on reasonable suspicion and the detention was brief. The named officer was not required to write a report based on department rules and regulations.

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

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COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 12/28/17 **DATE OF COMPLETION:** 10/12/18 **PAGE#** 1 of 2

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

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

FINDINGS OF FACT: The complainant, who is a cab driver, stated that he was helping some elderly passengers into his taxi when a MUNI bus honked behind him. The complainant said that the sound of the bus horn attracted the named officer's attention. The complainant stated that the officer and the bus driver were both African-American, while he himself is not. The complainant stated that because of this, the named officer stopped and cited him due to his race.

The complainant provided a dashcam video of part of the incident. The video shows the complainant's taxi approaching the busy intersection of Market and Hyde. The video then shows an older man with a suitcase stepping to the curb and hailing the cab. Despite the light being green, the taxi slows to a stop at the corner, blocking the traffic behind it.

The named officer stated that he heard the bus sound its horn and saw that it was behind the taxi, unable to move forward. The officer stated that he did not see any passengers in the taxi. The officer denied that race played any issue in his decision to issue a citation because he looks at the violation, not the race of the individual.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 12/28/17 **DATE OF COMPLETION:** 10/12/18 **PAGE#** 2 of 2

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

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

FINDINGS OF FACT: The complainant stated that he should not have received a citation for stopping to help his passengers into his taxicab. He said that the passengers he stopped for were elderly and disabled, and his actions were therefore protected under the Americans With Disabilities Act.

The complainant provided a dashcam video of part of the incident. The video shows the complainant's taxi approaching the busy intersection of Market and Hyde. The video then shows an older couple with a suitcase stepping to the curb, and the man hailing the cab. Neither the man nor his wife appears to be disabled. Despite the light being green, the taxi slows to a stop at the corner, blocking the traffic behind it.

The named officer stated that a bus stuck behind the cab started blowing its horn when the cab driver refused to move. The officer stated that the complainant was stopped past the crosswalk and was in the middle of the intersection. The officer then made a U-turn and cited the complainant for impeding the flow of traffic and failing to have current registration tabs. The officer said that at the time he saw the stopped cab impeding traffic, he did not see any passengers in the cab. The officer further stated that CVC 22400(a) does not indicate any exception for picking up disabled or elderly passengers.

The complainant admitted the vehicle's registration tags were not current. He stated that he did not own the cab and was not responsible for the expired tags.

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: 10/11/18 **DATE OF COMPLETION:** 10/17/18 **PAGE#** 1 of 1

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

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 10/16/18 **DATE OF COMPLETION:** 10/30/18 **PAGE #1 of 1**

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

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

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

SUMMARY OF ALLEGATIONS #3-4: The officers detained the complainant without justification.

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

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

SUMMARY OF ALLEGATIONS #4-5: The officers used unnecessary force.

CATEGORY OF CONDUCT: UF **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: 10/19/18 **DATE OF COMPLETION:** 10/23/18 **PAGE#** 1 of 1

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

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 10/24/18 **DATE OF COMPLETION:** 10/29/18 **PAGE#** 1 of 1

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

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

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

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: 10/30/18 **DATE OF COMPLETION:** 10/31/18 **PAGE#** 1 of 1

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

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

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

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