

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 01/11/19 **DATE OF COMPLETION:** 06/12/19 **PAGE#** 1 of 2

**SUMMARY OF ALLEGATIONS #1:** The officer made a detention without justification.

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

**FINDINGS OF FACT:** The complainant's mail-in complaint stated allegations of "violent sexual harassment, threatening physical behavior, condoning/aid abbet terrorism, conspiracy," and others. The complainant did not respond to multiple attempts to interview her. The DPA learned that the named officer had detained the complainant for having a dog off leash.

The named officer stated she saw the complainant's van, with its doors open, and her partner witnessed someone searching the van with a flashlight. The named officer approached the van. There was a dog sitting on the sidewalk outside the van. It was off leash. The complainant exited the van and acknowledged she owned the dog. The named officer stated she detained the complainant to cite her for having an off-leash dog and to verify the complainant was not a burglar.

The body worn camera (BWC) footage shows that none of the officers engage in violent sexual harassment, threatening physical behavior, condone terrorism or any of the other allegations made by the complainant. The BWC captures the complainant acknowledging her dog was on the sidewalk without a leash bordering a park. The complainant refuses to provide ID several times. The named officer looks up the complainant and provides her a citation.

No witnesses were identified.

41.12(a) HC states, in part: "It shall be unlawful for the owner...of any animal...to permit said animal to run at large within the City and County." The complainant's dog was off leash on a sidewalk. As the named officer had reasonable suspicion the complainant violated 41.12(a) HC, she appropriately detained the complainant to cite her.

The evidence proved that the acts that provided the basis for the allegations occurred; however, such acts were justified, lawful, and proper.

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**SUMMARY OF ALLEGATIONS #2:** The officer wrote a citation without cause.

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

**FINDINGS OF FACT:** The complainant filed a complainant concerning her interaction with SFPD officers. Despite numerous attempts to contact the complainant, the DPA was unable to interview her. The DPA learned the complainant's allegations stemmed from being cited for having a dog off leash and delaying an officer from completing their duties.

The named officer stated that the complainant's dog was off leash and sitting unattended on the sidewalk. This resulted in the named officer citing the complainant for 41.12(a) HC. The named officer stated she asked for the complainant's identification to cite her and the complainant would not. The named officer stated the complainant provided her identifying information verbally after approximately twenty minutes of arguing. The named officer explained she cited the complainant for 148(a)(1) PC for causing this delay.

The BWC footage from the scene shows the complainant acknowledging her dog was off leash on the sidewalk. Additionally, it captures the complainant arguing with the three officers on scene and refusing to provide ID when requested. The complainant refuses to provide her ID for approximately six and a half minutes.

41.12(a) HC states, in part: "It shall be unlawful for the owner...of any animal...to permit said animal to run at large within the City and County." DB 17-069, Verifying Identities When Booking or Citing Subjects, states, in part, "Verbal information should not be accepted as identification unless it can be independently verified." DGO 6.18, Warrant Arrests, states, in part, "Officers shall make a warrant check in the following instances...prior to completing a citation for a...infraction...provided that it can be completed in the time reasonably necessary to issue the citation." 148(a)(1) states, in part, "Every person who willfully resists, delays, or obstructs any...peace officer...in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed, shall be punished."

The named officer saw the complainant's dog off leash and unattended on a sidewalk. The named officer requested the complainant's ID to confirm her identification and she refused.

The evidence proved that the acts that provided the basis for the allegations occurred; however, such acts were justified, lawful, and proper.

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

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

**FINDINGS OF FACT:** The complainant stated that he was being electrocuted through the floor of his apartment and called the police. When the named officer responded, he did not write an incident report because the officer thought the complainant was imagining the electrocution. Additionally, the complainant stated that the police did not follow up with him after this incident.

The named officer stated that after he responded to the scene, he looked around the complainant's apartment and interviewed the complainant. He found no physical evidence to indicate that the complainant was being electrocuted through the floor. The officer stated the complainant did not appear injured and there was no smoke or smell of burned flesh, rubber, or wood in the apartment. The named officer stated he wrote an incident report and gave the report to the Station Investigation Team for follow up.

A witness officer stated that when he observed the complainant walking to the front gate to admit the officers into his building, he appeared to have no injuries caused by electrocution.

Department records show that the named officer wrote an incident report.

Body worn camera footage shows that the named officer interviewed the complainant, who had no visible injuries from any electrocution. The footage also shows that the officer asked whether the complainant needed medical attention, the complainant refused and requested a police report instead.

A supervising investigator on the SIT team stated that the case was not assigned for follow-up.

The evidence shows that the officers interviewed the complainant and looked for signs of electrocution in the apartment with negative results. Despite being unable to locate any physical evidence, the named officer wrote an incident report. Due to the lack of physical evidence, the case was not assigned for investigation.

The evidence proved that the acts, 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 wrote an inaccurate incident report.

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

**FINDINGS OF FACT:** The complainant stated that the named officer misstated his last name on an incident report, prompting the complainant to file a supplemental report online to correct it. The complainant also stated that information he provided naming his housing manager as a suspect was not included in the report.

The named officer stated that he wrote the complainant's correct surname on the incident report, and does not recall the complainant telling him that the manager was a suspect.

Witness officers stated they have no memory of the complainant providing any information regarding the housing manager being a suspect.

Department records show that the incident report provides the complainant's correct name and no supplemental report was filed.

Body worn camera footage shows the complainant talking to the officers without providing any information regarding potential suspects.

The evidence shows that the named officer wrote the incident report with the complainant's correct surname, and that the complainant did not provide any suspect information to the officers during the incident.

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

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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

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**DATE OF COMPLAINT:** 02/05/19 **DATE OF COMPLETION:** 06/10/19 **PAGE#** 1 of 2

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

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

**FINDINGS OF FACT:** The complainant stated that the named officer cited him for double-parking, when he was actually just waiting for another car to leave a parking space.

The named officer said his demeanor was calm and professional.

The named officer's partner did not recall the incident.

The complainant submitted photos of the named officer and his partner sitting in their patrol car. In the image, they are looking towards the complainant and appear calm.

The Notice of Parking Violation was signed by the named officer and shows that the violation alleged was double parking.

No independent witnesses were identified.

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

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

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

**FINDINGS OF FACT:** The complainant stated that he asked for the officer's name and star number and he just pointed to the citation. He said the citation only had the officer's star number.

The named officer stated he provided his name and star number verbally, but also told the complainant that the information was on the citation.

The citation shows the officer's star number and signature, though the signature is difficult to read.

Department General Order 2.01 rule 14, Public Courtesy, states, "When requested, members shall promptly and politely provide their name, star number and assignment."

No independent witnesses were identified.

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

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

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

**FINDINGS OF FACT:** The complainant stated that the named officer cited him for double parking, but he was actually waiting for a car to move from its parking space.

The named officer stated that he saw the complainant double parked and blocking traffic for several minutes. He stated that when he first saw the complainant, he was near a person loading the trunk of a car, but there was no one else in that car. He later saw the complainant's car parked in that person's space.

California Vehicle Code section 22500 states: "A person shall not stop, park, or leave standing any vehicle whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or official traffic control device, in any of the following places ... On the roadway side of a vehicle stopped, parked, or standing at the curb or edge of a highway ..."

By the complainant's own admission, he was stopped on the roadway side of a parked vehicle. The named officer was therefore justified in citing him for this violation.

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

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**SUMMARY OF ALLEGATIONS #1 - 3:** The officers behaved inappropriately.

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

**FINDINGS OF FACT:** Officers responded to a call regarding a verbal argument between neighbors. Once on scene, the complainant requested that the officers also document a prior sexual battery. The complainant stated that the named officers were insensitive, disrespectful of the complainant's religious customs, and dismissive of the complainant's concerns. The complainant also stated that some of the officers engaged in victim-blaming.

Despite numerous requests, the complainant failed to provide additional information or evidence, and therefore DPA could not make findings.



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

**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 05/30/19.

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

**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 05/30/19.

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**DATE OF COMPLAINT: 03/20/19    DATE OF COMPLETION: 06/20/19    PAGE# 1 of 3**

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

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

**FINDINGS OF FACT:** The complainant stated that his vehicle was impounded by the named officer without justification. He said he bought the car for his son, but also acknowledged that it was registered to his son's mother, because she had a valid driver's license.

The named officer stated that witnesses reported a physical altercation had occurred between an adult male and a juvenile inside the van. He said that based on the witness statements, and the information he received from the responding officers, he told them to tow the van and put a hold on it.

The incident report documented that SFPD officers arrived on scene and contacted the juvenile; however, the complainant had fled the location on foot. During the officer's investigation the juvenile stated that she was scared, and admitted to a physical altercation inside the van, but would not identify the person in the van. The report noted that the juvenile had blood on her shirt. According to the report, the mother of the juvenile stated that she believed her daughter had been sexually exploited by the complainant since the juvenile was 12 years old. The report documented that the van was registered to a car dealership.

The chronological of investigation documented that SFPD officers contacted the named officer and briefed him on the situation. The chronological documented that the named officer received a call from a female who said she owned the van and bought it for the complainant. The female's probation officer later called and informed the named officer that the complainant is the father of one of her adult children.

Department General Order 9.06, Vehicle Tows, states, "Section 22655.5(a) of the California Vehicle Code states, when any vehicle is found upon a highway or public or private property and a peace officer has probable cause to believe that the vehicle was used as the means of committing a public offense, it may be impounded."

Based on the statement from the juvenile and witnesses, the named officer established enough facts to justify towing the vehicle.

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 seized property without justification.

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

**FINDINGS OF FACT:** The complainant stated that his vehicle was impounded by the named officer and his personal property was not released to him. He stated that he had items for work and school, and had his wallet and other personal items, in the van.

The incident report and chronological of investigation documented the named officer believed there was probable cause that a crime involving a juvenile occurred in the complainant's vehicle. The named officer advised the officer on scene to impound the vehicle and place a hold all items in the vehicle.

SFPD General Order 6.15, Property Processing, states, "Property may be returned to its owner if it is not contraband and cannot be connected to a crime ... The decision to release the property must be based on the facts in the case, the advice of the Investigations Bureau, the jeopardy to prosecution, and the real and urgent need of the owner." SFPD General Order 9.06, section (f) states, officers may place a "hold" on a vehicle whenever the Department needs to retain the vehicle for investigative purposes.

The named officer had probable cause to tow the van. As the complainant was not present at the time, and was not even the registered owner, there would have been no way to initially remove any personal property and return it to the complainant. Furthermore, based on the probable cause that a crime had occurred in the van, any items belonging to the complainant inside of the van would establish his presence in the van, and therefore be either connected to a crime or relevant to a possible prosecution. The named officer was therefore justified in seizing and holding the complainant's personal property found in the impounded van.

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

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**SUMMARY OF ALLEGATION #3:** The officer behaved inappropriately.

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

**FINDINGS OF FACT:** The complainant stated the named officer told hotel personnel not to rent a room to him.

The named officer stated that during the investigation he recovered evidence that the complainant, who was suspected of a crime, had been to the hotel. He acknowledged telling a desk clerk at the hotel that the complainant was the subject of an investigation but denied advising them about renting to him.

The DPA investigator interviewed the hotel manager regarding the named officer. The hotel manager stated that the complainant is clear to rent a room, and there was no standing order from the named officer.

The chronological of investigation documents that the named officer went to the hotel to seek video evidence as part of his investigation.

It is more likely than not that, if the hotel was hesitant or refusing to rent to the complainant, it was a decision they made based on the fact that he was the subject of an investigation. The evidence established that the named officer did not tell hotel personnel not to rent rooms to the complainant.

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

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

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

**FINDINGS OF FACT:** The complainants stated that the named officers approached their parked RV in a sneaky fashion in an attempt to startle and provoke them. The complainants stated that the named officers lifted the tarp up from the RV, issued a 72-hour notice to their vehicle while ignoring the other RVs parked nearby, and then suspiciously sat in their patrol car.

The named officers stated that on the day in question they were assigned to the homeless detail. They stated that they receive on average 2-3 RV parking calls for service each day and 8-12 RV parking calls for service each week. The named officer stated that he encountered the complainant by coincidence as the complainant was exiting his RV. The named officer stated that he asked the complainant whether he owned the vehicle because he prefers to speak directly with the registered owner in these situations.

Records show that at the date and time in question, the named officers responded to a call for service for suspicious vehicles and issued four 72-hour notices. Records reflect that the complainant's RV was also the subject of a complaint to 311 the same day.

Body-worn camera footage showed that the named officers looked at a row of RVs behind the complainants' and issued 72-hour notices to each. The footage also showed that the named officers sat in the patrol car to complete paperwork.

The named officers treated the complainant with courtesy as required by Department General Order 2.01.

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

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**DATE OF COMPLAINT:** 03/22/19 **DATE OF COMPLETION:** 06/04/19 **PAGE#** 1 of 1

**SUMMARY OF ALLEGATION #1:** The officer failed to properly complete an accurate report.

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

**FINDINGS OF FACT:** By mutual agreement of the complainant and the named officer, the complaint was mediated and resolved in a non-disciplinary manner on May 17, 2019.

**SUMMARY OF ALLEGATION #2:** The officer failed to direct traffic at the scene of a traffic accident.

**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 May 17, 2019.

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**DATE OF COMPLAINT: 04/07/16    DATE OF COMPLETION: 06/14/19    PAGE# 1 of 11**

**SUMMARY OF ALLEGATION #1:** The officer failed to comply with Department Bulletin 15-234.

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

**FINDINGS OF FACT:** The mayor's office submitted a request for the Department of Police Accountability (formerly the Office of Citizen Complaints) to investigate this officer-involved shooting. Two co-complainants also filed complaints stating officers used unnecessary force in the incident.

The named officer in this case responded to an "A" priority call from a HOT team member of a man acting erratically, waving a knife. The named officer, a sergeant and another officer arrived on scene almost simultaneously. The named officer exited his patrol vehicle with his Extended Range Impact Weapon ("ERIW") in hand. He spotted the suspect who was sitting on the sidewalk against a building, holding a large kitchen knife in his right hand. He believed that the alleged suspect was on drugs. He immediately began to shout commands to get down. The alleged suspect initially put the knife down, but he then reacquired it. Within 20 seconds of exiting his patrol car, the named officer fired his ERIW at the alleged suspect four times. He fired the ERIW at the alleged suspect's right arm in an effort to shoot the knife out of the suspect's hand. All four rounds were fired at the same target in zone 1. The named officer did not give the suspect or his fellow officers any verbal warning before shooting the ERIW. He also did not request an ambulance to stand by or confer with the senior officer to establish a plan or lethal cover.

A witness officer confirmed the named officer's account of the incident. He was third to arrive on scene. At some point after the ERIW shots were fired, he yelled, "let go of the knife" in Spanish as the suspect charged towards another officer, knife in hand.

The incident report showed the named and witness officer responded to a call for service regarding a mentally disturbed man who was waving a large kitchen knife. The named officer dispatched "code 33" that he was being challenged by a subject with a knife. At 1004 hours, the named officer notified headquarters that shots had been fired. The alleged suspect was pronounced dead at a local hospital at 1242 hours.

The CAD showed that a call was made regarding a male waving a large kitchen knife. A physical description was provided to dispatch. The named officer reported a code 3 response and went to the location. The named officer noted that he had an ERIW with him. The named officer then noted that he was being challenged and the alleged suspect had one large kitchen knife. Thirteen seconds later the named officer broadcasted that shots had been fired. One minute and seven seconds later the named officer broadcasted, "deployed the ERIW several times. Alleged suspect did not go down. He charged at units with a knife in his hand".

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The Crime Scene Investigation Report showed that a kitchen knife with an 8” blade, a bullet fragment with hair, four super sock bean bags, and six 40 caliber cartridge casings were obtained at the crime scene.

Nestcam footage from Witness #14’s residence captured a portion of the incident. At 00:46:02 the named officer and two other officers arrive on scene and exit their vehicles. The named officer is holding the ERIW. At 00:46:14 named officer racks his shotgun and points it. He gives the command “Get on the ground!” At 00:46:17 the named officer commands, “Lay on the ground!” At 00:46:26 named officer commands, “Get on the ground!” At 00:46:27 the named officer and another officer yell, “Lay on the ground! Put that down!” At 00:46:29 the named officer discharges the ERIW. At 00:46:31 the named officer again discharges the ERIW and shouts, “Put it down!” At 00:46:33 and 00:46:36, the named officer discharges the ERIW two more time. At 00:46:35 gunshots can be heard. Named officer starts shooting his ERIW within 20 seconds of arrival.

Numerous non-sworn witnesses were interviewed during this investigation. Witness #1 and Witness #2 responded to the area of the incident regarding a call of a baby crying in a tent of a homeless encampment. After they responded to the call and were on the way back to their car, Witness #1 saw an individual who was randomly kicking a basketball against cars. She said he appeared “altered” and had “aggressive energy”. She then noticed that he had a “big knife” with a 10 to 12-inch blade and he was “wailing it”. She called 9-1-1 and officers arrived on scene shortly after. She redirected one of the officers because he had initially driven past the man. Two other officers arrived on scene and one had an orange-tipped rifle. The named officer came within 6 to 8 feet of the sitting man. The witness and her coworker went into their car and watched out the back window. She did not hear the shots of the ERIW being fired but could see it recoiling. She said there were approximately three recoils. The individual then stood up with the knife and looked like he was, “gonna lunge towards the cop”. She then heard, “boom, boom, boom, boom, boom,...like five shots fired”.

Witness #2 confirmed observing the same sequence of events as Witness #1. As they were standing outside the vehicle, he heard Witness #1 state, “oh, he’s got a knife”. He then saw the individual holding a large kitchen knife swinging it in a chopping motion. He stated the man appeared, “under some psychosis of some sort”. He concurred with Witness #1’s decision to call 9-1-1. They then entered their vehicle and watched the interaction through the back window of their vehicle. Officers arrived on scene and he saw two approach the individual and appear to tell him something. A few seconds later the named officer fired three to four bean bag rounds. He thought the man was sitting when the bean bag rounds were shot at him, but his view was partially obstructed. The individual then ran towards the officers with the knife still in his hand. Witness #2 believes he heard five shots when the individual began running towards the officers. The individual then spun around and hit the ground.



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Witness #3 stated she was living in a homeless encampment near where the incident happened. On the day of the incident, she was briefly approached by the named officer who asked, "where's the knife?" Witness #3 informed the named officer that she didn't have a knife. The named officer then looked to Witness #3's left and saw the suspect sitting on the ground. The individual was about 15 to 20 feet away from them. The named officer then raised his bean bag rifle and gave commands to the individual to lay down. The named officer got closer and continued giving commands for the individual to lay down and put his hands up. The individual waved the knife as if to say, "it's just a knife" and put it back down. The named officer then fired the bean bag gun at the individual. The bean bags hit the individual two or three times. The individual then got up and ran towards the street and that's when the named and witness officer shot him.

Witness #4 was working in a building close to where the incident happened. On the day of the incident, Witness #4 was working at her desk when she heard a person say, "don't move" or "put it down". Witness #4 got up, went to the window, and saw two police officers. From where she was standing, she could not see the individual that was engaged by the officers. Nothing was happening at that point, so she sat back down at her desk. She then heard more being said so she returned to the window. One of the officers yelled, "don't move" and she heard shots being fired. She quickly turned away because she did not want to see what was happening. When she turned back around and looked out the window, she saw the individual holding a knife and was running towards a light pole. The officers then opened fire on the individual with their handguns. Witness #4 stated that it almost appeared that the bullets weren't affecting him when he was running but he eventually collapsed on the sidewalk.

Witness #5 stated in her interview with SFPD homicide division that she was living in a homeless encampment near where the incident happened. Witness #5 was inside her tent. Witness #5's boyfriend, Witness #10, was just outside the tent. Witness #5 heard a voice say, "stop!". Witness #5 looked through the screen of their tent and saw the individual who was walking in circles. The named officer had an orange and black rifle and fired it at the man. She exited the tent and saw officers with their guns pointed and the individual who was on the ground bleeding.

Witness #6 was working at an office near where the incident happened. On the day of the incident, she heard someone yell "put it down!". Witness #6 looked out the window and saw the named officer holding a "reddish-orangish colored shotgun". The named officer then fired the shotgun two or three times. She could not see the target. Witness #6 then saw the individual run towards the officer with the knife still in his hand in an upraised position. The officer shot the individual two or three times. The individual then fell on the ground.

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Witness #7 was walking home from the gym on the street where the incident happened. Witness #7 heard someone shouting, “drop it!”. Witness #7 then saw a homeless person sitting up against a building and he

appeared to be holding something. Witness #7 said it looked like garbage. Witness #7 described the object as, “silver mylar”. Witness #7 saw the named officer pointing a non-lethal rifle at the individual and was telling him to drop whatever was in his hands. The individual turned away from the named officer and was shot with non-lethal rounds. Witness #7 said it appeared pellets were being fired at the individual. As the individual was getting up, the named officer switched to his handgun and fired it at the individual. Witness #7 approximated that the named officer was within 6 feet of the individual when he shot him with his handgun.

Witness #8 lives right across the street from where the incident happened. On the day of the incident, Witness #8 stated she was sitting in a chair in her living room and heard a voice say, “get on the ground”. Witness #8 immediately jumped up and went to the window. She saw two officers; one had a long rifle and the other had his hand on his hip. They were moving parallel to the street. The named officer was pointing his long rifle at the individual. Witness #8 could see that the individual was visibly shaking. The individual was sitting up against a building with his knees to his chest. The named officer then fired two bean bag rounds at the individual. When the second bean bag fired, Witness #8 stated that the witness officer drew his handgun and began immediately firing at the individual. The individual stumbled forward after being shot and fell on the ground near a stop sign. Witness #8 knew the individual the neighborhood and he had clear mental health issues but was harmless. Witness #8 also stated that she only heard the individual speak Spanish.

Witness #9 was walking to a dance studio that was near where the incident happened. As Witness #9 was walking, she observed the individual sitting up against a wall of a building. The individual was on the opposite side of the street. The individual’s knees were bent, and he appeared to be talking and waving his hands around. Witness #9 noticed that the individual had something in his left hand. Witness #9 could not understand what the individual was saying at the time. Witness #9 then noticed the named officer who was holding an orange and black shotgun. The named officer was giving commands to the individual. The commands were, “don’t move” or “stay on the ground”. Witness #9’s view of the individual was blocked by a parked car, but she heard the shotgun being fired. Witness #9 described the sound of the shots became “crisper”, and she assumed the subsequent shots were from a firearm. When Witness #9 heard the “crisper” shots, she immediately ran for cover. Witness #9 then went back to the location after the shots stopped and saw the individual lying in a pool of blood.

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Witness #10 stated that he was living in a tent with his girlfriend, Witness #5, near where the incident occurred. Witness #10 saw 3 SFPD vehicles arrive. The officers exited their vehicles and one asked if they had seen a knife. Witness #10 responded, “no”. The officers then saw the individual they were looking for and he was holding a knife. Witness #10 knew the individual as “Jose” and knew that he spoke Spanish. The officers approached the individual. The named officer had a different type of shotgun and the witness officer had a handgun. The named officer and the witness officer approached the individual and told him to “get down”. Witness #10 heard this command yelled twice. The named officer then fired his shotgun twice at the individual. After the individual was struck with bean bag rounds, he rose to his feet and, “started to go in circles”. Witness #10 stated that the individual did not have a knife when he stood up. Witness #10 stated that as the individual was spinning, the witness officer fired his handgun at him. Witness #10 stated that this officer shot the individual two or three times. Witness #10 reiterated that he did not see the individual holding the knife. He believed it was on his hip.

Witness #11 is a fire fighter and who was outside of a nearby fire station. Witness #11 heard about five or six gunshots. He approached the officers and asked if they were okay. Witness #11 got on his portable radio and radioed dispatch that there was an officer involved shooting and that they needed to send EMTs. Witness #11 asked the officers if he could enter the area and render aid and they said he could. Witness #11 entered the scene and saw the individual. Witness #11 stated that the individual had two wounds on his left-arm and one entry and exit wound to his head. Witness #11 saw that the individual had a large knife that was to the right of his body.

Witness #12 was working in a building near where the incident happened. On the day of the incident, Witness #12 heard someone say, “get on the ground” or “lay down on the ground”. Witness #12 then heard these same commands given a couple more times before what he described as “light shots”. Witness #12 stated that he immediately stood up again and looked out the window. Witness #12 then saw the individual, who was previously sitting up against the wall, move towards the officers with what appeared to be a knife in his hand. Witness #12 then heard what he described as “real shots”.

Witness #13 lives in a residence near where the incident happened. Witness #13 stated she was inside her residence and was watching TV while wearing her headphones. Witness #13 then heard seven “pops” and thought it was someone in the nearby homeless encampment lighting off fireworks. Witness #13 stated she heard pops that sounded like a pellet gun then a slight pause and more louder pops. Witness #13 noticed that Witness #14 looked upset. Witness #13 went to the window and saw the individual laying down on the sidewalk. Witness #14 noticed that he had something “black and rectangular” in his hand.

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Witness #14 lives in a residence near where the incident happened. On the day of the incident, Witness #14 stated that he was sitting in a chair next to the window in his residence that faces the street where the incident happened. Witness #14 stated he heard cars pull up and stop quickly so he looked out the window. Witness #14 said he saw three marked police cars and two officers exited their cars immediately. Witness #14 stated the named officer had a pump shotgun with an orange nozzle. The named officer and the witness officer walked towards the individual who was sitting up against a building with his hands resting on top of his knees. The individual appeared to have something in his left hand that was about the size of a paperback book or a large remote control. The named officer began shouting commands at the individual. The named officer shouted, "get on the ground!" and had his shotgun

pointed at the individual. Witness #14 stated the named officer and the witness officer were about 10 to 15 feet apart from each other. Witness #14 stated the named officer then began firing the shotgun at the individual. The individual turned left to face away from the bean bag fire. He was still seated as he was being struck with bean bag rounds. Witness #14 stated the individual then stood up, extended his arms, and made a gesture to the effect of "what's going on?!" Witness #14 stated the individual appeared to shout something, but he could not make out what it was. The named officer and the witness officer continued to shout commands at the individual, then they opened fire on him. The named officer and the witness officer moved back and to their left as they were shooting. The individual's body then fell forward and ended up landing about two feet away from a telephone pole.

Two subject matter experts were consulted. One subject matter expert is a firearms instructor. He explained that the ERIW course is a one-day course that lasts eight hours, taken by both new recruits and lateral hires. The course is 4 hours of lecture and four hours of live fire/scenario-based training. The officers do two role playing scenarios, one involves an individual with a knife. DGO 5.01, the ERIW portion, and de-escalation techniques are discussed as part of training. To become certified to use an ERIW, officers must pass a written exam and a shooting exam.

The optimal distance to deploy the ERIW is between five and twenty yards. Officers are taught that they must have a lethal cover officer when using the ERIW. Officers are instructed to state, "Red light, red light, less lethal, less lethal, drop the weapon or I will shoot" whenever feasible prior to using the ERIW. This is done to alert the officers on scene that shots are being fired and to advise the suspect of the consequence of noncompliance. Officers are instructed to aim at zone 2 (below the waist) on an individual because that is the safest place to shoot someone with the ERIW. They are taught that they may have to aim at zone 1 (above the waist) if zone 2 is unavailable. When firing at zone 1, officers are taught to avoid the head, face, neck, heart, and throat, and officers are taught not to shoot the same area multiple times.

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SFPD points out, "Department Bulletins 13-120, 15-106, and 15-155 collectively imposed a tactical obligation upon SFPD 'officers to create time, distance, and establish a rapport with people in crisis who are only a danger to themselves,' as a well as 'every other circumstance,' when the situation is safe enough to do so." Here, the named officer failed to create time and distance necessary to assess whether use of the ERIW was warranted under the circumstances. Moreover, he failed to follow almost every directive before deploying and while firing the ERIW.

DB 15-234, Extended Range Impact Weapon Guide Sheet, instructs as follows:

**PRE-DEPLOYMENT PROCEDURES:**

- Ask the requesting supervisor for a response code.
- Have communications broadcast on "an all" that an ERIW is en route.
- Have communications dispatch a 408 code I to stand by.
- Upon arrival:
- Obtain a quick briefing to determine if the ERIW is warranted.
- Formulate a plan with your cover officer and ground arrest teams

**DEPLOYMENT PROCEDURES**

- ERIW gunner shall always have a lethal cover officer alongside.
- Point of aim is Zone 2 (waist and below), Zone I may be targeted if zone 2 is unavailable or you are delivering the CTS round from 60 feet.
- Verbal Challenge: "Red Light! Less Lethal! Less Lethal!" Drop the weapon or I will shoot!"
- Assess after each shot.
- If subsequent rounds are needed, take aim at a different Zone 2 target.

In this case, the named officer failed to:

1. Communicate with dispatch for 408 stand by
2. Obtain a quick briefing to determine if the ERIW is warranted.
3. Formulate a plan with the cover officer.
4. Only had a lethal cover officer by default.
5. Failed to target Zone 2.
6. Failed to issue the appropriate verbal challenge.
7. Failed to aim at a different target with subsequent rounds.

The named officer attributed his failure to follow ERIW procedures by alleging the suspect posed an immediate threat. He also attributed his inability to follow the guidelines to lack of time. However,

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neither excuse is valid when the situation is viewed as a whole. The suspect had not used the knife against anyone. He had not threatened anyone with the knife. At the time the officers arrived, he was seated, holding the knife at his side. The officers' superior positioning and the suspect's stationary seated positioning gave officers at least a brief moment to conduct a tactical briefing. It was the named officer's unilateral decision to escalate the force used and close the distance to the suspect that robbed the officers of the ability to create time and distance under the circumstances.

The named officer also explained that he did not follow the deployment procedures for tactical reasons. This also lacks merit when the situation is viewed as a whole. His decision to immediately escalate the level of force forced another officer into the lethal cover position by default without warning. His decision to shoot the same target in zone 1 to try to "shoot" the knife out of suspect's hand was contrary to the training he received. Likewise, his decision to forego the verbal challenge was not sound and contrary to the training and policy. If he had enough time to issue commands, he had enough time to use the correct verbiage. Had he used clear, conditional commands that instructed the suspect to drop the knife, rather than instructing a seated alleged suspect to get down, he may have garnered more compliance.

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

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

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

**FINDINGS OF FACT:** See above for a recitation of the facts leading up to the lethal shooting in this case. Named officer #1 initially used the ERIW in an effort to subdue the individual and force him to comply. Although he did not follow proper procedure in deploying the ERIW, officers are taught that use of an ERIW when confronting an alleged suspect with a knife is generally an appropriate, reasonable use of force. Unfortunately, in this case the use of the ERIW appeared to aggravate the alleged suspect who then stood up and advanced at named officer #2 with a knife.

Although witnesses' accounts vary, several who were witnessed the incident without obstruction confirmed seeing the individual charge named officer #2 with a knife. As the alleged suspect advanced towards him, named officer #2 began to back-peddle, shooting the alleged suspect several times. Initially, named officer #2 shot several shots at the alleged suspect's center mass, but as the alleged suspect continued to advance, he shot him in the head. When the alleged suspect began charging towards named officer #2, named officer #1 transitioned to his pistol and fired four shots at the alleged suspect.

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**SUMMARY OF ALLEGATIONS #2-3: (Continued)**

The Medical Examiner's Report showed that the alleged suspect had six perforating gunshot wounds. They were located on the left upper forehead, left deltoid, right upper back, right lower chest, mid right forearm, and right proximal forearm. Four abrasions were also located on the alleged suspect's body. Two of the abrasions were located on the right back. There others were located on the right mid lateral back and the lateral right upper arm. A Toxicology Report was included in the report. The toxicology report showed that the alleged suspect had Methamphetamine, Amphetamine, Mephentermine, Delta 9

THC, Delta 9 Carboxy THC, and Caffeine in his system at the time of death. The cause of death was listed as, "multiple gunshot wounds".

The officers' decision to use their firearms to shoot the alleged suspect after he advanced toward named officer #2, knife in hand, was justifiable under the circumstances because named officer #2 shot the alleged suspect in self-defense and named officer #1 shot the alleged suspect in defense of others. Department General Order 5.01, dated October 4, 1995 § F, subd. (D) states that a circumstance justifying a use of force is in self-defense or in the defense of another person. Although the shooting was justifiable, it cannot be deemed proper conduct considering the totality of the circumstances, including the misuse of the ERIW which potentially precipitated the need to use deadly force. Because of the questionable escalation there was insufficient evidence to either prove or disprove the allegation.

**SUMMARY OF ALLEGATION #4:** The officer failed to supervise.

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

**FINDINGS OF FACT:** See above for a recitation of the facts that are incorporated by reference herein.

The named officer was the most senior ranking officer on scene. He arrived on scene at the same time as the other officers. DGO 1.04 explains, "...Sergeants shall..."

- b.        Have immediate control and supervision of assigned members.
- c.        Require all assigned members to comply with the policies and procedures of the Department..."

More specifically, DB 15-155 dated July 16, 2015, Response to Mental Health Calls with Armed Suspects, states:

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**SUMMARY OF ALLEGATION #4: (Continued)**

Upon arrival at the scene, the supervisor shall assume command of the incident. If there is no reasonable cause to believe that the person suffering an apparent mental crisis is a threat to any other person including an officer, the officers shall observe, maintain a safe distance, and attempt to stabilize the scene until the arrival of the supervisor who will assume command. Under no circumstance shall officers jeopardize their own safety or that of any other person in attempt to interpret or apply this directive. The goal of this procedure is to allow for sufficient time to deescalate the situation when there is no reasonable cause to believe that a person, other than the person requiring mental health services, is in danger of death or serious bodily injury.

Officers determined the call in this case likely involved an individual experiencing a mental health crisis considering the HOT Team's concerns and description of the circumstances. Thus, upon arrival at the scene, the named officer should have assumed command of the incident. However, rather than assuming a proactive role, he immediately took a reactive role, only responding to the other officer's actions.

Upon arrival, named officer saw that the other officer exited his patrol car, ERIW in hand. As the supervisor, he should have immediately assessed whether the ERIW deployment was appropriate, and he should have formulated and discussed a tactical plan with the ERIW-wielding officer to ensure compliance with DB 15-234 if he determined that ERIW deployment was appropriate. As one subject matter expert pointed out in his report, "If [named officer] had taken command of the scene per SFPD expectations, he could have ensured that a more deliberate and thoughtful approach would have been deployed by responding officers. As a supervisor, it was his responsibility to instill concepts of 'time and distance' at the scene as expressly set out in the Department's Training Bulletin; in this case [named officer] did or said nothing to advance these principles...As the supervisor on scene, [named officer] did nothing to advance any on-scene discussion or analysis about the severity of the crime, whether the actions of [the alleged suspect] required a resort to force, and whether the use of force was immediately necessary."

Twenty seconds passed from the time named officer and ERIW-wielding officer got out of the patrol cars to when ERIW-wielding officer first shot the ERIW at the alleged suspect. That was enough time for named officer to issue instructions to ERIW-wielding officer. This is especially true because the named officer did not initially view the alleged suspect as a threat and intended to disarm the alleged suspect and talk to him. Creating time and distance would have also given named officer #2 an opportunity to involve witness officer, a Spanish speaker, to see if the alleged suspect would respond to commands in Spanish. It is clear from the Nestcam video that witness officer gave commands in Spanish, but only after the ERIW shots are fired.



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**SUMMARY OF ALLEGATION #4: (Continued)**

As one report points out, “Department Bulletins 13-120, 15-106, and 15-155 collectively imposed a tactical obligation upon SFPD ‘officers to create time, distance, and establish a rapport with people in crisis who are only a danger to themselves,’ as a well as ‘every other circumstance,’ when the situation is safe enough to do so.”

In this case, the officers had no evidence that the alleged suspect was a danger to anyone but himself. Although he was in possession of a large knife, there was no indication that he used it on anyone or threatened anyone with it. He had been seen waving it around, but not at anyone in particular, and by the time the officers arrived, he was subdued, sitting on the ground with the knife in his hand by his side. Had named officer #2 been more proactive in taking command, he could have created time and distance, formulated a plan, and use of the ERIW may have been avoided or properly implemented. This is

especially so since the alleged suspect’s reacquisition of the knife did not place the officers in a more dangerous position. The alleged suspect stayed in a stationary and seated position after regripping the knife, giving witness officer an opportunity to issue commands in Spanish and issuing clearer, conditional commands (i.e. drop the knife or we will shoot) before deployment of the ERIW shots may have been successful in disarming the alleged suspect.

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

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**DATE OF COMPLAINT:** 04/3/19      **DATE OF COMPLETION:** 06/18/19      **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** By mutual agreement of the complainant and the named officer, the complaint was mediated and resolved in a non-disciplinary manner on June 6, 2019.

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

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

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

**FINDINGS OF FACT:** The complainant stated the named officer used a “planned tactic” to cite drivers for making an illegal U-Turn even though there is no sign to prohibit this.

A lieutenant identified the named officer as the person who issued the citations. He indicated the citations were issued to drivers who violated 22102 CVC-unlawful U-turn in a business district. He also stated there are signs prohibiting U-Turns and U-Turns are prohibited in business districts.

DPA’s investigation revealed that the area of Townsend where the citations were issued include a solid yellow line for the entire block. Additionally, a sign at the nearest intersection shows that one may only proceed straight or turn left or right.

Department General Order 9.01 states that the goal of the Department’s traffic enforcement program is to reduce traffic collisions, facilitate traffic flow, and ease parking congestion.

Officer are required to prioritize enforcing traffic violations consistent with the Department’s goal.

The evidence proved that the acts that provided the basis for the allegations occurred; however, such acts were justified, lawful, and proper.

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**DATE OF COMPLAINT:** 04/09/19      **DATE OF COMPLETION:** 06/18/19      **PAGE#** 1 of 1

**SUMMARY OF ALLEGATION #1:** The officer displayed a rude attitude/demeanor.

**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 June 5, 2019.

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

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

**FINDINGS OF FACT:** By mutual agreement of the complainant and the named officer, the complaint was mediated and resolved in a non-disciplinary manner on June 5, 2019.

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COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 04/09/19    **DATE OF COMPLETION:** 06/10/19    **PAGE#** 1 of 2

**SUMMARY OF ALLEGATION #1:** The officer drove improperly.

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

**FINDINGS OF FACT:** The complainant stated the named officer drove a police van improperly when she nearly hit him while he was on his bicycle.

The named officer denied driving improperly. She stated she was parking the patrol vehicle in a turnout on a major city thoroughfare and reversed briefly to straighten out. She stated she looked behind the vehicle to make sure there were no hazards in her immediate area. She stated she activated the flashing amber lights before moving backwards. She also stated the vehicle emits a loud beeping noise when in reverse. The named officer stated she made the reversing maneuver at a low, controlled speed. She stated the witness officer advised her that the complainant, who was on his bicycle, approached the police vehicle at a high rate of speed. She stated she applied the brakes to allow the complainant to continue on his path. The named officer stated the complainant rode past the police vehicle without incident.

The witness officer stated the named officer was not driving improperly. He stated before the named officer put the police van in reverse, he and the named officer made sure there were no vehicles in the lane of traffic that could constitute a hazard. He stated she activated the flashing amber lights on the police vehicle before driving in reverse. He also stated the van emitted a loud beep when the named officer placed the vehicle in reverse. The witness officer stated he notified the named officer that the complainant was approaching the vehicle at a high rate of speed. He stated the named officer applied the brakes and the complainant stopped next to the vehicle without incident. The witness officer also asked the complainant why he didn't try to stop when he saw the vehicle backing. The complainant told the witness officer that he was going too fast to stop and assumed that the driver would see him and stop for him.

No other witnesses were identified.

There insufficient evidence to either prove or disprove the allegation.

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**DATE OF COMPLAINT:** 04/09/19    **DATE OF COMPLETION:** 06/10/19    **PAGE#** 2 of 2

**SUMMARY OF ALLEGATIONS #2-3:** The officers acted inappropriately and made inappropriate comments.

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

**FINDINGS OF FACT:** The complainant stated he confronted the named officers after he was almost hit by their police vehicle. He stated named officer #1 defended her behavior by screaming at him, treating him like an idiot. He stated, upon his initial contact with the named officers, they were very condescending.

Named officer #1 denied screaming at the complainant and stated she spoke to the complainant in a calm, professional, and courteous manner.

Named officer #2 stated he did not hear named officer #1 scream at the complainant. He denied being rude to the complainant and stated he spoke to the complainant in a professional manner.

No witnesses were identified.

There insufficient evidence to either prove or disprove the allegation.

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COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT: 04/16/19    DATE OF COMPLETION: 06/5/19    PAGE# 1 of 1**

**SUMMARY OF ALLEGATION #1:** The officer drove improperly.

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

**FINDINGS OF FACT:** The complainant stated that the named officer illegally parked his police motorcycle on the sidewalk while on duty.

The officer said that he was on official police business and peace officers have an exemption under California Vehicle Code 22500.

California Vehicle Code 22500 states in part, "A person shall not stop, park, or leave standing any vehicle whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or official traffic control device, in any of the following places: (f) On a portion of a sidewalk."

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:** 04/23/19 **DATE OF COMPLETION:** 06/05/19 **PAGE#** 1 of 1

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

**CATEGORY OF CONDUCT:**

**FINDING:** IO-1

**DEPT. ACTION:**

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

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



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

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

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

**FINDINGS OF FACT:** The complainant stated that he was riding on his bicycle when a motorist flung open his vehicle door and knocked the complainant down. The complainant stated that he flagged down two officers who advised complainant that he could file a report if he wanted, but that it looked like everything was ok. The complainant did not file a report. Upon arriving home, he reviewed information from the Bicycle Coalition that noted an incident report is required for all bike collisions and that motorists may be cited in these circumstances. The complainant stated that the officers did not follow the proper procedures with respect to his bicycle collision.

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

The identity of the alleged officers could not be established.

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**DATE OF COMPLAINT: 04/28/19    DATE OF COMPLETION: 06/14/19    PAGE# 1 of 1**

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

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

**FINDINGS OF FACT:** The complainant stated while he was being transported to jail, the officer pulled over and knocked him unconscious.

The complainant failed to provide additional requested information needed to identify the officer.

The identity of the alleged officer could not be established.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 05/06/19      **DATE OF COMPLETION:** 06/24/19      **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant stated that an SFPD officer had a total of three years on the force and obtained the rank of sergeant. The complainant researched various internet sites and concluded that 4-5 years of time was needed to be a sergeant with the SFPD.

SFPD personnel records document that the officer in question, has the rank of sergeant, and has been employed with the SFPD since March of 2007.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 04/29/19      **DATE OF COMPLETION:** 06/28/19      **PAGE#** 1 of 2

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

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

**FINDINGS OF FACT:** The complainant stated that two female employees of a department store were smoking outside the store's entrance in violation of the San Francisco Smoke-Free Ordinance (San Francisco Health Code, Article 19F). The complainant verbally confronted the two women, then flagged down a patrol vehicle. The complainant stated that two officers arrived but took no action to stop the two women from smoking outside the department store.

Department records show indicate that a verbal confrontation occurred at the location and the two named officers assisted.

The San Francisco Smoke-Free Ordinance states that if smoking is observed less than 15 feet from the entrance or exit of a business, complaints should be directed to the business or property owner or manager for enforcement.

No witnesses were identified.

The evidence shows that enforcement of the ordinance that the complainant believed was being violated falls to the owner or manager of the department store in front of which the women were smoking, and not to the SFPD.

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

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**DATE OF COMPLAINT:** 04/29/19      **DATE OF COMPLETION:** 06/28/19      **PAGE#** 2 of 2  
**SUMMARY OF ALLEGATIONS #3-4:** The officers engaged in biased policing based on race.

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

**FINDINGS OF FACT:** The complainant stated that two female employees of a department store were smoking outside the store's entrance in violation of the San Francisco Smoke-Free Ordinance (San Francisco Health Code, Article 19F). The complainant verbally confronted the two women, then flagged down a patrol vehicle. The complainant stated that two officers arrived but took no action to stop the two women from smoking outside the department store. The complainant believed that the officers took no action because they, like the women, were white, while the complainant is Asian.

Department records indicate that the two named officers are white and no citation was issued during this incident.

The San Francisco Smoke Free Ordinance (San Francisco Health Code, Article 19F) states that if smoking is observed less than 15 feet from the entrance or exit of a business, complaints should be directed to the business or property owner or manager for enforcement.

No witnesses were identified.

The evidence shows the named officers' response was justified because the ordinance specifies that enforcement in such circumstances falls to the business or property owner or manager and not the SFPD.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT: 04/29/19    DATE OF COMPLETION: 06/05/19    PAGE# 1 of 1**

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

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

**FINDINGS OF FACT:** The complainant stated that he saw a private vehicle parked along the red curb near a police station. The complainant witnessed a patrol vehicle passing by, but the officer driving took no action regarding the illegally parked vehicle. The complainant stated that he neither notified the officer driving the patrol vehicle nor called the police regarding the issue.

No department records were generated because there were no calls for service.

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:** 05/08/19      **DATE OF COMPLETION:** 06/18/19      **PAGE#** 1 of 1

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

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 05/14/19 **DATE OF COMPLETION:** 06/05/19 **PAGE#** 1 of 1

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

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

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

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



**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 05/14/19    **DATE OF COMPLETION:** 06/28/19    **PAGE#** 1 of 2

**SUMMARY OF ALLEGATIONS #1 - 2:** The officers wrote an incomplete and/or inaccurate incident report.

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

**FINDINGS OF FACT:** The complainant was involved in a non-injury collision with another vehicle. The named officers responded, and the complainant alleged the officers inaccurately completed a Collision Information Form when they facilitated the exchange of information between the parties.

DGO 9.02. II H states; “When arriving at the scene of a noninjury vehicle accident, advise the citizens that it is the policy of this Department not to investigate vehicle accidents involving only property damage. If a citizen insists on a report, follow these procedures: 1. Assure proper exchange of the Collision Information Form and, if necessary, assist each party in completing them. Ensure that any witness information is provided to the parties involved. 2. Arrange for tows and direct traffic if necessary.”

The policy places the obligation for the completion of the Collision Information Form on the involved parties.

Body-worn camera footage showed that the named officers complied with Department policy. They assisted both parties in the completion and exchange of the Collision Information Form. The Collision Information Form indicated that officers provided the complainant with the details of the other driver.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 05/14/19 **DATE OF COMPLETION:** 06/28/19 **PAGE#** 2 of 2

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

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

**FINDINGS OF FACT:** The complainant alleged that the named officer failed to investigate the other party's vehicle insurance status or driving license status.

DGO 9.02. II H states; "When arriving at the scene of a noninjury vehicle accident, advise the citizens that it is the policy of this Department not to investigate vehicle accidents involving only property damage."

Body-worn camera footage showed the named officers did conduct insurance and driving license checks on the other party. The evidence proved that the acts alleged by the complainant did not occur.

**SUMMARY OF ALLEGATIONS #5 - 6:** The officers displayed inattention to duty.

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

**FINDINGS OF FACT:** The complainant alleged that the named officers allowed the other party to drive from the scene of the collision without valid insurance or a valid driving license.

Body-worn camera footage showed that the named officers issued the other driver a "Fix-It" citation for a recently expired insurance policy. The officers established via a DMV check that the other driver had an exemption from her driving license suspension when using a vehicle for employment. The other driver was working at the time of the collision.

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:** 05/16/19 **DATE OF COMPLETION:** 06/05/19 **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 3<sup>rd</sup> Street  
San Francisco, CA 94158

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 05/18/18    **DATE OF COMPLETION:** 06/13/19    **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:** 05/20/19 **DATE OF COMPLETION:** 06/28/19 **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant stated he went to the police station to report a crime and the officer told him you would, “just have to live with it.” The complainant stated officer did not respond to the scene of the crime.

Station security footage did not show the complainant at the station during the time period he reported.

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

The identity of the alleged officer could not be established.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 05/20/19 **DATE OF COMPLETION:** 06/10/19 **PAGE#** 1 of 1

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

**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:** 05/17/19 **DATE OF COMPLETION:** 06/28/19 **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant stated an officer seized her handicap placard without justification.

The complainant did not provide additional requested information and evidence necessary to conduct an investigation.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT: 05/23/19 DATE OF COMPLETION: 06/20/19 PAGE# 1 of 1**

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

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

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



**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 06/03/19 **DATE OF COMPLETION:** 06/19/19 **PAGE#** 1 of 1

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 06/03/19    **DATE OF COMPLETION:** 06/18/19    **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** This complaint raises matters outside DPA's jurisdiction because it does not involve a named member. This complaint was forwarded to:

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 06/03/19 **DATE OF COMPLETION:** 06/18/19 **PAGE#** 1 of 1

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 06/03/19    **DATE OF COMPLETION:** 06/28/19    **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The complainant stated that he attempted to report a burglary to the police, but that the police wouldn't respond to him.

The complainant did not provide additional requested information and evidence necessary to conduct an investigation.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT: 06/03/19 DATE OF COMPLETION: 06/20/19 PAGE# 1 of 1**

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

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

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 06/10/19 **DATE OF COMPLETION:** 06/24/19 **PAGE#** 1 of 1

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

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 06/07/19    **DATE OF COMPLETION:** 06/12/19    **PAGE#** 1 of 1

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

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

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

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



**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

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

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

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

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

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

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

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

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

**California Highway Patrol  
Office of Investigations  
601 North 7<sup>th</sup> Street  
PO Box 942898  
Sacramento, CA 94298**

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 06/17/19 **DATE OF COMPLETION:** 06/28/19 **PAGE#** 1 of 2

**SUMMARY OF ALLEGATION #1:** The officer failed to receive a private person's arrest.

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

**FINDINGS OF FACT:** The complainant stated he told the named officer that he wanted the suspect arrested.

Body Worn Camera footage showed that the complainant informed the named officer he wanted the suspect arrested and taken to jail. The named officer stated to the complainant, "You can sign a citizen's arrest . . . that you want him placed under arrest, but in all reality, the most likely scenario is that it would be a cite." The named officer described the process of a citizen's arrest and citation. The complainant gestured in a negative manner and stated to the named officer, "Ah, this is no good man . . . Go ahead; I'll follow whatever procedure, I don't care . . ." When the named officer walked to where the suspect was located, the complainant told him, "I just wanted to see the paramedics so he can give me some medicine."

Body Worn Camera footage also showed the complainant speak to another officer. The officer explained to the complainant that the suspect would not be going to jail and would be cited based upon the severity of the crime. The officer stated to the complainant, "You have to make a citizen's arrest for the person to be cited." The complainant stated to the officer, "I got to stick around and come to court . . .?" And then the complainant said, "Awe man, no." The body worn camera footage shows that the complainant, both by his words and his gestures, ultimately declined to sign a citizen's arrest form. When the named officer returned from speaking with the suspect, the named officer mentioned to the complainant that he already explained the citizen's arrest and told the complainant that the incident would be documented and that the DA may potentially contact him if they were going to pursue the case. The complainant responded "OK" and did not make any further request for a citizen's arrest.

Department records document that the named officer explained to the complainant that he could sign a citizen's arrest, but he declined and wished for the incident to be documented in an incident report.

DGO 5.06 I(b) CITATION RELEASE, MISDEMEANOR EXCEPTIONS directs officers that generally persons subject to misdemeanor arrest shall be cited. The numerous exceptions to this rule do not apply here. Therefore, the named officer was correct that the subjects would have been cited rather than subjected to a full custodial arrest.

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:** 06/17/19 **DATE OF COMPLETION:** 06/28/19 **PAGE#** 2 of 2

**SUMMARY OF ALLEGATION #2:** The officer wrote an inaccurate incident report.

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

**FINDINGS OF FACT:** The complainant stated the named officer wrote an inaccurate incident report because the incident report stated he did not want the suspect arrested.

Body Worn Camera footage showed the complainant telling the named officer that he wanted the suspect arrested and taken to jail. The named officer explained to the complainant he would have to sign a citizen's arrest form and that the suspect would most likely get a citation with a promise to appear in court. The complainant became upset that the suspect would not be taken to jail. When the named officer began walking to where the suspect was located, the complainant told him, "I just wanted to see the paramedics so he can give me some medicine." The named officer informed the complainant that the incident would be documented on an incident report.

Body Worn Camera footage also showed the complainant speaking to another officer. The officer explained to the complainant that the suspect would not be going to jail and that he would have to make a citizen's arrest if he wanted the suspect cited. The complainant stated to the officer, "I got to stick around and come to court . . .?" And then the complainant said, "Awe man, no." The body worn camera footage shows that the complainant, both by his words and his gestures, ultimately declined to sign a citizen's arrest form. When the named officer returned from speaking with the suspect, the named officer mentioned to the complainant that he already explained the citizen's arrest and told the complainant that the incident would be documented and that the DA may potentially contact him if they were going to pursue the case. The complainant responded "OK" and did not make any further request for a citizen's arrest.

Department records show that the named officer explained to the complainant that he could sign a citizen's arrest, but he declined and wished for the incident to be documented in an incident report. The incident report documented the complainant's initial desire to effect a private person's arrest, as well as his later decision not to sign a citizen's arrest form. Though the incident report did not include every detail available in the body worn camera, it accurately reflected the details that were included.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 06/12/19    **DATE OF COMPLETION:** 06/18/19    **PAGE#** 1 of 1

**SUMMARY OF ALLEGATION #1:** This 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 the California Highway Patrol.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 07/16/18    **DATE OF COMPLETION:** 06/10/19    **PAGE#** 1 of 5

**SUMMARY OF ALLEGATION #1:** The officer failed to accept a citizen's arrest.

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

**FINDINGS OF FACT:** The complainant stated he was dissatisfied with his order from a fast-food restaurant and got into an argument with a female employee. The complainant stated the situation became hostile and the female employee tased him. The complainant stated restaurant security called police and he told the responding officers he wanted to press charges against the employee. The complainant stated that he felt it was "a very racist situation" because the female employee and the officer were both "Spanish," and they spoke to each other in Spanish. The complainant stated he believed the female employee was an undocumented immigrant. The complainant stated the named officer presented him with a citizen's arrest form, but he refused to sign the form because he did not know what he was signing. The complainant stated the named officer would not let him read the form. The complainant stated that as he tried to take the form from the named officer, the named officer snatched it away from him, and crumpled it up.

The named officer stated the complainant was offered a citizen's arrest form and asked several times to sign it if he wanted to press charges, but the complainant refused. The named officer stated the complainant would not listen to his instructions, yelled profanities, and used homophobic and derogatory language towards him and his partner.

The second officer stated the named officer offered the complainant a citizen's arrest form and was asked several times to sign the form if he wanted to press charges. The second officer stated that the named officer explained the investigative and citizen's arrest process to the complainant. The complainant ignored the named officer's efforts to have him sign the citizen's arrest form and instead yelled profanities and used derogatory language towards both of the officers.

The restaurant employee stated the complainant became upset when he heard her speaking Spanish to another employee. The complainant told the employee and her co-worker to go back to their country, asked why they were working there, and stated they were "illegals." The witness stated she activated her stun gun to make a sound during the incident to scare off the complainant. The witness denied the stun gun made any physical contact with the complainant. The employee stated she did not recall if an officer offered the complainant a form. She did not recall the complainant refusing to sign any forms or complaining about not being allowed to read the form. The witness stated she did not recall if the officer put any paper in his pocket or took any paper out of the complainant's hand.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 07/16/18    **DATE OF COMPLETION:** 06/10/19    **PAGE#** 2 of 5

DPA made several attempts to interview the security guard, but he did not appear for his scheduled interview. The complainant identified a second witness, but the witness did not respond to DPA's request for an interview. The complainant stated there was a third witness, however, the complainant did not provide DPA with the identity of the witness or any contact information for the witness.

The incident report documents there was a call for service regarding a fight with no weapons. The report documents that a female employee said the complainant yelled profanities and derogatory words at the employee, then lunged at her. The employee stated she pulled out a stun gun to defend herself but did not make contact with the complainant. In contrast, the complainant told officers that the employee made contact with the stun gun twice. The report also documents that the named officers reviewed surveillance footage from the restaurant, which showed the complainant behaving in an agitated and aggressive manner towards the female employee. The surveillance footage showed the employee took out a stun gun but did not make contact with the complainant.

The report further documents that the complainant was extremely agitated, yelling profanities and using homophobic and derogatory language towards the officers. The complainant refused to listen when one of the officers tried to explain the investigation process and demanded to press charges against the employee. The complainant was provided a citizen's arrest form and was told he would have to sign it, but he refused, and the form was booked as evidence. The complainant then demanded a report. The complainant was provided a follow up form and case number. The report documents that the complainant did not sustain any injuries and refused all medical attention.

DPA reviewed the video surveillance footage from the restaurant. The video shows the complainant lunging across the counter towards the female employee and acting in a physically aggressive manner. The video shows the employee backing away from the counter. The employee then pulls out a stun gun and moves it in the complainant's direction, but she does not appear to make contact with the complainant. The complainant is later seen standing by the exit door with the security guard. The complainant does not appear to have any injury or be in distress consistent with being struck by a stun gun.

DGO 5.04 II. PROCEDURES states: Whenever a private person summons an officer to take custody of an individual that the private person has arrested or wants to arrest, officers shall:

1. Respond to the location of the "private person arrest."
2. Determine if a crime has, in fact, been committed.
3. Determine if reasonable suspicion exists to justify detaining the individual pending further investigation. If reasonable suspicion does not exist, the individual is free to leave.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 07/16/18    **DATE OF COMPLETION:** 06/10/19    **PAGE#** 3 of 5

4. Determine if probable cause exists to believe the individual committed the crime in question. If probable cause exists such that an arrest should be made, accept the private person's arrest and book or cite the individual as appropriate. (See DGO 5.06, "Citation Release"). If probable cause does not exist, the individual is free to leave.
5. If an individual is briefly detained or moved a short distance for safety, convenience, or privacy, you need not issue a Certificate of Release. If you release the individual, after having moved the individual a substantial distance, detained the individual for a significant length of time, physically restrained the individual, or brought the individual to a police facility, issue a Certificate of Release (See DGO 5.03 "Investigative Detentions").
6. If a custodial arrest is made, obtain the signature of the arresting private person on the "Private Person Arrest" section of the incident report form or complete the separate private person arrest form (SFPD 80).
7. If a citation is issued, the arresting person should complete and sign the back of the citation form. The arresting person should be given a copy of the citation.
8. In all instances involving requests for a private person's arrest, an incident report shall be prepared.

DGO 5.04 requires that officers obtain a signed form from the private person making the arrest. The complainant, by his own admission, stated one of the named officers presented him with a citizen's arrest form, but he refused to sign it because he did not know what he was signing. Nobody else corroborated the allegations that the named officer would not allow the complainant to read the form, or that it was snatched from him and crumpled up. Because the video and documentary evidence tends to contradict other aspects of the complainant's story, he lacks credibility. The evidence established that the named officer offered the complainant a citizen's arrest form in accordance with Department rules, and the complainant refused to sign it.

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



**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 07/16/18    **DATE OF COMPLETION:** 06/10/19    **PAGE#** 4 of 5

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

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

**FINDINGS OF FACT:** The complainant stated that, as he tried to take the citizen's arrest form from the named officer, the officer snatched it away from him and crumpled it up. The complainant stated the officer was hostile – "up in [his] face", almost bating him trying to get him to do something so he could arrest him. He stated the officer was intimidating him by pressing his chest toward the complainant and telling the complainant he was "not a man" and that he deserved what happened to him. The complainant stated the named officer pulled the complainant aside and asked him why he wanted to make things difficult for the woman.

The named officer denied the allegations. The named officer described his demeanor toward the complainant as calm. The officer described the complainant's demeanor as extremely agitated. The complainant was yelling profanities, homophobic and derogatory language towards both officers, despite their attempts to calm the complainant.

The second officer stated that the named officer did not behave inappropriately or make any inappropriate comments towards the complainant.

The witness stated that the named officer did not behave inappropriately or make any inappropriate comments as alleged by the complainant.

A preponderance of the evidence established that the named officers did not behave inappropriately or make any inappropriate comments. The evidence proved that the acts alleged in the complaint did not occur.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 07/16/18    **DATE OF COMPLETION:** 06/10/19    **PAGE#** 5 of 5

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

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

**FINDINGS OF FACT:** The complainant stated that as he tried to take the form from the named officer, the officer snatched it away from him, crumpled it up and said, "Fuck yourself."

The named officer denied the allegation and stated he did not use profanity.

The second officer denied the named officer used any profanity.

The witness stated the named officer did not make the statement as alleged by the complainant.

A preponderance of the evidence established that the named officers did not use profanity.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT:** 07/16/18 **DATE OF COMPLETION:** 06/10/19 **PAGE#** 1 of 6

**SUMMARY OF ALLEGATION # 1 - 2:** The officers handcuffed the complainant without justification.

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

**FINDINGS OF FACT:** The complainant said an individual told a second individual to charge at him and threaten him. He stated that, in response, he spat at the first individual. The complainant said that the named officers responded. He stated that when he refused to sit down, the named officers pushed him against the car, searched him, and handcuffed him. He complained the handcuffs were too tight and the officers had no right to handcuff him.

The named officers stated they responded to a call of a male subject spitting on another individual, which was a misdemeanor battery. The named officers stated the complainant was confrontational and admitted to spitting on the person. The named officers stated they gave the complainant a lawful order to sit down and the complainant refused saying his foot hurt. The named officers stated they detained the complainant and handcuffed the complainant while they investigated further. The named officers stated they did not specifically recall if they checked for the proper degree of tightness and double locked the handcuffs, but it is their normal practice to do so. The named officers stated the complainant never said anything to them about the handcuffs being too tight or his wrists hurting.

Two other officers who responded to the scene stated the complainant did not complain to them about the handcuffs being too tight, nor did he complain of any pain or injury related to being handcuffed. The two officers stated the complainant was very agitated, verbally aggressive, and very argumentative.

A witness stated he saw the officers handcuff the complainant. The witness stated he did not hear the complainant complain of any pain or say that the handcuffs were too tight. The witness described both officers as "very appropriate." The witness stated the officers kept asking the complainant to calm down because he was screaming.

A second witness stated the officers handcuffed the complainant before they put the complainant in a patrol car. The witness stated the complainant was standing the entire time, and he got a little belligerent. The witness stated the complainant never complained of any pain or tight handcuffs. The witness stated the officers were "very gentle" with the complainant.

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The Body Worn Camera (BWC) recordings show the complainant refused to obey a lawful order by the named officers to sit down. The video shows the officers were calm when handcuffing the complainant, and the complainant did not resist. The complainant did not complain of pain regarding the handcuffs but did state his foot hurt because he has pins and screws in his foot from a prior injury. The complainant did

not complain that the handcuffs were too tight. The recordings show that one of the named officers checked the handcuffs for the proper degree of tightness and double locked the handcuffs. The video also shows that the complainant was moving his arms and shoulders in an exaggerated manner while handcuffed.

Photos were taken of the complainant's wrists, which show some slight redness, consistent with being handcuffed.

SFPD Arrest & Control Manual, page 56, Handcuffing Guidelines states: Who should be handcuffed:

- When the subject is being arrested for a felony offense
- When the subject is a violent misdemeanor or a misdemeanor who exhibits a tendency to escape
- Nothing in the above shall preclude the use of handcuffs on any prisoner when their use is deemed necessary by the arresting officer

The complainant acknowledged that he refused to comply with the named officers' orders to sit down. He also admitted that he committed a misdemeanor offense by spitting on someone. The evidence established that the named officers were justified in handcuffing the complainant based on the complainant's verbal and physical behavior, as well as what was known to the officers at the time. There is no evidence that the handcuffs were applied too tightly.

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

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**SUMMARY OF ALLEGATIONS #3 - 6:** The officers used unnecessary force during the detention and at the station.

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

**FINDINGS OF FACT:** The complainant stated one of the named officers grabbed his arm and was shoving and pushing him. The complainant stated officers pushed him against the patrol car. He stated another officer was also grabbing and pushing him from the back. The complainant stated the officers

twisted his hand after the complainant was cited and released at the station. The complainant stated he was told to leave the station, but instead he went in an area outside of the station where he wasn't authorized to be. He wanted to go through his bag to check to see if his belongings were in there. The complainant stated one of the named officers approached him and told him he could not be in there, twisted his arm

and walked him out. The complainant stated that one of the named officers twisted his arm up and another officer had his wrist. The complainant did not seek medical attention.

The four named officers denied the allegation and stated they did not use any force against the complainant at the scene or at the station. The four named officers stated they did not push or shove the complainant, nor was he pushed against a patrol car. Two of the named officers observed the complainant in handcuffs standing near a patrol car when they arrived on scene. The complainant was being loud and belligerent. Two of the named officers stated that they walked the complainant down the sidewalk about 20 feet away from the victim and witnesses, because the complainant was making it difficult for the primary officers to conduct their investigation. One of the named officers stated he did have to grab the complainant's hand when he handcuffed the complainant because that's part of the handcuffing procedure. The officer stated he used a twist-lock grip per the Arrest and Control Manual.

Two of the named officers stated they were not involved in the handcuffing or transport of the complainant and did not have any further contact with the complainant after he was transported from the scene to the station. Two of the named officers who transported the complainant to the station stated the handcuffs were removed at the station and the complainant neither complained of any pain or injury, nor requested medical attention at the station. The two officers who transported the complainant to the station stated their demeanor toward the complainant was professional and calm throughout the contact.

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The officers denied twisting the complainant's arm at the station. One of the named officers stated he was walking back to the car at the station after the complainant had been cited and released and saw the complainant in a restricted area where there are signs posted. The officer stated he told the complainant he could not be there and had to leave, and the complainant left. The second named officer stated that the complainant went back into the station parking lot at some point after he had been released and was yelling something. The officer went outside to tell the complainant to leave, and he left. The officer did not remember if the other officer was present and he did not have any recollection of grabbing the complainant's arm or escorting him out of the parking lot.

The first witness stated he did not see any use of force by the officers at the scene. The second witness described the officers as "very appropriate." The witness stated the officers were very gentle with the complainant. There was no force. The officers guided the complainant to the car, opened the door, and that was it.

The BWC recordings did not provide any evidence of unnecessary or excessive force being used on the complainant. The recordings show that the named officers acted in a calm and professional manner. The recordings show two of the named officers handcuffed the complainant prior to the arrival of the other two named officers. The footage shows the complainant was agitated and verbally aggressive. The BWC recordings show two of the named officers handcuffed the complainant. The other two named officers

contact with the complainant was limited to walking him up the street and standing with him while the other two officers conducted the investigation. The complainant did not complain of any use of force by the officers in the video. One of the named officers escorted the complainant to the patrol car and placed him in the back seat. The officer placed the complainant's personal belongings in the trunk. The complainant was then transported to Mission Station to verify his identity. BWC footage of the transport shows both officers were calm and professional.

SFPD General Order 5.01 states, "officers may use force during the performance of their duties...to effect the lawful arrest/detention of persons resisting or attempting to evade that arrest/detention."

A preponderance of the evidence established that the named officers did not use unnecessary force on the complainant.

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

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**SUMMARY OF ALLEGATIONS #7 - 9:** The officers failed to properly process property.

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

**FINDINGS OF FACT:** The complainant stated the “fat officer” took two cigarettes that were in his bag. The complainant also stated the officers searched his bag at the station and took his cigarettes. The complainant stated he went back inside the station to file a report about his two cigarettes being stolen. The complainant stated he started crying for the camera and that he was emotionally distressed. The complainant stated that he tossed the paper that someone gave him to fill out. He said one of the named officers came up front and told him he had all his belongings. The complainant grabbed his belongings and walked out of the station without filing a report.

The named officers denied the allegation. The named officers stated they did not take any cigarettes out of the complainant’s bag. The named officers stated they did not have any recollection of the complainant having cigarettes. Two of the named officers stated the reason they responded to the call was because the complainant was asking for cigarettes from people and spat on someone who would not give him one. Two of the named officers who transported the complainant to the station stated they brought the complainant through the Sally Port, cuffed him to the bench, looked thru his bag, found his ID, and issued him the citation. They said this all occurred over a span of 24 minutes. The named officers stated none of them smoke cigarettes and they would not have taken the complainant’s cigarettes. One of the named officers, who the complainant identified as the ”fat officer,” stated he was not involved in processing the

complainant’s property as he did not have any contact with the complainant once the complainant was transported from the scene by the other two named officers.

The first witness stated that the complainant approached his friend and asked him for a cigarette. The complainant asked other people as well. The witness stated the complainant got upset and started yelling when his friend would not give the complainant a cigarette. His friend got up and walked away to get away from the complainant and the complainant spat on his friend. The second witness stated he was sitting on a bench when the complainant approached him and asked him for a cigarette. The witness told the complainant he did not have a cigarette and the complainant became “aggressive” toward him. The witness stated he believed the complainant may have been under the influence of drugs.

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The BWC recordings corroborate the named officers' and witness' statements regarding the cigarettes. In the video the complainant verbally accused one of the named officers of illegally searching his bag. The

BWC recordings show this officer did not remove anything from the complainant's bag and his contact with the bag was limited to picking up the bag when a plastic water bottle fell out on the sidewalk. The officer picked up the water bottle and gently placed it back in the bag. The recordings show the officer then carried the bag over to the patrol vehicle and placed it on the ground. The officer had no further contact with the bag.

The complainant made inconsistent statements with regards to when his cigarettes were taken, and which officer allegedly took the cigarettes. The named officers had no motive to take the complainant's cigarettes. Furthermore, it's unlikely the complainant had any cigarettes in his bag since he was asking strangers for cigarettes. A preponderance of the evidence established that the named officers did not take the complainant's cigarettes nor fail to properly process the complainant's property.

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

**SUMMARY OF ALLEGATIONS #10:** The officer searched the complainant's personal property without cause.

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

**FINDINGS OF FACT:** The complainant stated the named officer reached in his bag.

The named officer denied the allegation. The named officer stated he had no recollection of the plastic water bottle falling out of the complainant's bag. The officer stated the act of picking up the water bottle and putting it back would not constitute an illegal search of the complainant's property.

The BWC recordings show the named officer did not search the complainant's bag as alleged.

The act of putting the plastic water bottle back in the complainant's bag after it fell out does not constitute a search because the officer was acting in good faith by putting the bottle back in the bag and keeping the complainant's belongings together.

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



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

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

**FINDINGS OF FACT:** The complainants stated the officers did not enforce a restraining order. One of the complainants stated that another person living in her house, the restrained person, pushed her. The complainants stated the officers just wanted to mediate the situation and did not act on the temporary restraining order. They said the responding officers would not take a citizen's arrest, and they argued that the contact appeared unintentional.

The named officers stated that there was no merit to the push and no crime had been committed. The officers stated that both parties had restraining orders against each other, and both parties lived in tight quarters where they share common areas, which makes enforcement of a restraining order difficult. The named officers stated that one party had a video to show that there was no push. The named officers stated they attempted to mediate, and said they are trained to mediate when possible.

The Body Worn Camera (BWC) recordings show that the named officers spoke to all parties and that a video by the other party was viewed by one of them. The recordings show that the parties had dueling stay-away orders from each other, and the officers examined their documents while on scene. The recordings show that the parties were told that there did not appear to have been a push and to keep a distance from each other.

The California Commission on Peace Officer Standards and Training, Basic Course Workbook Series, Learning Domain 15, Laws of Arrest, states, "Probable cause for an arrest is a set of facts that would cause a person of ordinary care and prudence to entertain an honest and strong belief that the person to be arrested is guilty of a crime. Probable cause is required before an arrest is made and is based on the totality of the circumstances."

The named officers gathered statements from both parties, both of whom had stay away orders against the other. They also considered video evidence. They determined, based on a totality of the circumstances, that an arrest was not justified.

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 #5 - 8:** The officers behaved inappropriately.

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

**FINDINGS OF FACT:** One complainant stated she wanted officers to take her roommate's taser and an officer told her that she should get one too, which she felt was an inappropriate response. The other complainant stated the officers forced her to be in the presence of her roommate, the restrained party, to lecture them and attempt to mediate.

One of the named officers stated that he told the complainant, "get [a taser] if you feel you need one for your protection." The officers stated that they were professional and courteous during this incident. The officers stated they proceeded to attempt to mediate the situation after they investigated, because it did not appear that there was probable cause for an arrest.

BWC footage documents that the officers were professional and courteous and that an officer viewed the incident from the other party's camera to determine that there was no violation or crime. The recordings show that, at one point, one of the complainants states that the roommate has a taser, which they find threatening. One of the named officers replies that she is permitted to have one, and that the complainant can also own one if they feel it necessary.

The statement and actions of the officers were not improper.

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

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**SUMMARY OF DPA ADDED 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:** During the DPA investigation, it was discovered that two of the named officers activated their cameras late, while another did not have any recordings for the incident.

One of the named officers stated he was not focused on when he specifically activated his BWC, only that he did activate it. The named officer's BWC recording starts when he is speaking with one of the complainants and the audio comes on while he is walking up the stairs into the residence to speak to the opposing party. That named officer acknowledged that he probably was required to have activated his camera earlier. A second named officer also activated his BWC late, but said he did not feel it was warranted, since he was still trying to determine whether a crime was committed. The third named officer stated that he thought he had activated his camera; however, he could not find it when he looked for it before his DPA interview.

A letter from the SFPD Legal Division indicated that there was no BWC footage for the third named officer.

SFPD General Order 10.11, Body Worn Cameras, requires that officers activate their BWC's during "consensual encounters where the member suspects that the citizen may have knowledge of criminal activity as a suspect, witness, or victim," and "during any citizen encounter that becomes hostile." In this case, the named officer and his partner were responding to a reported dispute and restraining order violation in a residence. Under these circumstances, the named officers were required to activate their BWC upon speaking to the complainant, but they failed to do so.

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

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

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

**FINDINGS OF FACT:** By mutual agreement of the complainant and the named officer, the complaint was mediated and resolved in a non-disciplinary manner on 05/30/2019.

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

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

**FINDINGS OF FACT:** By mutual agreement of the complainant and the named officer, the complaint was mediated and resolved in a non-disciplinary manner on 05/30/19.

**SUMMARY OF ALLEGATION #3:** The officer behaved inappropriately.

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

**FINDINGS OF FACT:** By mutual agreement of the complainant and the named officer, the complaint was mediated and resolved in a non-disciplinary manner on 05/30/19.

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**SUMMARY OF ALLEGATION #1:** The officer conducted a pat search without cause.

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

**FINDINGS OF FACT:** The complainant, a public defender, stated the named officer conducted an illegal pat search on his client (the “subject”).

The named officer stated he witnessed the subject ride his bicycle on the sidewalk, and subsequently detained him for violating San Francisco Transportation Code 7.2.12. The named officer ordered the subject to get off his bicycle and drop his backpack. The named office stated the subject initially did not comply with those orders and began looking around, nervously scanning the area, which the named officer felt was an indication that the subject would flee. The named officer stated the area where he detained the subject was a “high crime area” but acknowledged at the time of the incident it was daylight. The named officer stated he subsequently conducted a pat search for weapons on the subject.

A witness officer stated he observed the subject riding his bicycle on the sidewalk, in a high crime area. He stated the subject was compliant when asked to get off his bicycle and drop his backpack.

No other witnesses were identified.

BWC footage contradicts the named officer’s statement. The footage shows the subject complying and followed the named officer’s orders when asked to get off his bicycle and to drop his backpack.

Case law proves that the named officer’s pat search was unlawful. The named officer did not provide articulable facts to explain the reason for the search.

DPA found that 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 #2:** The officer searched personal property without cause.

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

**FINDINGS OF FACT:** The complainant, a public defender, stated the named officer conducted an illegal search of his client's (the "subject") backpack.

The named officer stated he witnessed the subject ride his bicycle on the sidewalk, which was in violation of San Francisco Transportation Code 7.2.12. He stated the subject provided the witness officer three false names. Then named officer stated he went into the subject's backpack to look for an identification card and when he did so, he observed a gun.

A witness officer corroborated the named officer's statement.

No other witnesses were identified.

BWC footage corroborates the named and witness officers' statements.

Section 21200 CVC states that bicyclists are subject to the same rights and responsibilities as other vehicles on a roadway and can be cited for certain moving violations.

DGO 5.03 states that the refusal or failure of a person to identify himself or herself or to produce identification upon request of a police officer cannot be the sole cause for arrest or detention, except where the driver of a motor vehicle refuses to produce a driver license upon the request of an officer enforcing the Vehicle Code or the Traffic Code.

Case law proved that the search of the complainant's personal property was lawful.

The evidence proved that the acts that provided the basis for the allegations occurred; however, such acts were justified, lawful, and proper.

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**SUMMARY OF ALLEGATION #3-4:** The officers arrested a person without cause.

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

**FINDINGS OF FACT:** The complainant, a public defender, stated his client (the “subject”) was arrested based on an unlawful search.

The named officers stated they observed the subject riding his bicycle on the sidewalk, which is a violation of the San Francisco Transportation Code Section 7.2.12. When they detained the subject, he provided multiple false names. Named officer #2 searched the subject’s backpack for an identification card and discovered a gun. When the gun was discovered, the subject fled the scene and was eventually apprehended and arrested by the named officers.

No witnesses were identified.

BWC footage corroborates the statements made by the officers.

Case law proved that the arrest was justified, lawful, and proper.

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

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**SUMMARY OF ALLEGATIONS #5:** The officer used excessive force.

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

**FINDINGS OF FACT:** The complainant, a public defender, stated the named officer used excessive force on his client (the “subject”) resulting in a broken leg.

DGO 5.01 states Officers may use reasonable force options in the performance of their duties to effect a lawful arrest, to overcome resistance or to prevent escape, or to gain compliance with a lawful order. Additionally, 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.

The named officer denied using excessive force, stating he used reasonable force to effect an arrest. He stated that when a gun was discovered in the subject’s backpack, the subject fled, and ignored his orders to stop running. The subject subsequently ran into an open garage where he could have picked up a weapon. The subject was ordered out the garage and on the ground. While on the ground, the subject actively resisted arrest. The named officer stated he could not grab the subject’s hand as it was underneath the subject, possibly near his waistband or pockets which could have concealed a weapon. He acknowledged that he punched the subject in the head as that was the only part of the subject’s body accessible to him. The named officer stated he could not use OC spray as there was a risk of splash-back.

The named officer’s partner stated he searched the subject’s backpack for identification and discovered a gun, which resulted in the subject fleeing the scene. The subject hid underneath a car and was ordered to come out and show his hands. The subject subsequently fled again into a garage. The named officer’s partner pointed his gun at the subject and he and the named officer ordered the subject to come out with his hands up and to get on the ground. The subject picked up a chair and a broom and moved forward toward him and the named officer, but then retreated into the garage, where he lost sight of the subject. The named officer’s partner did not know what the subject was doing with his hands, while in the garage, and thought he may have picked up a weapon. He stated the subject finally came out of the garage while dragging a metal chair. The subject put the chair down and attempted to flee again. When he and the named officer brought the subject to the ground, the subject actively resisted arrest. The subject’s hands were flailing while the named officer was on top of the subject trying to unsuccessfully gain compliance of the subject.

The supervising officer stated he found the use of force reasonable. He stated he based his findings on the fact that the subject refused multiple times to stop resisting; the subject refused to come out of the garage



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where there could have been another weapon; the subject picked up multiple objects and took a fighting stance; and the subject concealed his hands near his waistband. The supervising officer stated it would have been ideal for the named officer to have grabbed the subject's visible hand when they were on the ground, but he stated he couldn't tell if the subject was pulling his hand away from named officer. He stated also that the officers were in a very dangerous situation because they were the only two officers present during this time and named officer's partner was holding on to the backpack with the gun inside. He did not think OC spray would have been effective because it does immediately work. He stated also that he did not think the officers had any other tools at their disposal but to use baton strikes and punches to the head to get the subject to comply with handcuffing.

Witness #1, who observed the incident from his third story window, stated the subject attempted to exit a garage while holding a folding metal chair. He stated after the subject threw the chair aside, he was tackled by the named officer, causing the subject to fall on his back. He stated that while the subject was subdued on the ground, the named officer punched the subject in the head and neck at least six times.

Witness #2 stated he was sitting outside his garage, a narrow toolshed jammed full of equipment, when the subject ran inside. He saw 15 officers pointing their guns while looking for the subject. The named officer and his partner stood with their guns drawn directly in front of the garage. He stated named officer told the subject, "You better be smart or you're going to get shot." Next, the subject slowly came out of the garage, crouched behind a chair he picked up to protect himself. When the named officer and his partner ordered the subject to drop the chair, he did. The named officer and his partner then tackled the subject at the entrance of the garage causing the subject to land on his back. He stated the named officer was on top of the subject where he hit the subject in the face 12 times. He stated named officer's partner immediately hit the subject's leg with a baton approximately 15-20 times.

No other witnesses were identified.

Medical records show that the subject did not sustain a broken leg or any serious bodily injury from the incident.

Police records show that the use of force against the subject was documented and the supervising officer conducted an evaluation of the use of force, which he found was reasonable.

BWC footage shows that when the subject partially stands up and the named officer grabs the subject taking him down to the ground, the named officer begins punching the subject in the face. Immediately to the right of the named officer and the subject is a folding metal chair. There is another metal folding chair to their left, approximately three to four feet away. While the named officer punches the subject, the

subject lays on his side shielding his head with his right hand. The subject is on his stomach with his right hand visible by his head, but his left hand is not visible. However, while the named officer continues to

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punch the subject, both of his hands are visible and are blocking his face from the named officer's punches.

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

**SUMMARY OF ALLEGATIONS #6:** The officer used excessive force.

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

**FINDINGS OF FACT:** The named officer stated acknowledged he pointed his gun at the subject after the subject fled into a garage. He and his partner ordered the subject to come out with his hands up and to get on the ground. The subject picked up a chair and a broom and moved forward toward them, but then retreated into the garage, where he lost sight of the subject. The subject finally came out of the garage while dragging a metal chair. The named officer stated that the metal chair was a weapon and he did not know if the subject had another gun on his person. The subject put the chair down, attempted to flee again, and was subsequently taken to the ground. The subject was actively resisting with his partner. Prior to striking the subject on the leg an unknown number of times, he ordered the subject to stop resisting. He admitted he did not announce a warning to the subject of his intent to use his baton on the subject. Additionally, he acknowledged that he was aware that his partner was on top of the subject and punching the subject, while he simultaneously struck the subject with his baton. He stated he was justified in using his baton because his partner's attempts to gain the subject's compliance was unsuccessful. After each baton strike, he yelled at the subject to stop resisting. He did not deploy his OC Spray because he was concerned with spray splash.

DGO 5.01 states an officer's use of force must be objectively reasonable under the totality of circumstances known to the officer at the time. However, Officers must strive to use the minimal amount of force necessary.

The named officer's partner stated the subject actively resisted arrest and hid his hands.

The supervising officer investigated the amount of force used on the subject and concluded that the punches to the face and baton strikes to the legs of the subject was reasonable to affect the arrest. He did not think the named officer had any other tool at his disposal but to use baton strikes and punches to gain compliance.

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Witness #1 saw the subject attempt to exit a garage while holding a folding metal chair. He stated after the subject threw the chair aside, he was tackled by named officer's partner causing the subject to fall on his back. He saw the named officer hit the subject's legs with a baton.

Witness #2 stated he was sitting outside his garage, a narrow toolshed jammed full of equipment, when the subject ran inside. The subject slowly came out of the garage, crouched behind a chair he picked up to protect himself. When the officers ordered him to drop the chair, he did. The subject was tackled at the entrance of the garage causing the subject to land on his back. The named officer's partner was on top of the subject hitting the subject in the face 12 times, while the named officer immediately hit the subject's leg with a baton approximately 15-20 times.

No other witnesses were identified.

The incident report shows that after the subject evaded arrest and fled into a garage, the named officer observed the subject pick up a chair and a broomstick. He ordered the subject to show his hands or he would be shot. He stated the subject placed the items on the floor and exited the garage, attempting to flee. He stated his partner grabbed the subject, punched him multiple times in the face and eventually brought him down to the ground. He stated he observed the subject actively resisting so he deployed his baton and struck the subject an unknown number of times. He stated his partner was then able to place the subject into handcuffs.

No other witnesses were identified.

Medical records show that the subject did not sustain a broken leg or any serious injury from the incident.

Police records show that the use of force against the subject was documented and the supervising officer conducted an evaluation of the use of force, which he found was reasonable.

Based on the preponderance of evidence, the conduct complained of did occur, and that using as a standard the applicable regulation of the Department, the conduct was improper.

**SUMMARY OF ALLEGATION #7-9:** The officers behaved inappropriately.

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

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**FINDINGS OF FACT:** The complainant, a public defender, stated the named officer's fist-bumped, in celebration, after force was used on his client (the "subject").

DGO 2.01 (10) states that any conduct by an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action.

The named officers denied that fist-bumped to celebrate using force on the subject. They acknowledged they fist-bumped one another, but stated it was in recognition of their accomplishment of finding a gun that would no longer be on the streets.

Body Worn Camera footage shows the fist-bumps after the subject was in custody, but on the ground moaning in pain. The fist-bumps were somewhat discreet as they were brief and below shoulder level.

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

**SUMMARY OF ALLEGATION #10:** The officer misrepresented the truth.

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

**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**FINDINGS OF FACT:** The complainant, a public defender, stated the named officer lied in court while testifying against his client (the “subject”). The complainant stated the named officer lied when he testified that the subject was not compliant during the initial stop, that he did not find a wallet on the subject when he conducted a pat search, and that the subject was resisting arrest when he was taken to the ground by the named officer. Additionally, the named officer’s incident report statement’s description of the complainant’s client’s (the “subject”) lack of compliance and failure to find a wallet was not truthful.

DGO 2.01 (9) states that any misconduct that reflects discredit upon the Department shall be considered unofficer-like conduct subject to disciplinary action.

San Francisco Police Department Bulletin 16-125 Report Writing Responsibilities states that officers are responsible for preparing incident reports that are complete and accurate when memorializing an incident.

Post Basic Coursework LD 18, 1-11 states that no matter what type of investigative report is being written that report must be: Factual, Accurate, Clear, Concise, Complete, and Timely.

SFPD Report Writing Manual Section 10 states that the narrative must be complete, fully describing the circumstances surrounding each criminal charge.

The named officer denied the allegation. He stated he did not have any changes he wished to make to the incident report and that it was a fair and accurate description of the incident. He stated that the subject was non-compliant during the detention. He pat searched the subject and did not find a wallet. He stated the subject provided multiple false names, so his partner searched the subject’s backpack for identification.

The named officer’s partner stated the subject was compliant when asked to get off his bicycle and drop his backpack. He stated the named officer did not find a wallet on the subject when the subject was pat searched.

The incident report statement written by the named officer described the subject as non-compliant and he did not feel a wallet in the subject’s back pocket during the detention. The statement omitted the named officer’s partner’s use of a baton on the subject during the arrest.

In the subject’s preliminary hearing, the named officer testified that he observed the subject riding his bicycle on the sidewalk, ordered the subject to get off his bike, put down his backpack and sit down. The

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named officer stated the subject was looking in every other direction and the subject was not compliant at first and took a “few minutes” for the subject to comply. The named officer testified that when he conducted a pat search on the subject, he did not feel a wallet. He also testified that he tackled the subject to the ground due to his lack of compliance, his active resisting, his picking up several objects in the garage and his fleeing. He testified that he punched the subject in the head as the subject was curled over and concealing his hands underneath him. He stated he did not know if the subject had any other weapons on his person as the subject could have picked up a weapon while he was in the garage.

In the subject’s preliminary hearing, the named officer’s partner testified he observed the incident in the garage from the third floor of his building. He stated he observed the subject wave a metal chair from the garage to back up the named officer and his partner. He stated the subject dropped the chair before he had any contact with the named officer and his partner. He stated the named officer pushed the subject to the ground and got on top of the subject who was now on his side. He stated he did not see the subject reach for any weapons, throw any punches, kick his feet, flail his hands, or reach for anything. Witness #1 stated he did not see the subject put his hands in the air. He stated the named officer was sitting on the subject’s shoulders punching him in the head. He also stated during the course of the punches to the head, the named officer’s partner began striking the subject with his baton. He stated the subject was subdued when he was on the ground.

In the subject’s preliminary hearing, the presiding judge stated he did not find the named officer credible after viewing BWC footage and hearing witness testimony, as it contradicted what the named officer testified to.

BWC footage contradicts the named officer’s incident report statement and court testimony. The footage shows the named officer order the subject to put his hands on his head, and the subject complies immediately. The named officer subsequently pat searches the subject. The named officer feels the subject’s left rear pocket, which has a little bulge. The named officer does not remove anything or say anything about finding a wallet. However, after the subject was subdued on the ground and searched, an officer is heard saying, “You got his wallet?” while another officer says, “His right pocket.” When another officer says, “We got mics on,” an officer responds, “It’s just an empty wallet.”

Witness video, taken after the subject is on the ground, shows the named officer pull a wallet out of the subject’s rear pocket.

A preponderance of the evidence proved that the named officer lied under oath about the subject’s initial non-compliance and wrote an inaccurate and incomplete incident report. 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 #11:** The officer failed to properly process property.

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

**FINDINGS OF FACT:** DPAs investigation found that the subject was detained for riding his bicycle on the sidewalk. The subject fled the initial scene, leaving his bicycle but he was arrested in close proximity to his detention location. The subject was in possession of his bicycle when he was detained, thus the detaining officers were responsible for his bicycle. The subject was not issued a property receipt and there is no record of the bicycle being booked for safekeeping.

Department General Order 6.15 states that the member who first receives or takes property is responsible for it until the item is processed as property for identification and is received at the district station or at the Property Control Section.

Department General Order 2.01, (19) states, “Unless otherwise ordered, when two or more officers of equal rank are on duty together, the senior officer shall be in charge and is responsible for the proper completion of the assignment.”

The named officer acknowledged the subject had a bicycle in his possession at the time he was detained. He did not know what happened to the subject’s bicycle, he did not return to the scene to look for the subject’s bicycle, and he did not recall mentioning the subject’s bicycle to anyone. He denied intentionally leaving the subject’s bicycle, stating that after the subject fled the scene there was no way for him to retrieve the subject’s bicycle at that time. He admitted that his patrol vehicle was left in the same area as the subject’s bicycle. He stated that it was the responsibility of the reporting unit to return to the scene and collect property. He did not tell anyone about the subject’s bicycle because he was not worried about the subject’s bicycle, he was worried about the gun.

The named officer’s partner stated he did not retrieve the subject’s bicycle, because he was told by a sergeant to return to the station. He did not tell anyone that a bicycle was left at the initial scene. He acknowledged that when a property is left at the scene of a foot pursuit, an officer will retrieve it and book it.

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The supervising officer stated officers who initially see the property are the officers who are responsible for collecting the property. He stated it is common practice to return to the scene to look for property unless it is a dangerous area with a crowd.

No other witnesses were identified.

The subject's bicycle is not listed as booked property or property for safekeeping. There is no record of the named officer or his partner requesting assistance in transporting the bicycle to the District Station for processing. There is no documentation regarding what happened to the subject's bicycle after the subject's arrest.

The subject's bicycle was inextricably linked to the crime for which the subject was detained and ultimately booked. There is no evidence of any officer looking for it, finding it, processing it, or booking it. A preponderance of the evidence proved that the conduct complained of did occur, and that, using as a standard the applicable regulations of the Department, the conduct was improper.

**SUMMARY OF DPA ADDED ALLEGATION #1:** The officer failed to comply with DGO 10.11.

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

**FINDINGS OF FACT:** A review of BWC footage shows the named officer turn on his BWC after he initiated contact and pat searched the suspect.

The named officer stated he knew he was going to pull over the subject for riding his bicycle on the sidewalk while he was still in the patrol vehicle. The named officer acknowledged he was required to turn on his BWC when a crime may have occurred and when interviewing someone.

The named officer's Body Worn Camera shows it was turned on when the suspect was already sitting on the ground while the named officer was running his name through dispatch.

The named officer's partner's BWC shows the named officer initiate contact and pat search the suspect, which is not captured on the named officers' BWC.

No other witnesses were identified.

The CAD documents the call for service for this incident was for a suspicious person.



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DGO 10.11 states that all on-scene members equipped with a BWC shall activate their BWC equipment to record detentions and arrests.

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 conducted a pat search without cause.

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

**FINDINGS OF FACT:** The complainant, a public defender, stated the named officer conducted an illegal pat search on his client (the “subject”).

The named officer stated he witnessed the subject ride his bicycle on the sidewalk, and subsequently detained him for violating San Francisco Transportation Code 7.2.12. The named officer ordered the subject to get off his bicycle and drop his backpack. The named officer stated the subject initially did not comply with those orders and began looking around, nervously scanning the area, which the named officer felt was an indication that the subject would flee. The named officer stated the area where he detained the subject was a “high crime area” but acknowledged at the time of the incident it was daylight. The named officer stated he subsequently conducted a pat search for weapons on the subject.

A witness officer stated he observed the subject riding his bicycle on the sidewalk, in a high crime area. He stated the subject was compliant when asked to get off his bicycle and drop his backpack.

No other witnesses were identified.

BWC footage contradicts the named officer’s statement. The footage shows the subject complying and followed the named officer’s orders when asked to get off his bicycle and to drop his backpack.

Case law proves that the named officer’s pat search was unlawful. The named officer did not provide articulable facts to explain the reason for the search.

DPA found that 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: 08/20/18    DATE OF COMPLETION: 06/28/19    PAGE# 1 of 3**

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

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

**FINDINGS OF FACT:** The complainant boarded a Muni bus with his unleashed dog. The driver told the complainant to put a leash on the dog. The complainant refused, claiming that the dog was a service animal and could legally ride the bus unleashed. The driver then called for police assistance. Two officers, one of whom was the named officer, arrived at the scene. The officers asked the complainant numerous times to leash his dog, but the complainant refused. The named officer then arrested the complainant and booked him for violation of San Francisco Health Code § 41.12(a), and Penal code §§ 372 PC and 640(d)(1).

Article 1, section 41.12(a) of the San Francisco Health Code states, in part, “It shall be unlawful for the owner or guardian of any animal, other than a domestic cat, to permit said animal to run at large within the City and County.” Article 1, Section 41 of the same Code defines “at large” as any dog off the premises of its owners or guardian and not under restraint by a leash, rope or chain of not more than eight (8) feet in length, and any other animal not under physical restraint. The complainant violated section 41.12(a) of the San Francisco Health Code by not putting a leash on his dog while having her outside of his premises.

Anyone willfully disturbing others on or in a system facility or vehicle by engaging in boisterous or unruly behavior is liable under section 640(d)(1) of the California Penal Code. The complainant violated this section when he willfully refused to obey the instructions of the Muni bus driver. He refused to put a leash on his dog despite being asked numerous times, prompting the driver to call for police assistance. His behavior inconvenienced the passengers and disrupted the regular operation of the bus. Body-worn camera footage depicts the complainant being belligerent, loud and argumentative.

Section 372 of the California Penal Code defines criminal public nuisance as anything that is injurious to health, indecent, offensive to the senses or an obstruction to the free use of property and interferes with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons. By disrupting the operation of the bus and inconveniencing its passengers, the complainant allegedly created a nuisance. He obstructed the free use of the bus and interfered with the comfort of the passengers.

Based on the foregoing, officers had probable cause to arrest complainant. The act, which provided 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:      S      DEPT. ACTION:**

**FINDINGS OF FACT:** The named officer responded to a disturbance on MUNI. The complainant boarded the crowded bus with his dog, and he became belligerent when MUNI driver asked him to put his dog on a leash; thus MUNI driver called the police for assistance.

The complainant believed the Americans with Disabilities Act gave him the right to board the bus with his dog unleashed because the dog is a service animal, he is psychiatrically disabled, and service animals can be under voice commands. He acknowledged that his dog was unlicensed. The complainant felt the officers immediately became verbally aggressive. He acknowledged being loud and rude but attributed that to his disability.

The named officer body worn camera captured the interactions with complainant. Throughout the interaction, both raise their voices, cut each other off, and become increasingly frustrated with each other. When complainant quoted a federal law, the named officer responded, "Bullshit," three times. At one point, complainant attempts to explain his disability, and named officer says, "I don't care. If I'm going lose my job for that, I don't give a shit." Finally, named officer tells complainant, "You're selfish," as she places him into the back of a patrol vehicle. She then closes the door and mutters, "Piece of shit. Fucking had it with these people," as she walks away.

Paragraph 14 of DGO 2.01, General Rules of Conduct, states in part, "When acting in the performance of their duties, while on or off duty, members shall treat the public with courtesy and respect and not use harsh, profane or uncivil language." The named officer violated DGO 2.01 by speaking rudely and disrespectfully too 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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**SUMMARY OF ALLEGATION #3:** The officer behaved and spoke inappropriately.

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

**FINDINGS OF FACT:** The complainant stated the named officer yelled at him. The complainant admitted being loud and rude but explained that it was because of his disability.

The named officer denied yelling at the complainant. The officer stated he spoke over the complainant because the latter was denying him to speak.

The other officer on scene stated that the named officer and the complainant were yelling at each other regarding the complainant's dog not being leashed.

Body-worn camera footage shows the complainant yelling, agitated, and extremely argumentative. The officer is forced to raise his voice in order to be heard over the complainant and convey what he wanted to say.

The act, which provided basis for the allegation, occurred. However, it is not egregious enough to warrant sustainability.

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

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**DATE OF COMPLAINT:** 08/26/18 **DATE OF COMPLETION:** 06/10/18 **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** The anonymous complainant stated the named officer came into a business and consumed food and drink that the staff left out for customers. The complainant also stated that it is alright for the named officer to do so every once in a while, but not all the time.

The named officer denied he engaged in inappropriate behavior. The named officer stated he has frequently visited the business as part of his regular passing calls to guard posts under his direct supervision in the area. The named officer stated he was asked by the general manager of the business to come and check on the facility and staff whenever possible as the business is in a remote area. The named officer stated the general manager offered him to partake in the complimentary snacks and drinks. The refreshments are offered to passengers, staff, and other airport personnel at all levels. The named officer stated there is no signage indicating price, no register present, nor has any person been observed to pay for or offered to pay for the complimentary snacks. The officer stated he did not recall consuming any items on the day in question, but he does recall using the restroom. The named officer stated he has never been asked to pay for items.

A witness officer stated he could not recall if the named officer consumed any snacks or beverages during the visit, and he didn't recall anyone asking the named officer to pay for any snacks or beverages. The witness officer stated he has visited the business on prior occasions where he consumed a cup of coffee and cookies, and he was never asked to pay. The business is not a retail outlet or establishment. There is no mechanism in which to pay for coffee or cookies.

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

No other witnesses were identified.

There was insufficient evidence to prove or disprove the allegation.

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**SUMMARY OF ALLEGATIONS #1-2:** The officers failed to make an arrest.

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

**FINDINGS OF FACT:** The complainant stated that his juvenile daughter's mother abandoned their daughter. He stated that the mother was supposed to drop the daughter off at softball practice, but instead got into a fight with her, damaged her phone, and left her far from home without a way to call anyone, or a means to return. He also stated that the mother had been drinking. The complainant said that the officers should have arrested his daughter's mother.

One of the named officers was dispatched to the location where the daughter was left by her mother. He stated that he led the investigation into the matter, but that it was a missing person investigation. He stated that he spoke to the complainant multiple times during the investigation, updating him on his actions. The named officer said that the complainant told him that his daughter had been abandoned by her mother, who was an alcoholic and drug dealer. He stated that the search ended when the daughter arrived at the mother's house, and he learned that she had taken public transportation home. The named officer said there was no crime because the daughter was able to take the bus, just like other teenagers, and the damaged phone was paid for by the mother, so she had the right to damage it. He also said that nobody saw the mother driving while intoxicated.

The other named officer was dispatched to the mother's home, in a different San Francisco police district. She spoke to the mother and was present when the complainant's daughter arrived. She spoke to the daughter as well, and eventually ensured that the daughter was dropped off at the complainant's home. She stated that she was largely being directed by the other named officer and did not believe that a crime had occurred.

The first named officer authored the incident report. The report documents that the complainant reported that his daughter's mother got into a fight with their daughter, broke her cell phone, and left her by herself far from home. The complainant also told the named officer that the mother, "is dependent on narcotics and alcohol and extremely unfit to be a mother or care for [their daughter]." According to the report, the complainant also said that he believed the mother may have been intoxicated when she picked up their daughter. The report documents that the named officer had seen the girl earlier, but that she had not appeared in distress at the time and did not flag him down. The report also documents that the named

officer spoke to potential witnesses, who said they saw a verbal argument, but that the girl got back into the mother's car and left. The report documents that the other named officer made contact with the mother

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in a different police district, and the mother acknowledged the argument and breaking the phone. The second named officer reported that the mother appeared to be under the influence of an unknown substance. The daughter then arrived outside the mother's house and confirmed to the second named officer that there had been an argument and her mother had smashed her phone. The report documents that the girl said she returned home using public transportation, that she was unhurt, but would prefer not to be left at her mother's house.

Records from the Department of Emergency Management show that the named officers responded to an A-Priority Well-Being Check.

Body Worn Camera (BWC) recordings show that the second named officer spoke to the mother, who yelled and tried to leave. The second named officer also spoke to a different relative who lived at the same house, and who allowed her to search the house for the daughter. The BWC recordings show that the daughter then arrived and spoke to the second named officer, who helped her gather some items, and took her to the complainant's home.

Although the mother may have been intoxicated at her home, there was insufficient evidence to demonstrate that she had been driving while intoxicated earlier in the day. Although all parties agreed that the mother had left the daughter far from home; it was daytime, in a public area, and the daughter had another home to go to. Although all parties also agreed that the mother had broken the phone used by the daughter, both the phone and the phone plan were paid for by the mother. The named officers ensured that the girl was found, and that she was safe. They did not have sufficient facts before them to make an arrest.

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



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

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

**FINDINGS OF FACT:** The named officers responded to different locations searching for a juvenile girl, and the mother who allegedly smashed her phone, and abandoned her far from home. The complainant stated that officers saw his daughter but did not assist her, which forced her to find her way home on her own. He also stated he asked for a statement to be taken from his daughter, but the officers failed to follow through with this request.

The first named officer acknowledged he had seen the daughter before receiving the call, and she neither appeared to be in distress nor flagged him down. He stated he did not see the daughter again after receiving the call and while searching for her. He said he learned later that the daughter had arrived safely at her mother's home, in a different police district. The second named officer stated that she was at the mother's home investigating, when the daughter walked up to her. The second named officer said that she did speak to the daughter and the information she received was recorded by her BWC and memorialized in the incident report.

The incident report documents that the second named officer informed the first officer that the complainant's daughter, "confirmed all of the details provided to us via dispatch and confirmed that [the mother] left her [at the location] after smashing her cell phone." The report also documents that the daughter was able to return home on public transportation, unhurt, but did not want to be left with her mother. An incident report from two days later documents that the complainant and his daughter went to a police station to provide a statement, which did not add any significant, new information to the original report.

The investigation established that the named officers did not fail to take any required action based on the information they had at the time.

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

**SUMMARY OF ALLEGATION #5:** The officer behaved inappropriately and made inappropriate comments.

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

**FINDINGS OF FACT:** The complainant stated that daughter's mother abandoned and endangered her by smashing her phone and leaving her far from home, forcing her to find her way home on public transportation. He said the named officer did not do what he should have done. He said the named officer told him that the mother could break the phone since she paid for it, and that thirteen-year-olds can ride the bus. He also said that he heard through his mother, who knows another officer, that the named officer had said the complainant did not care about his daughter, which is why he did not do anything. The complainant stated that he felt the comments were inappropriate and the named officer did not take his daughter's situation seriously.

The named officer stated that he searched for the complainant's daughter, questioned potential witnesses, and coordinated with officers from a different location until the daughter was found, safe. The named officer said that he spoke with the complainant multiple times as he conducted his investigation, updating him and soliciting additional information. The named officer acknowledged that his communications with the complainant were difficult because he was at a different location, at a different child's baseball game, and the complainant refused to come to the daughter's last known location to help him out. He also said that teenagers take the bus all the time, and the phone belonged to the mother; but these were reasons why he did not believe there was sufficient cause to arrest the mother.

The named officer's incident report confirms his investigative steps. Records from the Department of Emergency Management show that the named officer responded to an A-Priority, Well-Being Check call. The records show that the named officer reported searching various locations, speaking with the complainant, and speaking with witnesses. The records show that he requested an incident report number an hour and sixteen minutes after being dispatched to the call. He returned to the District Station nearly four hours after being dispatched, and he cleared the call nearly six hours after being dispatched.

The named officer's actions showed that he took the situation seriously. His comments about the phone and teenagers taking the bus did not constitute misconduct, as he was attempting to explain why the girl's mother had not been arrested. The evidence proved that the acts alleged in the complaint did not occur.

**SUMMARY OF DPA-ADDED ALLEGATION #1:** The officer failed to comply with DB 18-105, Stop Data Collection System (SDCS) Implementation.

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

**FINDINGS OF FACT:** During the DPA's investigation, it was discovered that the complainant's ex-girlfriend, and daughter's mother, had been detained by the named officer, but that no stop data was entered, as required by Department Bulletin 18-105.

The named officer stated that she responded to the mother's house because officers from a different district had asked for a well-being check to search for the complainant's daughter. She stated she was largely being directed, remotely, by the other officers. The named officer acknowledged she detained the mother but said that she had been asked to keep her there. She said she did not think a crime had occurred. The named officer acknowledged that she did not enter stop data, but stated it was usually something the person leading the investigation would do.

A witness officer, who was leading the investigation from a different location and different police district, stated he was not aware that the mother was detained and did not direct the named officer to detain her.

The named officer's BWC recording shows her speaking to the complainant's daughter outside the mother's home, when she receives a phone call. The named officer asks the person on the phone whether they want her to keep the mother there, but the response cannot be heard. The named officer ends the call by saying, "ok, just let me know." The mother exits the front door. The named officer tells the mother, "You actually have to stay here now." The mother says she is going to visit her father, and the named officer gently pushes her back towards the house and continues to tell her that she has to stay. The mother asks for a justification, then starts to walk away again. The named officer grabs the mother's purse, then arm, and tells her that she has to stay because she is going to be investigated for a crime. The mother says she will go inside, and the named officer states, "you're going to need to go inside or you're going to go in handcuffs, ok?" The mother agrees, but then begins speaking to the daughter. The named officer can be seen, again, gently pushing the mother towards the house. The recording then shows the mother going back inside.

A letter from the SFPD Legal Division states that the California Department of Justice conducted a comprehensive search and was unable to locate any Stop Data Collection System results for this detention.

SFPD Bulletin 18-105, Stop Data Collection System (SDCS) Implementation, states:

Members shall submit through the SDCS web portal stop data for **all** stops, including, but not limited to **pedestrian, bicycle and vehicle stops** [emphasis in the original]. SDCS entries are required when a stop is initiated based on information developed by the

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member's own observation, or the direction and information from another member, DEM  
(Dispatch), or members of the public. For the purposes of this policy, a stop is defined as:  
1. Any detention, by a peace officer of a person ...

The named member detained the mother, and she said she did so at the direction of another member. She was responsible for entering the stop data but failed to do so.

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

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**SUMMARY OF ALLEGATIONS #1-2:** The officers made inappropriate comments.

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

**FINDINGS OF FACT:** The complainant stated he was in an altercation with another man. He went to some officers to report the incident. The officers repeatedly told the complainant that the district attorney would not prosecute the crime in an effort to get him to not file a report.

The named officers denied saying that the district attorney will not prosecute. They talked about how the process would work with a citizen's arrest and that the courts would decide if anyone committed a crime. One of the named officers took the citizen's arrest and wrote a report.

Body-worn camera footage shows the named officers speaking with the complainant, explaining the process and taking his information for a report. The named officers did not say the district attorney would not prosecute. The named officers were professional throughout the interaction. The evidence proved that the acts alleged in the complaint did not occur.

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

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

**FINDINGS OF FACT:** The complainant stated that he was in an altercation with another man outside a restaurant. The complainant filed a report with officers and specifically told the officers that the man had tried to steal his food. When the complainant reviewed the report later, the report did not have information about the other man trying to steal his food.

The named officer stated he did not recall the complainant saying the other party was trying to steal his food. He stated both the complainant and the other party said there was confusion over whose food was served first at a nearby taqueria. Both parties stated the argument escalated afterwards.

The report, written by the named officer, stated that there was an argument over food.

Body-worn camera footage shows the complainant saying, "He tried to take the food initially." That was the only mention the complainant made about the food and it was not easy to hear in the moment in the outdoor street setting. A preponderance of the evidence established that the act alleged in the complaint did not occur.

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**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 he was at the park with his daughter and her dog. He was doing nothing wrong and was approached by police. They arrested him for no reason, and only later told him that it was because he was drunk. The complainant stated that he did not drink any alcohol or take any drugs before the arrest.

The named officer stated he was responding to a call for service. A social worker had called 911 to report that a man was very intoxicated, and she was worried about the well-being of the man's five-year-old daughter. The named officer approached the complainant and observed that he had watery, bloodshot eyes, alcohol on his breath and slurred speech. The officer attempted to call the daughter's mother but could not reach her. The named officer arrested the complainant for public intoxication and the daughter was taken to the police station until her mother could pick her up.

Witness officers stated that the complainant was intoxicated and unable to care for his daughter. A superior officer stated that he also observed signs of intoxication. The superior officer advised the named officer to make an arrest and to separate the daughter and dog before doing so.

Body-worn camera footage shows the named officer talking with the reporting party who tells him the complainant has been falling over and cursing while caring for his young daughter. The named officer then speaks with the complainant who repeatedly interrupts the officers and tells them about how he is just at the park with his daughter. The complainant first denies drinking any alcohol but then later said he did. The officers try to get the complainant to call a relative to pick up his daughter. Officers ask at least five times for the number of his daughter's mother and the complainant gets the number wrong every time. After almost 40 minutes of dialogue, the named officer arrests the complainant. The daughter is not present when the arrest occurs.

Penal Code 647(f) states that if someone is so intoxicated "that he or she is unable to exercise care for his or her own safety or the safety of others," that person is guilty of disorderly conduct, a misdemeanor.

The complainant displayed signs of intoxication to a random parkgoer and to officers. The body-worn video showed the complainant could not hold a conversation and perform simple tasks. Officers tried several tactics to avoid an arrest, but the complainant would not cooperate. The evidence proved that the act that provided the basis for the allegation occurred; however, the act was justified, lawful and proper.

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**SUMMARY OF ALLEGATIONS #2-3:** The officers failed to comply with DGO 7.04, Children of Arrested Parents.

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

**FINDINGS OF FACT:** The complainant stated that he was arrested in front of his young daughter. He stated that officers placed him in handcuffs while she watched.

The named officers stated they were called to the scene by a third party because the complainant was intoxicated and could not care for his daughter. When they arrived, they determined the complainant was intoxicated and tried repeatedly to call a relative to pick up the daughter. They were unable to reach anyone. The female named officer then walked with the daughter far from the complainant to show her the lights on a patrol car. While this was happening, officers arrested the complainant where the daughter could not see.

Body-worn camera footage shows the officers making the arrest and handcuffing the complainant while the daughter is far away and out of view.

DGO 7.04, Children of Arrested Parents, states, "If it is safe to do so, officers should attempt to make the arrest away from the children or at a time when the children are not present."

The named officers took care of the complainant's child, so she did not have to witness the arrest of her father, contradicting the complainant's claims.

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

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**SUMMARY OF ALLEGATIONS #1:** The officer caused another law enforcement agency to detain the complainant without justification.

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

**FINDINGS OF FACT:** The complainant stated the named officer had given the other police jurisdiction fictitious information, which resulted in a felony traffic stop of the red vehicle he was driving. The complainant was told by officers from the other police jurisdiction that a be on the lookout (BOLO) warning was issued by the San Francisco Police Department (SFPD) for his son because there was an arrest warrant issued from SFPD.

The complainant stated that he contacted several entities within the SFPD organization and was advised neither his son nor the complainant had any warrants or BOLO warnings. The complainant opined since there was no warrant or BOLO issued by the SFPD, he was unnecessarily detained.

The named officer stated that he authored the arrest warrant, which was signed by a judge and issued for the complainant's son's arrest. The named officer discovered the complainant's son shared a common address with the complainant.

An incident report authored by the named officer documented that he attempted a traffic stop of the complainant's son in San Francisco, knowing he had a suspended license. The report documents that the complainant's son refused to remain on scene and drove away recklessly in a green car. A Statement of Probable Cause for a search warrant was authored with information based on this incident report, surveillance, and other information. The Statement notes that the complainant's address is the same one listed on his son's license, his son's rap sheet, and on the registration for the green car he was driving, when the named officer attempted the traffic stop. The Statement documents that the complainant lives at the address, and owns a red car, which was seen at that address. Based on the Statement, a San Francisco Superior Court judge authorized a search warrant, which commanded officers to search any and all vehicles at the complainant's address and specifically identified the red car, by its make and license plate number.

An incident report from the outside jurisdiction's police department documents that SFPD communicated with one of their officers about the warrant and the fact that the address was within their jurisdiction. The report documents the traffic stop of the complainant in his red car, and the fact that when they realized he was not the subject of the arrest warrant, they let him go.



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The outside jurisdiction relied on information from SFPD. The named officer provided information regarding the alleged crimes committed by the complainant's son, while other information connected the son to the complainant's address. It was reasonable and justified for officers to submit the information they had about the residence and the other vehicles at that residence to a judge. The scope of the warrant was ultimately up to the judge.

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

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

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

**FINDINGS OF FACT:** The complainant stated that he called police to report that he was assaulted by his neighbor. The complainant stated that the named officer responded and spoke to the complainant outside on the sidewalk in front of his residence. The complainant stated that the named officer was rude and told the complainant that he was “a 50 something year old child,” that he needed to change his life, that the complainant needed “anger management,” and that the complainant was “crazy.”

The named officer denied making the above comments to the complainant.

A witness officer stated that he recalled the named officer speaking to the complainant, but he did not recall what the named officer said to the complainant.

Department of Emergency Management (DEM) records indicated that the named officer and his partner responded to the incident and spoke to the complainant. Records indicated that the complainant “was uncooperative and walked away.”

There was no Body Worn Camera video located for this incident.

No other witnesses were identified.

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

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

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

**FINDINGS OF FACT:** The DPA requested Body Worn Camera (BWC) footage associated with this incident. SFPD Legal responded that the recordings did not exist.

The named officers acknowledged that they responded to a call regarding a possible assault and battery and that they spoke to the complainant, who was a potential victim of a crime. The first named officer stated that he did not activate his BWC because he did not feel it was necessary. The second named officer stated that he did not activate his BWC because he was in field training and was nervous.

Department of Emergency Management (DEM) records indicated that the call for service was dispatched as an Assault/Battery. DEM records indicated that the complainant reported that he was assaulted, that he was injured but did not need an ambulance, and that the suspect was in the unit across from the complainant's unit. DEM records indicated that the named officers responded to the incident and spoke to the complainant.

Department General Order 10.11 states, in relevant part:

**I. Purpose**, "The use of Body Worn Cameras (BWC) is an effective tool a law enforcement agency can use to demonstrate its commitment to transparency, ensure the accountability of its members, increase the public's trust in officers, and protect its members from unjustified complaints of misconduct...."

**III. Procedures, C, Authorized Use**, "All on-scene members equipped with a BWC shall activate their BWC equipment to record in the following circumstances: 2. Consensual encounters where the member suspects that the citizen may have knowledge of criminal activity as a suspect, witness or victim...."

Because the named officers failed to activate their Body Worn Cameras as directed by DGO 10.11, there is no objective record of what the complainant reported and how the officers responded.

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

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

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

**FINDINGS OF FACT:** The complainant stated he was drinking an alcoholic beverage in public when the named officers detained him. The complainant acknowledged that he had an open container.

Named officer #1 stated he observed the complainant drinking an alcoholic beverage in public.

Named officer #2 stated named officer #1 told him that he observed the complainant drinking an alcoholic beverage in public. Named officer #2 stated he observed the complainant holding an alcoholic beverage, wrapped in a paper bag, when he approached the complainant.

Department records document that named officer #1 observed the complainant drinking an alcoholic beverage in public.

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

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

**FINDINGS OF FACT:** The complainant stated the named officers detained him for possessing an open alcoholic beverage container in public. He stated the named officers asked him if they could pat him down, and he said, "no." The named officers searched him. The complainant stated the named officers then handcuffed and searched him again, finding a baton on his person.

Named officer #1 stated he and named officer #2 conducted a pat search of the complainant because it was late at night, they were in a high-crime neighborhood, and the complainant was wearing a big coat. Named officer #1 stated during the pat search named officer #2 located a concealed baton (felony). Named officer #1 stated they conducted a search incident to the arrest, during which narcotics were found on the complainant.

Named officer #2 stated he and named officer #1 conducted a pat search of the complainant because it was late at night, it was a dangerous neighborhood, the complainant was wearing a baggy jacket, and there was a crowd of people yelling at the officers. Named officer #2 stated he located a concealed collapsible baton during a pat search. Named officer #2 stated they then conducted a search incident to an arrest, during which narcotics were found.

BWC footage shows what appears to be a collapsible baton on the hood of a patrol car and the officers conducting a search incident to arrest.

Department records document that the named officers conducted a pat search for weapons and located a concealed baton, in violation of 22210 PC. The named officers then conducted a search incident to arrest and found narcotics in the complainant's pants pocket.

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 #4-5:** The officer arrested the complainant without cause.

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

**FINDINGS OF FACT:** The complainant admitted to possessing an open alcoholic container in public and carrying a concealed, collapsible baton. The complainant stated the named officers did not have legal justification to arrest him because he was able to purchase the baton at a smoke shop.

The named officers stated the complainant was arrested for carrying a concealed baton, in violation of 22210 (PC), and the narcotics found in the complainant's pocket, in violation of 11350(a) HS.

Department records document the complainant was arrested for carrying a concealed baton and possession of narcotics.

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

**SUMMARY OF ALLEGATIONS #6-7:** The officer engaged in biased policing due to race.

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

**FINDINGS OF FACT:** The complainant, who acknowledged he was drinking in public, stated in an online complaint that he was racially profiled based on his race and neighborhood. The complainant provided no explicit evidence of such bias and failed to respond to numerous DPA efforts to collect additional evidence.

Named officer #1 stated he detained the complainant solely because he observed him drinking out of an open alcoholic beverage container in public. Named officer #1 stated he did not detain the complainant because of his race or the neighborhood.

Named officer #2 stated the complainant was detained because he was informed by named officer #1 that he had observed the complainant drinking out of an open alcoholic beverage container in public. Named officer #2 stated he did not detain the complainant because of his race or the neighborhood.

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

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**SUMMARY OF DPA-ADDED ALLEGATIONS #1-2:** The officers failed to comply with DGO 10.11.

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

**FINDINGS OF FACT:** Body Worn Camera footage shows the named officer did not turn on their BWC until they conducted a search incident to arrest.

The named officers acknowledged they initially detained the complainant because named officer #1 witnessed the complainant drinking out of an alcoholic beverage container in public, in violation of CPC section 22210. The named officers also acknowledged that they discussed with one another the intention to approach the observed suspect regarding the criminal behavior. The named officers also acknowledged they conducted a pat search on the suspect, in which they located a concealed baton. The officers then conducted a search incident to the arrest. Named officer #1 stated he did not turn on his BWC until the very end of the search incident to arrest. He contended that DGO 10.11 directed that he must turn on his BWC during the incident; but did not specify at the beginning of the encounter. Named officer #2 stated he did not turn on his BWC when he suspected the complainant of a crime because, "it was like a fluid situation," and he forgot until the end of the encounter.

DGO 10.11 commands officers wearing BWC that they: "shall activate their BWC equipment to record in the following circumstances: 1. Detentions and arrests. 2. Consensual encounters where the member suspects that the citizen may have knowledge of criminal activity as a suspect ..."

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

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**SUMMARY OF ALLEGATIONS #1-5:** The officers used excessive force.

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

**FINDINGS OF FACT:** The complainant said that officers beat up her son and nephew, injuring her son's eye and choking and fracturing her nephew's neck. The complainant stated she was not at the incident and learned about it through her son. She said her son and nephew had been pulled over because they had dealer plates. She said the officers told her son that they smelled marijuana, though they had not been smoking, and that they wanted to search the car. She said they were arrested because of items found in the car and were still in custody.

The incident report, authored by one of the named officers, documented that the complainant's son and nephew were arrested for multiple violations, and that firearms, ski masks, and suspected marijuana were seized from their vehicle. The report documented that three of the named officers effected a traffic stop of a car with no license plates and noticed the strong odor of marijuana emanating from the vehicle. The report documented that the complainant's nephew gave false information to one of the named officers, as he attempted to conduct a wants and warrants check. The report stated that one of the named officers began to struggle with the subjects, as the complainant's son then sped away. The other named officer jumped in the vehicle at this point, and the complainant's son drove into oncoming traffic. The incident report documented that the officers ordered the son to stop the car, and one of the named officers pointed his department issued pistol at him. The vehicle then made an abrupt stop, and the complainant's nephew fled on foot. The son was arrested there, while the other two named officers arrested the nephew a block away. The report documented that the complainant's nephew was taken to the hospital due to asthma, while her son was later taken to the hospital because he complained of pain to his right eye. The vehicle was searched, and the contraband found. The report noted that both subjects were prohibited from possessing firearms or ammunition due to previous felony convictions.

An incident report statement written by another named officer stated that he grabbed a hold of the nephew at one point, believing he may have been reaching for a weapon, and as he was trying to control him, the other subject started to drive off. He wrote that the vehicle accelerated so fast, that he ended up in the rear of the vehicle, and he noticed another named officer was also in the car. He said he "grabbed hold of [the complainant's son's] head and pointed my department issued firearm at [him] while yelling at him numerous times that I would shoot him. I used my left hand fingers to grab a hold of [his] right eye socket in an effort to force [him] to stop the vehicle. I was in extreme fear for my life, [the other officer's] life and the lives of nearby pedestrians/oncoming vehicles."



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An incident report statement, written by a different named officer, documented that he witnessed the car driving off with one officer inside, and another hanging outside one of the doors. Incident report statements written by two other named officers stated that they ordered the nephew to stop and handcuffed him. It also noted that, while at the hospital, the nephew said that, “during the foot pursuit, he tripped and fell prior” to the officers taking custody of him.

One of the named officers said he pointed his department issued pistol at the complainant’s son and grabbed his right eye socket. He said another of the named officers removed him from a vehicle. He said the son had no obvious visible injuries but did complain of pain to his right eye. He said he struggled with the complainant’s nephew in the front passenger seat of the vehicle, but he did not use any reportable force against him. He found out later that the nephew had an abrasion to his face when he fell while attempting to flee the scene. The second named officer said he did not use force against either the son or nephew but was told by the first named officer about his use of force. The third named officer also denied using force against either individual. The fourth and fifth named officers said they had no contact with the complainant’s son. They said that they ordered the nephew to stop and get on the ground, and one of them said he applied handcuffs. One of those officers said that the nephew complained of shortness of breath.

The DPA interviewed the complainant’s nephew at the county jail. He said he was in the passenger seat, with the complainant’s son in the driver’s seat, when they were stopped by officers. The nephew said one of the officers ordered him to open the door, and when he did so, the officer tried to pull him out and the car “pulled off.” He said that one officer said, “I’ll blow your fucking head off,” but he does not know if he had his gun out. He said that, at about that time, he got out of the car and ran. He said that he tripped and fell, then continued running, before stopping and laying down on the ground. The nephew said that, at that point, officers jumped on him and handcuffed him. He said he later saw a picture of himself with blood on his face, but he does not know when that happened. He complained of asthma, and an ambulance was called. He said that no officer choked him. He said that he did get a neck brace, but he was not sure when he hurt his neck or whether any officers caused that injury.

The complainant’s son declined an interview with the DPA.

A medical screening form for the complainant’s son, bearing his signature, indicates he was not bleeding, had no open wounds, and no signs of head injury. However, the form also shows that he was seriously ill or injured and needed immediate medical attention.

Photos taken of the complainant’s son immediately after the incident do not show any obvious injuries. Photos taken of the complainant’s nephew show a scrape on his face.

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The Supervisory Use of Force Evaluation documented that the complainant's son was struck and then had a firearm pointed at him. It documented that he had pain to his right eye. It documented that his level of resistance was "Life Threatening."

The Body Worn Camera (BWC) recordings show three of the named officers engaged in a traffic stop with the complainant's son and nephew, who were in a vehicle with dealer plates. The recordings confirm that the nephew gave different names to one of the officers as he attempted to query his status over the radio. The recordings also confirm that the officers informed the subjects that they smelled marijuana and then saw marijuana in the car, but the subjects explained that other people had smoked in the car the previous day, and the visible marijuana was merely residue. The recordings show that one of the named officers ordered the complainant's nephew out of the car, then grabbed his arm as he leaned down, while he told him not to reach. The recordings show that at that moment, the complainant's son began to start the car, and that same officer reached towards him as well. The car sped off and drove into oncoming traffic. The BWC recordings show that one of the named officers ordered the son to stop the car and threatened to shoot him. The recordings also document that the complainant's nephew fled the scene when the car stopped. The recordings show that the son was removed from the car and handcuffed, while the nephew was handcuffed at a nearby location by other officers and could be seen with a scrape on his right cheek. The recordings show that the nephew appears very uncomfortable, as he is hunched over, and at times, laying down. He stated that he needed oxygen and was coughing. The recordings show that officers called an ambulance. Medics arrived, and the nephew complained that he was having trouble breathing.

SFPD General Order 5.01, Use of Force, states, "Officers may use reasonable force options in the performance of their duties ... To effect a lawful arrest ... To overcome resistance or to prevent escape ... In defense of others or in self-defense ... To gain compliance with a lawful order ..." The order also states that, when faced with "Life-threatening" resistance by a subject, meaning "Any action likely to result in serious bodily injury or death of the officer or another person," an officer's options include: "Utilizing firearms or any other available weapon or action in defense of self and others to stop the threat."

The evidence shows that the named officers either used no force against the subjects or used reasonable force during a life-threatening encounter. The injury to the complainant's son was caused because he put the lives of two of the named officers, the complainant's nephew, and bystanders in jeopardy. One of the named officers pointed a weapon at him and injured his eye in an attempt to get him to stop the vehicle, stop the threat, and to take him into custody. The injury to the complainant's nephew was most likely caused by the reckless driving and/or his falling while attempting to evade arrest on foot. He admitted that he was not choked, and the evidence clearly shows that officers did not beat up the subjects.

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

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**SUMMARY OF ALLEGATION #1:** The officer wrote an inaccurate report.

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

**FINDINGS OF FACT:** The complainant stated he was involved in a collision where he was struck by a vehicle while riding his bike. Two days later, the complainant went to a local police station to file an incident report. He spoke with an officer who took his statement. He also provided the officer with the witness' contact information. Two weeks later, the complainant obtained the incident report and noticed multiple inconsistencies. The report stated that the driver of the vehicle was listed as male when the driver was female. Additionally, the report stated that he had gauze wrapped around his leg when it was an ace bandage. The report also misstated the direction of travel provided in a witness' statement. The officer wrote that the complainant and the driver were both going northbound when in fact the complainant was headed southbound and the driver was going northbound.

The named officer stated the complainant came into the station to file an incident report about an accident he was involved in two days prior. The officer stated the complainant had one of his legs bandaged but she could not recall which one. The complainant gave his statement to the named officer and provided her with contact information for the witnesses as well. The named officer acknowledged that in the incident report she incorrectly classified the individual in the car as male. The officer stated that this was a typo. The named officer stated that the witness statement regarding the direction of travel was accurately drafted into the report. The officer said she double checked with the witness multiple times regarding the direction of travel because she was aware that his statement conflicted with those provided by the complainant and the individual in the car. The named officer conducted her interviews with the other parties using her department issued cell phone. She did not audio record the interviews, but she took notes and referred to them when drafting the incident report.

The incident report showed that the driver of the vehicle was classified as male. The incident report also showed that a witness observed the complainant and the individual in the car both traveling northbound.

While the officer acknowledged the clerical error, the error did not have any effect on the actual case itself. Although the complainant stated that the officer inaccurately described the compression bandage he was wearing, the report nevertheless shows that the complainant had visible physical injury to his left leg. The officer stated that the witness statement in question was accurately captured on the incident report; however, since the interview was not recorded, there is no way to verify this claim. As such, there was insufficient evidence to either prove or disprove the allegation.

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

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

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**DATE OF COMPLAINT:** 11/20/18 **DATE OF COMPLETION:** 06/10/19 **PAGE#** 1 of 2

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

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

**FINDINGS OF FACT:** The complainant stated, in a complaint submitted online, that he was sitting in a car with his girlfriend when the named officers snatched him out of the vehicle, dislocating his elbow.

The named officers stated the complainant and his companion were asked to exit the vehicle, and they did so willingly and on their own. One of the named officers said that he conducted a pat down search of the complainant. The other named officer stated he then handcuffed the complainant. The handcuffing officer said that it was at that point that the complainant stated he had an old injury and he felt discomfort. The named officer removed the handcuff and re-handcuffed the complainant by linking together two sets of handcuffs. He said he asked the complainant if that felt better, and he acknowledged that it did.

A witness officer, who transported the complainant from the scene, said that the complainant specifically told him that he had pain from a previous injury, and it was not caused by the actions of the named officers. Another witness officer said that the complainant did not say anything to him about any injuries.

An SFPD recorded interview with the complainant was conducted at the hospital. There was no mention of the complainant's arm or the reason he was in the hospital. An SFPD recorded interview with the complainant's girlfriend also had few details on the arrest, but it does document her telling the officers that she and the complainant were asked to get out of the car.

Body Worn Camera (BWC) recordings show the complainant in handcuffs being lifted from a seated position. There are two sets of handcuffs linked together and holding his arms behind his back. The recordings show that the complainant complains about his leg at one point. The recordings show that, once at the district station, the complainant said his elbow had popped out earlier, when he was pulled out of his car. No recordings were available of the initial arrest of the complainant, because the named officers were plainclothes officers, not equipped with BWC's.

The incident report, authored by one of the named officers, documented that the complainant and his companion were asked to step out of their car. The report also states, "While at [the district station], [the complainant] stated

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that he has joint problems and stated that while wearing handcuffs he believed his arm dislocated.” The information in the report about the complainant documents that he is 6’ 1” tall and weighs 315 pounds.

The SFPD Medical Screening Form appears to have the complainant’s signature. It indicates that he needed immediate medical attention due to an injured left elbow.

None of the documentary evidence shows any officers using excessive or unnecessary force against the complainant. The interview of his companion corroborates that they were asked to exit the car, suggesting that using force to remove them would have been unnecessary. The size of the complainant also would have made it difficult for officers to snatch him out of his car. While it is possible the handcuffing or pat search of the complainant aggravated an old injury, those actions would have been necessary for the safety of the officers. Finally, the complainant also failed to respond to requests for an interview with the DPA. The weight of the evidence, therefore, leans against the allegation that the named officers used unnecessary or excessive force.

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

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**DATE OF COMPLAINT:** 11/27/18    **DATE OF COMPLETION:** 06/27/19    **PAGE#** 1 of 2

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

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

**FINDINGS OF FACT:** The complainant stated the named officer targeted and harassed her friends, acquaintances and residents of the Tenderloin when she was associating with them. The complainant stated the named officer was unprofessional in contacts with her, in that he spoke to her friends and not to her. The complainant stated the named officer planted narcotics on her friends, including her boyfriend. The complainant stated that while arresting her boyfriend, the named officer was not professional, harassed and planted narcotics on him.

The named officer stated he is professional in his contacts with everyone including the complainant, and the complainant's boyfriend and their associates. The named officer stated he does not know the complainant's friends, acquaintances or boyfriend. The officer denied that he does not talk to the complainant. The named officer stated if the complainant is engaged in illicit narcotics activity, then he will arrest her. The named officer stated another officer arrested the complainant's boyfriend for possession and sale of narcotics. The named officer stated he had made numerous arrests in the Tenderloin since the incident with her boyfriend. The named officer further stated that the complainant is a known narcotics dealer and user in the Tenderloin.

Body Worn Camera (BWC) recordings revealed that the named officer and witness officers, in the arrest of the complainant's boyfriend, remained outwardly calm and professional. There was no evidence of the named officer planting narcotics on the complainant's boyfriend. There were bystanders that were briefly on scene, including the complainant, but there was no contact by the officers with the complainant or any other bystander.

Other officers present during the arrest of the complainant's boyfriend stated the named officer was calm, respectful and professional. The witness officers also stated they did not observe harassment or targeting by the named officer toward others.

No other witnesses came forward.

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

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**DATE OF COMPLAINT:** 11/27/18    **DATE OF COMPLETION:** 06/27/19    **PAGE#** 2 of 2

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

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

**FINDINGS OF FACT:** The complainant stated that the named officer told her if he saw her boyfriend, he would harass the boyfriend, but not her. The complainant stated she filed a past DPA complaint against the named officer which caused the officer to have a personal vendetta against her. The complainant further stated because she refused to become the named officer's informant, the named officer had begun to target and harass anyone that she was with.

The named officer stated he has had numerous contacts with the complainant because she is a narcotics dealer and user in the area he patrols. The named officer stated the complainant's boyfriend is a known narcotics dealer. The named officer also stated he also had numerous contacts with narcotics dealers in the neighborhood and some may be acquaintances of the complainant. The named officer further stated he never harassed the complainant or her associates but has arrested some of them when there is probable cause to do so. The named officer denied having a vendetta against the complainant. As to the allegation that he was retaliating against the complainant because she refused to be an informant, the named officer stated the complainant would not be a reliable informant.

Body Worn Camera (BWC) recordings revealed that the named officer and witness officers arrested the complainant's boyfriend while bystanders, including the complainant, left the scene without any verbal interchange with officers at the scene.

Other officers at the scene of the arrest of the complainant's boyfriend stated the named officer was calm, respectful and professional during the incident. Those officers also stated they did not observe harassment or targeting by the named officer of the complainant.

No other witnesses came forward.

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



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**DATE OF COMPLAINT:** 12/07/18      **DATE OF COMPLETION:** 07/01/19      **PAGE#** 1 of 1

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

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

**FINDINGS OF FACT:** By mutual agreement of the complainant and the named officer, the complaint was mediated and resolved in a non-disciplinary manner on May 20, 2018.

**DEPARTMENT OF POLICE ACCOUNTABILITY  
COMPLAINT SUMMARY REPORT**

**DATE OF COMPLAINT: 12/17/18    DATE OF COMPLETION: 06/28/19    PAGE# 1 of 3**

**SUMMARY OF ALLEGATIONS #1-3:** The officers failed to take required action.

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

**FINDINGS OF FACT:** The complainant stated the named officers heard a subject threaten to stab his friend. He stated the named officers failed to arrest the subject who made the threat.

Body Worn Camera footage of the named officers did not capture audio or video of a subject threatening to stab anyone. All named officers activated their Body Worn Cameras upon arriving at the scene, and therefore captured the entirety of the incident.

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

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

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

**FINDINGS OF FACT:** The complainant stated the named officer harassed him by repeatedly asking for his name.

Body Worn Camera footage showed the named officer ask the complainant multiple times for his name and his former legal name in order to identify the complainant. The complainant would not provide his former legal name until he was asked multiple times.

Officers must collect witness information for all witnesses to incidents that result in an arrest to allow for follow-up investigation and in order to assist any future parties in litigation, criminal or civil.

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: 12/17/18    DATE OF COMPLETION: 06/28/19    PAGE# 2 of 3**

**SUMMARY OF ALLEGATION #5:** The officer made an inappropriate comment.

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

**FINDINGS OF FACT:** The complainant stated the named officer told him he would be a bad witness.

Body Worn Camera footage did not show the named officer telling the complainant that he would be a bad witness. Body Worn Camera captured the entire interaction.

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

**SUMMARY OF ALLEGATION #6:** The officer behaved inappropriately.

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

**FINDINGS OF FACT:** The complainant stated the named officer spoke to him with attitude and in Spanish.

Body Worn Camera footage did not show the named officer speaking to the complainant with attitude, nor did it show him speaking to the complainant in Spanish. Body Worn Camera captured the entire interaction.

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

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**DATE OF COMPLAINT: 12/17/18    DATE OF COMPLETION: 06/28/19    PAGE# 3 of 3**

**SUMMARY OF ALLEGATION #7:** The officer made an arrest without cause.

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

**FINDINGS OF FACT:** The complainant stated the named officer arrested his friend for assault without legal justification.

Body Worn Camera footage showed an officer speak to the victim and a witness who both stated the complainant's friend assaulted the victim. The victim sustained injuries requiring him to be transported to the hospital.

The incident report contained statements from the victim and witness identifying the complainant's friend as the person who assaulted the victim. In addition, the incident report documented the injury sustained by the victim.

Based upon the victim's injuries and the statements of the victim and the witness, the named officer had legal justification to arrest the complainant's friend.

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

**SAN FRANCISCO FIRE DEPARTMENT  
DEPARTMENT HEADQUARTERS  
698 2ND STREET  
SAN FRANCISCO, CA 94107**

**DEPARTMENT OF POLICE ACCOUNTABILITY  
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**DATE OF COMPLAINT:** 12/19/18      **DATE OF COMPLETION:** 06/04/19      **PAGE# 1 of 1**

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

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

**FINDINGS OF FACT:** By mutual agreement of the complainant and a representative from the Department, the complaint was mediated and resolved in a non-disciplinary manner on May 30, 2019.

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**DATE OF COMPLAINT:** 12/21/18      **DATE OF COMPLETION:** 06/19/19      **PAGE#** 1 of 2

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

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

**FINDINGS OF FACT:** The complainant stated that while at work, SFPD visited his apartment with a search warrant. They busted down his door, searched his apartment, and found nothing. The complainant contacted the Public Defender's Office and asked why the SFPD didn't get a key from the manager. The front door needs to be replaced and the complainant's landlord would like to know who's going to pay for it.

Knock and Notice Requirements - Penal Code Section 1531 states that an officer serving a search warrant may break open any outer or inner door or window of a house, or any part of the house, or anything therein, if, after giving notice of his or her authority and purpose, he or she is refused admittance.

The named officer authored the incident report and statement of probable cause for the search warrant. She stated she entered and searched the complainant's apartment to execute a valid search warrant. A knock and notice were given several times before the RAM was used to force entry into the complainant's apartment. The RAM caused damage to the complainant's door; however, the property manager was notified of the damages and the door was secured after the residential search was complete. The named officer stated she did not know the relationship between the complainant and the property manager, so she did not request a key for entry, and she was not required to do so.

Police records show that another officer used the RAM to force entry into the complainant's apartment.

The evidence proved that the named officer did not use the RAM or damage the complainant's property.

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**DATE OF COMPLAINT:** 12/21/18      **DATE OF COMPLETION:** 06/19/19      **PAGE#** 2 of 2

**SUMMARY OF ALLEGATIONS #2:** The officer intentionally damaged property.

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

**FINDINGS OF FACT:** The complainant stated that while at work, SFPD visited his apartment with a search warrant. They busted down his door, searched his apartment, and found nothing. The complainant contacted the Public Defender's Office and asked why the SFPD didn't get a key from the manager. The front door needs to be replaced and the complainant's landlord would like to know who's going to pay for it.

Knock and Notice Requirements - Penal Code Section 1531 states that an officer serving a search warrant may break open any outer or inner door or window of a house, or any part of the house, or anything therein, if, after giving notice of his or her authority and purpose, he or she is refused admittance.

The named officer stated he was designated as the "breach officer" to execute a search warrant. A knock and notice were given, and the complainant did not answer the door. He stated that he did not intentionally damage the complainant's door, but he intentionally used the RAM to make entry into the complainant's apartment to execute a search warrant, which caused damage to the complainant's door.

The incident report showed that a SFPD gave the knock and notice three times and after no response, the named officer used the RAM to force open the door. The front door and part of the frame were damaged. The property manager was notified of the damaged door and after the search was complete the named officer used the manager's key to lock and secure the door.

Police records showed that a memorandum was submitted to a commanding officer regarding the damaged property during the search warrant execution.

The evidence proved that the acts that provided the basis for the allegations occurred; however, such acts were justified, lawful, and proper.

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**DATE OF COMPLAINT:** 12/27/18    **DATE OF COMPLETION:** 06/10/19    **PAGE#** 1 of 2

**SUMMARY OF ALLEGATION #1:** The officer wrote an inaccurate citation.

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

**FINDINGS OF FACT:** The complainant stated the named officer wrote an inaccurate citation because the named officer wrote “crack pipe” on the citation instead of accurately writing that the item in his possession was a marijuana pipe. The complainant stated he had just boarded a bus when he was approached by two officers and detained. The complainant stated he told the officers he had a “marijuana pipe” when they asked him if he had any sharp objects on his person. The named officer issued a citation to the complainant for drug paraphernalia and admonished him. The complainant stated he ran to catch the next bus to meet his boss to tell him why he was late. He said that he showed his boss the citation, and nearly lost his job over the incident because of what was written on it. The complainant was unable to provide DPA with a copy of the citation.

The named officer denied he wrote an inaccurate citation. The named officer stated the complainant told his partner that he had a marijuana pipe. However, the named officer stated the complainant was in possession of a crack pipe, and he issued the complainant a citation for a violation of California Health and Safety Code section 11364(a) – possession of narcotics paraphernalia – a misdemeanor offense.

The second officer stated the named officer advised her the complainant was walking down the street holding a suspected crack pipe, and that the complainant was on active probation with a search condition. The second officer stated she boarded the bus and told the complainant to get off the bus, which is when the named officer took over the investigation. The second officer could not recall if the complainant told her it was a marijuana pipe, but she said that the description of the pipe as a “crack pipe” was accurate.

The incident report documents the officers were on foot patrol when they observed the complainant standing in a BART station plaza holding a clear glass cylinder in his left hand. The complainant made eye contact with the officers, concealed the glass cylinder in his left hand, then immediately turned eastbound and walked away from the officers. The report documented that the complainant entered a bus in an attempt to evade officers. The second officer entered the bus and told the complainant to exit the bus and stand on the sidewalk. The complainant complied. According to the report, a computer query was done through dispatch. The officers were notified that the complainant was on probation with a warrantless search condition. The named officer performed a probation search of the complainant and uncovered a clear glass cylinder with burned ends and cloudy white residue from the complainant’s front left pants pocket. The named officer recognized the glass cylinder to be an



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**DATE OF COMPLAINT:** 12/27/18 **DATE OF COMPLETION:** 06/10/19 **PAGE#** 2 of 2

instrument commonly used to ingest cocaine base. The pipe was seized and booked as evidence. The named officer admonished the complainant regarding loitering in an area where there is frequent drug usage and sales, pursuant to Health

and Safety Code section 11532. The named officer obtained approval from a sergeant to cite and release the complainant for misdemeanor possession of narcotics paraphernalia.

The Body Worn Camera (BWC) recordings show the second officer asking the complainant to step off the bus. The second officer asks the complainant if he has anything in his hand. The complainant responds that he has some weed. The complainant then tells the officers he has a "weed pipe." The second officer also asks the complainant if he has a "crack pipe." The complainant responds, "Just a weed pipe." The recordings show the officers ask the complainant for his identification, which he provides to them. A records check is conducted, and the officers discover the complainant has a search clause. The named officer conducts a probation search and removes a glass cylinder from the complainant's left front pants pocket. The complainant can be heard telling the named officer, "It's Pyrex and won't break," as the named officer struggles to remove the pipe from the complainant's pocket. The second officer is heard telling the complainant, "Well, you lied to us. You said you had just a marijuana pipe." The complainant responds, "Okay." The second officer replies, "You didn't say a crack pipe." The complainant responds, "So do I get another citation then?" The named officer replies, "Yes, you do." The second officer says, "Yes." The complainant says, "Okay, I can deal with that." The recordings show the named officer writing the citation, then handing it to the complainant. The complainant looks at the citation, then signs it without objections. The complainant is heard telling the officers he was on his way to City College and that he just tested into an English class.

Court records show the District Attorney dismissed the criminal case in the interest of justice.

The video and documentary evidence prove the named officer wrote an accurate citation and that the named officer properly characterized the evidence as a crack pipe. The complainant also generally lacks credibility, as the evidence contradicts other aspects of the complainant's story. The complainant stated during his DPA interview that he was on his way to work and almost got fired for being late. In the BWC video he is heard telling the officers he is on his way to school.

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