

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 03/21/18 **DATE OF COMPLETION:** 03/20/23 **PAGE# 1 of 9**

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

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

FINDINGS OF FACT: The named officers were investigating a person with a gun, when they shot and killed a suspect inside a barber shop. DPA investigated the incident because San Francisco Administrative Code §96.11 mandates that DPA investigate any incident in which a member of the uniformed ranks of the San Francisco Police Department discharges a firearm resulting in the physical injury or death of a person.

The first named officer stated that on the date of the incident she was working in a plainclothes unit. She heard a call over dispatch about a known subject with a gun, outside of a house, threatening to kill members of a family. She and her partners went to the house, and then heard over dispatch that the subject had gone to a nearby barbershop. The named officer stated that they then went to the barbershop and saw a person being detained by uniformed officers outside. She stated that she doubted the detained person was the subject they were looking for, primarily because his clothing did not match the description. The named officer said she entered the barbershop to see if anyone inside was a better match. A barber at the doorway told her, and the second named officer who was next to her, that he thought they had the wrong person. She said the second named officer then pointed to an individual inside the barbershop and asked who he was. She said that this individual was seated and better matched the subject description provided. The named officer stated that the individual looked towards her and the second named officer and had a “fight or flight” look on his face. She said that the individual stood up, pulled a gun out from his waistband area, and started firing towards her and the other officer. She stated she immediately pulled out her own firearm and returned fire. Although she was focused on the subject at that moment, she found out later that the second named officer also returned fire. She stated that the subject slumped over and fell to the ground, and she stopped firing when he was no longer firing at them. Because he was still moving, she ordered him to put up his hands, and another officer entered the shop and ordered him to not reach for his gun. She said that she, and this other officer, then coordinated in safely moving towards the subject. She then handcuffed him and helped secure the scene.

The first named officer stated that a sergeant separated her from the scene and drove her to the district station. At the district station, she gave a public safety statement to a different sergeant, and her firearm was taken from her and replaced with a different firearm. The named officer told the DPA that she only spoke to her attorney and did not view any Body Worn Camera (BWC) recordings of the incident, until her interview with the SFPD homicide unit, two days later.

The second named officer stated that on the date of the incident he was on regular, uniform patrol, working alone, and equipped with a BWC. He said he was wrapping up a different call, when he responded to the dispatched call of a person with a gun. He arrived first at the residence, where other

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officers were already present, and then went to the barbershop. The named officer stated that he got out of his car, and saw another officer detaining a person outside of the shop. He said that he did not think the detained person completely matched the clothing description provided over dispatch; and when he approached the shop, he noticed an individual inside who more closely matched the subject description. He stated that he asked a barber, first, about the person outside, and then about the person inside. He said the subject inside appeared on-edge and nervous. He said the other named officer started to walk further inside, and he followed. He stated that the subject inside then stood up, reached towards his waistband, and pulled out a gun. He said he heard a bang, saw a flash from the subject's gun, and immediately pulled out his own gun and started to return fire. He stated that he moved in such a way as to have a better sight line and pose less of a risk to bystanders. He also stated that he was hit in the leg by the subject's gunfire, causing him to fall. The named officer said he stopped firing, because the subject fell backwards and had also stopped firing. He did not know, in the moment, that the other named officer had also been firing her weapon but realized it soon after. He said that another officer came in and pointed his weapon at the subject, as he was helped outside by other officers.

The named officer said he was taken to the hospital by ambulance, while other officers offered him moral support. He said he did not provide a public safety statement. He also said he did not know what happened to his firearm in the immediate aftermath of the incident, but he was aware, at the time of the interview, that it was in evidence. He stated that he did not speak with anybody about the incident, besides his attorney, and did not view any BWC video of the incident, until his SFPD homicide interview, eight days later.

A number of SFPD officers were involved in the initial call of a person with a gun, and dozens more responded to the Officer Involved Shooting. The DPA, SFPD homicide division, and internal affairs division, interviewed several of the more involved officers. None of the other officers stated they had entered the barbershop before shots were fired. Some were able to see inside the barbershop through a window, and their recollections did not contradict the facts provided by the named officers.

Three witnesses, barbers working at the barbershop on the date of the incident, were interviewed by the DPA. They stated that there were over a dozen individuals inside their shop at the time, including more than one juvenile. One of the witnesses stated he was working when the subject who was later shot walked into the shop. He stated they exchanged brief words, and that he knew the subject from the community. That witness stated that he walked outside and was ordered to stop by a uniformed officer. He said he complied but told the officer that the officer had made a mistake. The officer handcuffed him and asked his name. The witness told the officer his name, and soon after that he heard shots fired from within the shop. A second witness stated he was cutting a client's hair when he saw his fellow barber detained outside. He stated that he walked to the doorway of the barber shop and met one of the named officers. He said he asked the officer, "What's going on? Is everything okay?" He stated that the named officer responded by asking about a subject sitting inside the shop. The witness replied that he did not

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know, because, at the time, he did not recognize the subject. He walked back to his chair, and both named officers walked in behind him. He said the named officer he had been speaking with, directly addressed the subject inside, stating, "You in the black hat." The witness said that gunfire erupted right after that, and he was hit in his leg by the gunfire. The third witness said he also approached officers in the doorway to ask what was happening. He also said when an officer asked about the subject inside, he replied that he did not know who the person was. That witness stated the two named officers walked past him, and he started making his way back into the shop. He heard, "Hey, you in the black hat," and then immediately heard gunshots. He said he was hit in the foot by the gunfire. The two injured barbers left the scene by ambulance.

BWC recordings from the incident show several uniformed and plainclothes officers standing outside of the barbershop, some with a detainee in handcuffs. The plainclothes named officer is shown walking up to the doorway, while the uniformed named officer stands just outside the threshold. The recordings show the uniformed officer pointing towards the individual detained outside, and pointing inside the shop, as he stands just outside the threshold of the shop doorway. The plainclothes named officer then walks into the shop, and the uniformed named officer follows. The uniformed officer's BWC, the only one that captured the shooting, then shows three people seated on benches inside the shop. The person furthest away on the benches, at the opposite end of the shop, appears to be wearing a black cap. That person begins to stand up, and the two named officers immediately react, two seconds after they cross the threshold into the shop. The uniformed officer points his firearm towards the subject, and the other people on the benches duck down. There is no audio, and the camera is, at times, pointed at the ground. A clear image of a person standing at the end of the benches, in a black top, blue jeans, and black cap is visible. That person's hands are together and in front of his body, consistent with the pointing of a firearm. The next seconds then show the uniformed officer falling to the ground, while still aiming his firearm towards the subject, and presumably firing. The plainclothes officer can be seen just in front of him, to the left, also pointing a firearm and huddled behind a barber chair. The next view of the subject shows that he has fallen and a hand mirror hanging on the wall next to him is swinging. The uniformed officer reloads his gun and taps his camera. The sound can then be heard in the clip. People are shouting, but there are no additional gunshots. The subject remains on the ground, moving slightly; and blood can be seen on the floor below the uniformed officer. A third officer enters and jumps on the benches, with his firearm pointed to the subject. Three bystanders, who remained in the main room of the shop, run out at that point. A fourth bystander is still inside, yelling, "I have kids!" A female voice, presumably the plainclothes officer's, is heard ordering the subject to put his hands up. The recordings show the plainclothes officer moves in with other officers, pulls the subject's body away from the gun and handcuffs him. The recordings then show officers clearing the rest of the building, providing medical care to the victims, and preserving the crime scene.

A dash cam video, and other recordings capture the scene outside of the shop.

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SFPD General Order 5.01, Use of Force, states:

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

...

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

4. In defense of others or in self-defense.

The order describes levels of resistance, and defines "life-threatening" resistance as, "Any action likely to result in serious bodily injury or death of the officer or another person."

It describes levels of force, and states:

It is the policy of this Department to use deadly force only as a last resort when reasonable alternatives have been exhausted or are not feasible to protect the safety of the public and police officers.

...an officer may discharge a firearm or use other deadly force ... In self-defense when the officer has reasonable cause to believe that he or she is in immediate danger of death or serious bodily injury; or ... In defense of another person when the officer has reasonable cause to believe that the person is in immediate danger of death or serious bodily injury.

It lists factors for evaluating the use of force, including:

Whether the suspect posed an immediate threat to the safety of the officers or others ... Whether the use of force is proportional to the threat ... The availability of other feasible, less intrusive force options ... The officer's tactical conduct and decisions preceding the use of force ... Whether the subject's escape could pose a future safety risk.

The order also describes de-escalation, and states:

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

1. Attempt to isolate and contain the subject;

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

Both of the named officers felt the person detained outside of the barbershop was not likely the suspect described as the person with the gun. Looking inside the shop, they both saw an individual who better matched the description.

Although Department guidelines appear to emphasize the use of de-escalation techniques in situations other than when a person is armed with a firearm, they also include the opportunity for de-escalation as factors to consider in evaluating the use of force. Whether officers created time and distance is one factor that should always be considered when officers take a life or seriously injure a person in the course of their work. In this case, the video evidence shows that the subject stood up and pulled his gun out two seconds after the named officers entered the shop. While it could be argued that the named officers, immediately upon recognizing that the subject inside was the more likely suspect, should have immediately created time and distance; in that moment, they had reasonable suspicion to question and detain that individual, but they still did not know that he was the person with the gun, or that the allegation that he was armed was credible. Furthermore, if the named officers had decided to temporarily retreat, rather than immediately investigate, their actions would have undermined the overall purpose of Department guidelines on Use of Force. The fact that they would be leaving a potentially dangerous individual inside a public shop with over a dozen members of the public, would be antithetical to the overall goal of safeguarding the life, dignity and liberty of all persons.

The video evidence does not show who fired the first shot, but clearly shows the subject standing and pointing something at the officers before they reacted by pulling their own weapons. The evidence is overwhelming that the named officers faced an immediate threat from a person pointing and then shooting a gun at them in a location with many innocent bystanders. Their reaction to use deadly force against life-threatening resistance was justified as self-defense and defense of others. Other options were not feasible under the 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 ALLEGATION #3: The officer detained a person without justification.

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

FINDINGS OF FACT: The named officer responded to the call of a person with a gun. Before the Officer Involved Shooting that occurred inside a barbershop, the named officer detained a person just outside of the shop. The DPA reviewed that detention.

The named officer stated he was “given intelligence over the radios that the subject in question was inside the barber shop.” His memory of the suspect’s description was, “a 20 to 25-year-old Middle Eastern male, partial facial hair, black hoodie, blue jeans.” The named officer said he was aware that the suspect was known (a family member had made the report) and police had his name. He was able to remember the suspect’s first name. The named officer said that he saw a person come out of the barbershop and, “I immediately recognized him as a barber at the barber shop from previous contacts um, so I immediately placed him in handcuffs.” He insisted that the person he detained matched the description provided over the radio.

Two other officers, also on scene, stated that they entered the barbershop after seeing the named officer with his detainee outside. They stated that they did not believe the named officer had the right person, and in particular, mentioned the suspect description as a person with blue jeans, while the person being detained had green pants on. One of the officers also heard the detainee state his name, and she felt uneasy because it was different from that provided by the reporting party.

The barber detained stated that he walked out of the barbershop with his backpack in one hand and his son’s photo album in the other hand and straight into four to five police officers. He did not know what was going on. The detainee said he told the officers, including the named officer, that they had him mistaken with someone else, and he provided them with his name. He stated that he recognized the named officer and said he “sees me out there all the time.”

The CAD records from the Department of Emergency Management show that the female caller reported that her cousin was threatening her with a gun at her house. The caller gave the suspect’s name, and described him as an Arab male, 21-years old, 6’2”, “kind of big,” wearing a black hoodie. The caller later stated that the suspect had gone to the barbershop from her house but did not say that he worked there. The first description, heard on the CAD Audio, provided the suspect’s name and that he was an, “Arab male, 21 years old, 6’2”, medium build to heavy, black hoodie, the gun was actually seen, he’s on drugs, flashed a big gun under his jacket and tried to break into the house.” The CAD shows that another officer then repeated the description. Another unit reiterated, “Black jacket, blue jeans.” Then a unit reported that one was detained.

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The incident report describes the detained person as 5'7" tall and 30-years-old. It describes the suspect as 6'2" and 21-years-old.

Department personnel records document that the named officer is 6'2" tall.

BWC recordings show that the named officer detained a person who had just walked out of the barbershop. The detainee was much shorter than the named officer and was wearing a black hoodie with the barbershop logo, and green cargo pants. The detainee also had a slim build. The recordings show that the detainee asked why he was being detained, and that he thought the officers had him confused with someone else. The BWC recordings show that an officer asked the detainee for his name, and he provided it.

SFPD General Order 5.03, Investigative Detentions, states:

A police officer may briefly detain a person for questioning or request identification only if the officer has a reasonable suspicion that the person's behavior is related to criminal activity. The officer, however, must have specific and articulable facts to support his/her actions; a mere suspicion or "hunch" is not sufficient cause to detain a person or to request identification.

The named officer (1) knew that the suspect's description came from a family member, (2) knew that the suspect was 6'2" tall and had a medium-heavy build, (3) had no information that the suspect worked at the barbershop, (4) had previously encountered the detainee, and (5) immediately recognized the detainee as a barber. The detainee was a 5'7", 140 pounds, 30-year-old Arab man with a small build wearing green cargo pants, and a black hoodie with the barbershop logo on it. Thus, the detainee only matched the description of Arab male. Even his black hoodie had the barbershop logo written on it – a fact not included in the suspect description. Additionally, the detainee was very cooperative and stated that he believed the police had the wrong man – behavior that should have immediately alerted police that he was not the 911 caller's cousin, who was allegedly high on drugs, flashing a big gun, and trying to break into the family home before he left the home and was next reported to be at the barber shop.

The named officer unlawfully detained a person who did not match the description of the known suspect. The suspect's cousin provided a name, age, height, build, race, and a description of the suspect's facial hair and clothing. The detailed description should have been given great weight by the named officer because it came from someone who knew the suspect well. 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 #4: The officer behaved inappropriately during a detention.

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

FINDINGS OF FACT: The named officer responded to the call of a person with a gun. Before the Officer Involved Shooting that occurred inside a barbershop, the named officer detained a person just outside of the shop. When the shooting started, the named officer abandoned his detainee. The DPA reviewed that conduct.

The named officer said he had detained a person outside of the barbershop because he believed he matched the description of the suspect. He said he handcuffed that person and moments later heard shots fired. The named officer said he saw officers getting shot at inside the barbershop. He stated that he ran into the barbershop, leaving his handcuffed detainee. The named officer said he did not attempt to move the detainee out of harm's way. He said that he understood that other officers filled his role of trying to protect the detainee, but he did not assume that would happen when he left his detainee. He acknowledged that the detaining officer is responsible for his or her detainee, and that he was the person with that responsibility in this case. He also stated that SFPD policy dictated that when an officer has somebody in custody and there is an emergency, that officer is not to respond to the emergency or incident. But, he stated that this situation was different because he was at the emergency.

BWC and dashcam video shows that the named officer handcuffed a person just outside of the barbershop, by a large window. There are many other officers nearby. The video shows that a gunfight erupts inside of the shop, and the named officer runs behind a car for safety, leaving the detainee on his own. Some of the video shows that bullets went through the wall of the barbershop. The video shows the named officer then running into the shop, and the detainee walking himself behind a car. The video shows two other officers moving the detainee into safer positions after the gunfire ends.

SFPD General Order 1.03, Duties of Patrol Officers, states that officer are to, "Be responsible for the security of prisoners in their custody."

General Order 2.01, General Rules of Conduct, states, "Members shall be responsible for the custody, control, and safety of prisoners in their care until the prisoner has been formally remanded to the custody of another. Members shall treat prisoners with due respect and courtesy."

General Order 5.18, Prisoner Handling and Transportation, states, "It is the policy of the San Francisco Police Department to treat all persons taken into custody in a humane manner and with due regard for their physical safety and protection while in police custody."

POST - Learning Domain 31, Peace Officer Responsibilities in a Custodial Situation, states:

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Peace officers who have custody of arrested persons are lawfully responsible for the care and safekeeping of those individuals...Peace officers who have responsibility for arrested persons are liable for the safekeeping and standard of care of those persons...

These mandates do not provide an exception for officers to abandon their detainees in situations where they are subjected to gunfire, in order to assist multiple officers already on scene as they deal with a shooting suspect. While the named officer's ability to run to the emergency, rather than shy away from it, is admirable, he cannot lose sight of his responsibility and abandon a defenseless, handcuffed individual on the street as a gunfight breaks out. Before running into the barber shop, the named officer should have secured his detainee's safety by leaving him with one of the other officers, or directing one of the other officers without a detainee to go into the barber shop to help the officers inside while he attended to his detainee's safety. A preponderance of the evidence proved that the conduct complained of did occur, and that, using as a standard the applicable regulations of the Department, the conduct was improper.

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

CATEGORY OF CONDUCT: ND FINDING: IC/S DEPT. ACTION:

FINDINGS OF FACT: The complainant stated a local vendor pulled out his knife and followed her after she told him she would report him to City Hall for selling his inventory at high prices. When officers responded, they did not arrest the vendor or prepare a police report.

The named officers stated the complainant did not request or demand the vendor's arrest or request an incident report. They stated they obtained a statement from the complainant, the vendor, and the vendor's friend. The vendor and his friend denied the brandishing of a knife. Based on their investigation, the named officers believed no crime was committed. The officers stated they did not prepare an incident report because they determined that no crime was committed, the complainant did not demand an arrest, and she did not request an incident report.

Department records showed that the complainant called 911 and reported that a vendor brandished a knife at her. The complainant was Limited English Proficient person (LEP) and requested a translator. No Spanish speaking officer responded to the scene and the complainant spoke to the officers in English. The complainant and the officers each felt that they adequately understood each other. The call lasted under 7 minutes.

The body-worn camera footage showed officers responded to the scene and obtained a brief statement from the complainant. Named officer #1 obtained a statement from the vendor and the vendor's friend, while named officer #2 obtained more information from the complainant. The vendor denied having a knife and complained to named officer #1 that the complainant often harasses him about his prices. Named officer #1 returned to the complainant and without consulting with named officer #2, told the complainant that no one was hurt, and the vendor preferred she not return to buy his merchandise. The complainant did not specifically say that she wanted the vendor arrested, but she asked named officer #1 why the vendor was not arrested. The body-worn camera audio was redacted during named officer #1's explanation of why the vendor was not arrested. Also, during the redacted body worn camera audio, the complainant made a writing motion and when the audio resumed an officer provided the complainant a CAD number, not an incident report number. The officers again told the complainant not to contact the vendor and then left the scene.

Department General Order 5.04 states whenever a private person summons an officer to take custody of an individual that the private person has arrested or wants to arrest, officers shall determine if probable cause exists to believe the individual committed the crime in question. If probable cause does not exist,

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the individual is free to leave. Additionally, in all instances involving requests for a private person's arrest, an incident report shall be prepared.

Department General Order 5.04, also states that officers should be aware that a citizen may say that he or she wishes to arrest an individual without using a formally worded demand such as: "I wish to place this person under citizen's arrest." Officers must always evaluate the intent of the person making the arrest and, if necessary, ask questions in order to determine if the person is actually requesting a private person arrest. It also states that that in all instances involving requests for a private person's arrest, an incident report shall be prepared.

The named officers complied with Department policy when they refused to the arrest the vendor for brandishing a knife. They had no probable cause to believe the vendor brandished the knife at the complainant after they completed their investigation. However, the named officers had an obligation to write an incident report documenting the request and denial of the private person's arrest. Although the complainant did not specifically say she wanted the vendor placed under private person's arrest, she called 911 to report the alleged crime, she reported the alleged crime to the named officers, and she questioned why the officers did not arrest the vendor. The complainant's intent was to request that the vendor be arrested, even if she did not formally demand his arrest. The named officers acknowledged they did not write an incident report documenting the incident.

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

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

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

FINDINGS OF FACT: The complainant, a widow of a former SFPD officer, reported that her son's beneficiary check was fraudulently cashed. The beneficiary check was issued from a San Francisco agency in 2017. She asked the named officer to contact the responsible agency on her behalf and to ask the agency to re-issue her son's check, but the named officer refused to do so.

The named officer recalled speaking with the complainant regarding the matter and confirmed that he declined to contact the agency on her behalf. He explained that this demand exceeded police authority and it would have been improper for him to do so.

The named officer correctly explained that it would be inappropriate to contact the association on behalf of the complainant. In declining her request, the named officer followed proper ethical considerations.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

SUMMARY OF ALLEGATION #2: The officer behaved or spoke inappropriately.

CATEGORY OF CONDUCT: CUO FINDING: IE DEPT. ACTION:

FINDINGS OF FACT: The complainant stated that the officer incorrectly informed her that she had to file her report of a crime in the jurisdiction where she lived, which was a city other than San Francisco.

The information the complainant provided, both to the Department and to DPA, did not prove where the 2017 check was fraudulently cashed. The issuing agency was located in San Francisco. Some evidence suggests that the check was mailed to a San Francisco address. The victim lives outside of San Francisco. Given the lack of dispositive evidence as to where the check was cashed, jurisdiction would properly lie in more than one county.

The named officer stated that his advisement to the complainant to file her report of a crime in the jurisdiction where she lived was in accordance with departmental policies, specifically Department

General Order 5.11. The officer subsequently referred the complainant's request to file an incident report to the "Cold Reports Unit." An officer of that unit eventually did take a report from the complainant. The named officer confirmed with another Department member that in cases of fraud, it is Department practice to refer reportees to their local police agencies.

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SFPD records reflected that an officer later filed an incident report about the crime that the complainant reported. If the check was cashed in San Francisco, the officer should have taken the report when the complainant first attempted to report the crime. However, a preponderance of the evidence did not establish that the incident occurred in San Francisco. In the future the DPA encourages officers to get clarification and document such efforts before referring incident reports to outside agencies.

Department General Order 5.11 states in relevant part under (II)(A)(1) "CRIMES. It is the policy of the San Francisco Police Department that members only take an Outside Agency Report for a felony crime, and only, when the reportee would suffer a hardship if he/she is required to return to the jurisdiction of occurrence. If, however, there is doubt that the reportee would suffer a hardship, the member shall take the report."

The evidence fails to prove or disprove that the alleged conduct violated Department rules or policies.

SUMMARY OF ALLEGATION #3: The officer prepared an incomplete or inaccurate incident report.

CATEGORY OF CONDUCT: ND FINDING: IE DEPT. ACTION:

FINDINGS OF FACT: The complainant stated that the officer prepared an incident report that contained inaccurate information, such as, how, and when the complainant learned of her husband's death, information from a benevolence organization, and misreported that the complainant was the restrained party of a restraining order. The complainant further stated that the named officer reported that he asked the complainant whether her late husband had other children when the complaint stated that the named officer only asked if she had any other sons.

The named officer explained that he included the information regarding the restraining order in the incident report for thoroughness and completeness as he had received the information from a reporting party and from a subsequent computer inquiry he conducted. The named officer further explained that he misread the computer inquiry and later realized that he, in error, reported that the complainant was the restrained party and not the protected party. The named officer did not recall asking the complainant about whether she had other children.

SFPD records reflected that the named officer prepared an incident report using information provided by the complainant as well as from other sources. The report was consistent with the complainant's description of the alleged crime.

Body-worn camera footage was not available.

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The named officer admitted that reporting that the complainant was the restrained party named in the protection order was a mistake. However, the fact was immaterial to the complainant's report of a financially related crime. The named officer admitted the error. The DPA encourages officers to correct their mistakes when they find them. This mistake does not rise to the level of punishable misconduct.

The evidence fails to prove or disprove that the alleged conduct occurred.

SUMMARY OF ALLEGATION #4: The officer behaved or spoke inappropriately.

CATEGORY OF CONDUCT: CUO FINDING: IE DEPT. ACTION:

FINDINGS OF FACT: FINDINGS OF FACT: The complainant stated that she attempted to provide supporting documentation to the named officer preparing the incident report; however, she stated that the officer instructed her to stop sending him e-mails and rudely hung up on her.

The named officer explained that after their initial conversation, he did not call the complainant and only recalled receiving an email from the complainant requesting status of the report.

The evidence fails to prove or disprove that the alleged conduct occurred.

SUMMARY OF ALLEGATION #5: The officer failed to properly investigate.

CATEGORY OF CONDUCT: ND FINDING: IE DEPT. ACTION:

FINDINGS OF FACT: The complainant stated that she emailed what she was believed to be documentation supporting her report of the above crime; however, she stated that in addition to the named officer telling her to stop emailing him information, he failed to attach the documentation to the report. The named officer also asked the complainant questions about a matter involving the complainant and a

restraining order. The complainant did not believe such questioning was relevant to her report of a crime of financial fraud.

SFPD records reflected that the named officer prepared an incident report using information provided by the complainant, as well as other sources. The report does, in fact, document information about a restraining order.

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The named officer explained that he received information from a relevant party regarding a restraining order involving the complainant and therefore, included the information in the report to ensure that the report was thorough and complete. He does not recall why, at the time, he believed the information was specifically relevant. The named officer also stated that he included information in the report that he received from the complainant. The documentary evidence is unclear as to whether the complainant sent evidence to this specific officer.

The evidence fails to prove or disprove that the alleged conduct occurred.

SUMMARY OF ALLEGATION #6: The officer failed to take required action.

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

FINDINGS OF FACT: The complainant stated she emailed documentation supporting her complaint of a crime to the officer whom she believed was responsible for overseeing the complainant's report of a crime. The complainant expected the officer to forward what she was believed to be documentation of her complaint of a crime to another officer who was preparing the incident report.

The named officer stated she told the complainant that an officer would call her to take her incident report and that the complainant should provide the reporting officer with the supporting documentation at that time. The named officer denied that she told the complainant that she was handling the complainant's case.

SFPD records reflected that an officer prepared an incident report using information provided by the complainant as well as from other sources. The report appeared to be consistent with the description of the crime as the complainant reported.

Body-worn camera footage was not available. The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

SUMMARY OF ALLEGATION #7: The officer failed to properly supervise.

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

FINDINGS OF FACT: The complainant stated that the named officer allowed officers to perform misconduct in handling the report she filed, mentioned above.

Department General Order 1.06, Duties of Superior Officers, generally requires superior officers to supervise their subordinates and correct any misconduct that comes to their attention; however, the named

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officer here is not personally responsible for those not within their direct supervision or chain of command. Additionally, DPA did not sustain any allegations in this complaint.

The evidence proves that the conduct alleged did not occur or that the accused officer was not involved.

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

CATEGORY OF CONDUCT: ND FINDING: IE DEPT. ACTION:

FINDINGS OF FACT: The complainant stated that the named officer called her regarding the incident described above and left her incorrect call-back numbers. The numbers provided by the complainant are not currently assigned to the SFPD.

The named officer was temporarily assigned to the unit tasked with contacting the complainant. The named officer, under the direction of his Sergeant, contacted the complainant and confirmed that he left her voice messages providing her with call-back numbers. However, the officer could not recall whether the numbers provided by the complainant were the numbers he provided at the time, or whether the numbers to the specific division had changed as the division underwent administrative changes. The named officer attested, however, that the numbers he provided were the correct number at the time and denied intentionally providing her with misinformation.

Although the numbers provided by the complainant in the voice-messages are not *currently* assigned to SFPD, DPA's investigation could not determine whether the numbers were accurate at the time of the call, or whether the officer intentionally provided the complainant with misinformation amounting to misconduct.

The evidence fails to prove or disprove that the alleged conduct occurred.

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

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

FINDINGS OF FACT: The complainants were detained and searched during the service of a search warrant. The complainants believed that the search warrant was not valid and therefore the detention was unlawful.

Department General Order (DGO) 5.03(02)(D) states, *“Reasonable suspicion is a set of specific facts that would lead a reasonable person to believe that a crime is, was, or is about to occur and the person under suspicion is reasonably connected to the crime. Reasonable suspicion to detain is also established whenever there is any violation of law. Reasonable suspicion cannot be based solely on a hunch or instinct.”*

The named officer denied the allegation, stating that he had reasonable suspicion to believe that lewd acts were being conducted at the business location. Furthermore, he had a signed search warrant for the premises.

Police records showed that the complainants, their customers, and the complainants’ staff were detained. The complainants were cited and released for Penal Code Section 315, a misdemeanor.

The search warrant was signed by a judge of the San Francisco Superior Court.

The named officer had authority to detain the complainants, the customers, and the complainants’ staff during the service of the search warrant. DPA determined that the named officer acted within policy.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATION #2: The officer conducted an improper search or seizure.

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

FINDINGS OF FACT: The complainant believed that the search was unlawful because the search warrant was inaccurate.

Department General Order (DGO) 5.16(I)(A) states, *Under the Fourth Amendment of the United States Constitution, the only legal means of obtaining evidence, excluding specific exceptions, is by search warrant. Search warrants are the most reliable means of preserving the admissibility in court of evidence seized during a criminal investigation. The San Francisco Police Department requires its members to conform themselves to the law in all aspects of their duties and particularly in obtaining evidence by means of searches and seizures.*

The named officer stated that he received a tip regarding illegal activity occurring at the complainants' business. During the course of the named officer's investigation, he developed probable cause to prepare and present a search warrant to a judge of the San Francisco Superior Court. The named officer conducted research on the business, which detailed potential patrons that visited the location for services that may or may not be legal. SFPD then conducted two surveillance operations. An undercover officer was sent inside the business, at which time the undercover officer was offered additional services that were unlawful. The judge reviewed the search application and supporting affidavit and signed the warrant.

DPA reviewed Department records and the search warrant. DPA confirmed the search warrant was signed by a judge of San Francisco Superior Court, which gave the named officer authority and command execute the detention and search.

The Fourth Amendment to the United States Constitution reads in part that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." An officer may rely in good faith upon a signed search warrant under these circumstances. (*United States v. Leon* (1984) 468 U.S. 897.)

Based on the totality of evidence, DPA determined that the named officer acted within policy.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATION #3: The officer issued an invalid order.

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

FINDINGS OF FACT: The complainants stated that the owners and customers were told if they did not unlock their cellphones they would be taken to jail.

Department General Order (DGO) 5.16 states, “Under the Fourth Amendment of the United States Constitution, the only legal means of obtaining evidence, excluding specific exceptions, is by search warrant. Search warrants are the most reliable means of preserving the admissibility in court of evidence seized during a criminal investigation. The San Francisco Police Department requires its members to conform themselves to the law in all aspects of their duties and particularly in obtaining evidence by means of searches and seizures.”

The named officer denied threatening the owners and customers with jail if they did not unlock their cellphones. However, the individuals that were present during the search were asked to unlock their cellphones and they agreed. He did not believe the words, “they would go to jail” were used, nor did he recall hearing any other officers make that comment.

Police records showed that the complainants, their customers, and the complainants’ staff were detained. The complainants were cited and released for Penal Code Section 315, a misdemeanor.

Body-worn camera (BWC) was reviewed; however, it did not capture the conversation regarding unlocking cellphones or any part of the interviews or investigation during the execution of the search warrant.

Department General Order 2.01(14) mandates that officers shall treat the public with courtesy and respect and not use harsh, profane or uncivil language.

The named officer had a search warrant that would have authorized seizure of the cellphones. However, it would be improper to threaten the cellphone owner with arrest if they refused to unlock their phones. The complainants stated they were coerced into opening their cellphones, while the named officer stated the complainants gave consent, which obviated the need to seize the phones. No BWC or other video captured these interactions.

The evidence fails to prove or disprove that the alleged conduct occurred.

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SUMMARY OF ALLEGATION #4: The officer displayed threatening, intimidating, or harassing behavior.

CATEGORY OF CONDUCT: CUO FINDING: NF DEPT. ACTION:

FINDINGS OF FACT: The complainant stated that officers contacted a customer a few weeks after they searched the business and asked the customer if they received additional services at the business.

Department General Order 2.01(14) mandates that officers shall treat the public with courtesy and respect and not use harsh, profane or uncivil language.

The named officer denied threatening any of the workers nor the patrons during or after the search was conducted. He also stated that he was not aware of any other officers that did either. When asked if he contacted any of the patrons after the search, he said only regarding the return of property. He was not informed that any officers had any contact with anyone after the search.

DPA made several attempts to obtain a statement from the customer; however, the customer never responded to DPA's requests.

Based on the unwillingness of the customer to respond to DPAs requests for a statement, DPA was unable to make a finding.

No finding outcomes occur under four circumstances: the complainant did not provide additional requested evidence, the complainant requested a withdrawal of the complaint, the officer could not be reasonably identified, or the officer has left the Department and therefore the investigation cannot be completed.

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SUMMARY OF ALLEGATION #5: The officer failed to comply with a Department General Order.

CATEGORY OF CONDUCT: ND FINDING: IC/S DEPT. ACTION:

FINDINGS OF FACT: The complainants believed the search warrant was inaccurate because the named officer lacked probable cause to support his allegation that human trafficking occurred at the business and the business name and owner names in the search warrant were inaccurate.

SFPD's Search Warrant Manual (I.F.) states that a search warrant cannot be issued but upon probable cause, supported by affidavit sworn under oath, naming or describing the person and, in particularity, describing the property and the place to be searched. The affidavit and/or affidavits must set forth the facts tending to establish the grounds of the search warrant application, or probable cause for believing that such grounds exist. Affidavits in support of a search warrant may be oral, telephonic, or facsimile, if appropriately recorded.

The named officer, under penalty of perjury, swore there was probable cause to believe that a felony had occurred and evidence of said felony would be found on the premises. A judge of San Francisco Superior Court signed the warrant; therefore, the named officer was entitled to act on the warrant in good faith. (*United States v. Leon* (1984) 468 U.S. 897.) However, the named officer should have known and did know that he had probable cause for only misdemeanor offenses. However, he stated that during the course of his investigation, he developed probable cause to prepare and present a search warrant to a judge of SF Superior Court. He further stated that the search warrant provided to the DPA documented the probable cause statement that the judge read and signed.

The named officer requested that DPA interview the judge that signed the search warrant; however, Evidence Code Section 703.5 deems the judge incompetent to testify in a civil proceeding. Evidence Code section 703.5 states:

No person presiding at any judicial or quasi-judicial proceeding, and no arbitrator or mediator, shall be competent to testify, in any subsequent civil proceeding, as to any statement, conduct, decision, or ruling, occurring at or in conjunction with the prior proceeding, except as to a statement or conduct that could (a) give rise to civil or criminal contempt, (b) constitute a crime, (c) be the subject of investigation by the State Bar or

Commission on Judicial Performance, or (d) give rise to disqualification proceedings under paragraph (1) or (6) of subdivision (a) of Section 170.1 of the Code of Civil Procedure. However, this section does not apply to a mediator with regard to any mediation under

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Chapter 11 (commencing with Section 3160) of Part 2 of Division 8 of the Family Code. (Amended by Stats. 1994, Ch. 1269, Sec. 7. Effective January 1, 1995.)

Additionally, the judge's signature did not relieve the named officer of his duty, in the first instance, to provide an accurate and complete search warrant and affidavit for signature. The search warrant read that under penalty of perjury, the named officer had probable cause to believe that the business was used as the means of committing a felony. Also, the search warrant listed the address for the business but had the wrong business name and business owners.

Police records showed that the named officer had probable cause that a violation of Penal Code Section 647(b), a misdemeanor, had occurred on the premises. The named officer did not have probable cause that any felony had occurred, and his pure speculation that he might find evidence of human trafficking is the antithesis of probable cause. Therefore, the named officer violated DGO 2.01, DGO 3.01, and the Search Warrant Manual by marking two boxes on the search warrant indicating that he had probable cause for a felony offense.

DGO 3.01.12 states that members are expected to have a working knowledge of all directives as applicable through their respective assignment and comply with their provisions. Retention of paper copies of General Orders or any other directives that are no longer mandated.

DGO 2.01(9) states that any breach of peace, neglect of duty, misconduct or any conduct by an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action.

DPA found that the named officer wrote an inaccurate search warrant when he marked that he had probable cause for a felony, when in fact he only had probable cause for a misdemeanor, in violation of SFPD Search Warrant Manual and Department General Orders 3.01.12 and 2.01.

A preponderance of the evidence proves that the alleged conduct occurred and that the conduct violated Department policy.

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

CATEGORY OF CONDUCT: ND

FINDING: IE

FINDINGS OF FACT: The complainant was parked and looking for his keys when a driver hit his open car door. Instead of immediately stopping to exchange information, the driver kept going. The complainant initially tried to follow him, but his own car was inoperable because his door would not close. The complainant got into his friend's car and together they followed the driver until he stopped in a nearby parking lot. The complainant called 911 to report a hit-and-run because he had to chase the driver to exchange information. The complainant stated that officers should have tested the driver for intoxication and investigated further. Instead, the officers allowed the driver to leave the scene after the parties exchanged information.

The named officers located both parties in the parking lot. The officers stated they separated and interviewed both parties, asking what happened and if anyone was injured. The complainant and the other party told the officers they already exchanged information and that they were uninjured. The officers determined that the situation was not a hit-and-run because the complainant had followed the driver to a parking lot where the other driver felt safe pulling over to exchange information. One officer advised the other party that he should pull over when involved in a collision.

The officers stated they did not administer a field sobriety test because they observed the driver and did not perceive any signs of intoxication. The first named officer told the complainant to go back to his car because the parties had exchanged information and there was nothing further for the officers to do. The officers stated they did not want to leave the parties together in the parking lot because the complainant was agitated, and they were concerned about a fight occurring.

Body-worn camera footage documented the officers' interviews of the parties and two witnesses. The other party admitted hitting the complainant's car. He told officers that he panicked because it was his first collision, and he did not know what to do, so he drove to the parking lot to pull over in a safe location. Department General Order 9.02, Vehicle Accidents, does not require the investigation of non-injury collisions. There was insufficient evidence to determine if the officers should have administered a field sobriety test or conducted further investigation. The evidence fails to prove or disprove that the alleged conduct occurred.

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SUMMARY OF ALLEGATIONS #3-4: The officers failed to write an incident report.

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant was parked and looking for his keys when a driver hit his open car door. The complainant said that the driver fled the scene instead of stopping to exchange information. The complainant stated that officers should have investigated a possible “driving under the influence” incident and prepared a traffic collision report.

The named officers stated they did not write a traffic collision report because the incident was a vehicle collision with no injuries.

Department of Emergency Management records showed the officers were dispatched to investigate a collision with possible injuries.

Body-worn camera footage showed that the parties exchanged information and both parties told officers they were uninjured.

Department General Order 9.02, Vehicle Accidents, does not require officer to prepare a report for noninjury collisions.

There was insufficient evidence to determine if officers should have conducted further investigation and therefore prepared an incident report.

The evidence fails to prove or disprove that the alleged conduct occurred.

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SUMMARY OF ALLEGATIONS #5-6: The officers knowingly engaged in biased policing or discrimination.

CATEGORY OF CONDUCT: CUO

FINDING: IE

FINDINGS OF FACT: The complainant was the victim in a collision. The complainant stated that, because of his race, officers were biased in favor of the driver who hit him. The complainant stated that officers asked him what happened but did not question the driver who fled the scene and admitted being intoxicated. The complainant stated the officers should have investigated whether the driver was intoxicated. The complainant stated that the officers' actions demonstrated clear bias in favor of the driver and his passengers.

The named officers denied showing favoritism toward the other party. The officers were concerned that the exchange of information could escalate into a fight. The officers remained on scene until the parties finished exchanging information. The officers stated the complainant's race was not a factor in their investigative decisions. They did not test the driver's sobriety because they perceived no signs of intoxication.

The evidence fails to prove or disprove that the alleged conduct occurred.

OFFICER ALEJANDRO NAJARRO #1078, OFFICER JOSHUA ZAVALA #1933

SUMMARY OF ALLEGATIONS #7-8: The officer displayed threatening, intimidating, or harassing behavior.

CATEGORY OF CONDUCT: CUO

FINDING: PC

FINDINGS OF FACT: The complainant stated the officers threatened to arrest him for interfering with the investigation.

Both officers denied threatening to arrest the complainant. The one officer stated he warned the complainant that he was impeding an investigation because he was not listening, did not comply with orders to return to his vehicle, and did not step away from the other parties when asked to do so. The other

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officer stated that at one point complainant walked over and stood extremely close to the driver, which caused him to worry that the situation might escalate into a fight.

Body-worn camera footage supported the officers' statements.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

OFFICER ALEJANDRO NAJARRO #1078, OFFICER JOSHUA ZAVALA #1933

SUMMARY OF ALLEGATIONS #9-10: The officers behaved or spoke inappropriately.

CATEGORY OF CONDUCT: CUO

FINDING: PC

FINDINGS OF FACT: The complainant stated that when he insisted one officer give the driver a sobriety test, the officer responded by saying he saw blunt papers in complainant's car and that maybe he should give the complainant a sobriety test. The complainant said both officers inappropriately asked if he was intoxicated.

Both officers denied asking if the complainant was intoxicated. One officer acknowledged saying to the complainant, "Do I need to check the blunt wrappers in your car?" The officer stated he made the comment because the complainant was making allegations about the driver being intoxicated. He stated that in a collision, both parties need to be evaluated and the complainant did not have the authority to determine whether someone was intoxicated.

Body-worn camera footage showed that one officer commented about seeing marijuana paraphernalia in the complainant's car. Neither officer was shown asking if the complainant was intoxicated.

The officer comment about blunt papers did not rise to the level of misconduct.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complainant stated that she called 911 multiple times because abusive bartenders were being unkind, refused to serve her, and asked her to leave the bar. The complainant stated that officers should not have cited her because she was the victim.

The named officer stated that she issued a citation because a bar employee made a private person arrest for trespassing. The bartender reported that the complainant refused to leave the bar when they declined to serve her. The complainant was combative and threatened employees and other patrons with pepper spray. The named officer said that the complainant was yelling and holding a can of pepper spray when officers arrived on scene. The named officer said that, based on her own observations and the statements of several witnesses, there was probable cause to believe the bartender's version of events and accept the private person arrest for trespassing, a violation of California Penal Code Section 602(m).

Body-worn camera footage was consistent with the officer's statement. The complainant was yelling and holding out a can of pepper spray. She refused to step outside. Officers restrained her in handcuffs and forcibly removed her from the premises.

California Penal Code Section 602 states: "every person who willfully commits a trespass by any of the following acts is guilty of a misdemeanor: (m) Entering and occupying real property or structures of any kind without the consent of the owner, the owner's agent, or the person in lawful possession."

Department General Order 5.04, Arrests by Private Persons, requires officers to accept private person arrests when probable cause exists to believe a crime has occurred. In addition to receiving a report of trespassing and hearing several corroborating witness statements, the officer personally observed the complainant trespassing inside the bar.

The officer was required to cite the complainant. The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATION #2: The officer detained a person without reasonable suspicion.

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complainant stated the officer improperly detained her for a mental health evaluation.

The named officer stated that he observed irrational, volatile, and verbally aggressive behavior by the complainant. The complainant was in a bar with patrons holding a canister of pepper spray in her hand and making nonsensical statements. The named officer conferred with his partner and a sergeant on scene regarding the complainant's behavior. The officer believed the complainant was not engaged with reality based on her behavior and statements. The officer also believed the complainant was dangerous and harmful to other people in the bar and requested a medical evaluation and treatment on the complainant's behalf.

Body-worn camera footage showed the complainant acting erratically and holding out a can of pepper spray in a bar full of people. Medical personnel arrived and further restrained the complainant using a harness in order to complete an evaluation.

Department General Order 6.14 outlines policies and procedures for dealing with psychologically distressed adults. Officers are required to detain an individual for psychiatric evaluation and treatment if the individual has not committed a crime but is, as a result of a mental condition, a danger to herself, or a danger to others.

There was reasonable suspicion to detain the complainant initially because she was holding pepper spray in her hand, patrons in the bar pointed the complainant out to the officers, and the complainant matched the physical description of a trespassing suspect. Additionally, body-worn camera footage supports that the named officer's decision to detain the complainant for psychiatric evaluation pursuant to Section 5150 of the Welfare and Institutions Code because the complainant was acting erratically and a danger to others.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATIONS #3-4: The officers failed to comply with Department General Order 5.01.

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated officers used excessive force during a detention. She said the named officers slammed her head into the roof of the patrol car, hit her, and punched her while she was getting into the patrol car. The complainant also stated the named officers exacerbated a pre-existing head injury from getting into a fight at a different bar a few days prior. The complainant did not authorize the DPA to review medical records of her injuries.

The named officers stated denied the allegations. The officers explained that they used physical control to handcuff the complainant and remove her from the bar because she was armed with pepper spray and refusing to leave. The officers also used physical control holds when the complainant tried to get out of a patrol car and again when she kicked an officer.

Body-worn camera footage was consistent with the officers' statements. No officers hit or punched the complainant and there was no indication that the complainant's being struck or knocking into anything. An evidence photo of the complainant showed no visible injuries.

Department General Order 5.01, Use of Force, authorizes officers to use force to accomplish a lawful purpose. Officers are trained to use levels of force that correlate to a suspect's actions or resistance. Officers may use physical control holds and personal body weapons when a person is physically evading being taken into custody or actively resisting.

Officers were permitted to use force to apprehend and gain control of the complainant who, actively resisted the officers' attempts to handcuff and control her body movements. They were also permitted to use force to prevent her from leaving and kicking people.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATIONS #5-6: The officers improperly used physical control.

CATEGORY OF CONDUCT: UF

FINDING: PC

FINDINGS OF FACT: The complainant stated the officers handcuffed her for no reason and that the handcuffs were too tight.

Body-worn camera footage showed an officer checked the complainant's handcuffs for double-locking and the proper degree of tightness. The complainant was armed with pepper spray, actively resisted, and assaulted an officer.

The Arrest & Control Manual, Handcuffing Guidelines, advises officers to handcuff suspects that are violent or exhibit a tendency to escape.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATIONS #7-9 The officers behaved or spoke inappropriately.

CATEGORY OF CONDUCT: CUO

FINDING: PC

FINDINGS OF FACT: The complainant stated that several officers were abusive, rude, and nasty toward her. The complainant did not provide details but stated that the officers were condescending and smug. One officer gave her a funny look. Multiple officers threatened to arrest her without reason.

The officers denied behaving inappropriately and stated they treated the complainant respectfully. One officer said that the complainant made several threats and vacillated between acting calm and acting hostile. When the complainant initially refused to sign the trespassing citation, one officer explained that she would be arrested if she refused to sign.

Department General Order 2.04, General Rules of Conduct, requires officers to treat the public with courtesy and respect. Department General Order 5.06, Public Courtesy, requires officers to arrest a person who refuses to sign a citation. Before taking the person into custody, the officer is required to explain the consequences of refusing to sign.

Body-worn camera footage showed that the officers were courteous, using verbal commands only when necessary.

There was no evidence of inappropriate behavior and the officers were required to explain that the complainant would be arrested for refusing to sign the citation.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATION #10: The officer used profanity.

CATEGORY OF CONDUCT: CUO

FINDING: IC/S

FINDINGS OF FACT: The complainant said that one officer was rude and made mean and antagonistic comments to her throughout the incident.

Body-worn camera footage showed that the named officer made a statement that was profane and belittling toward the complainant while she was restrained in the back of an ambulance.

The named officer acknowledged making the rude comment, which she explained was an unintentional reaction to a difficult situation. The officer said she was trying to convince the complainant to sign the citation so she could be released after her medical evaluation. The officer was frustrated that the complainant was being argumentative and calling her and other people derogatory names.

Department General Order 2.01, Rule 14, Public Courtesy, states: “When acting in the performance of their duties, while on or off duty, members shall treat the public with courtesy and respect and not use harsh, profane, or uncivil language.”

A preponderance of the evidence proves that the alleged conduct occurred and that the conduct violated Department policy or procedure.

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SUMMARY OF ALLEGATION #11: The officer prepared an incomplete or inaccurate incident report.

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated the officer wrote an inaccurate incident report and that the officer lied in the report. The complainant could not remember what was inaccurate in the report and acknowledged she had not read the report. She stated that she knew the officer lied in the report because the officer "gossiped with people in the bar".

The named officer denied preparing an inaccurate report.

The incident report accurately reflected what occurred and the officer's investigation of the trespassing incident as depicted on body-worn camera footage.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATIONS #1-7: The officers used unnecessary or excessive force.

CATEGORY OF CONDUCT: UF

FINDING: IE

FINDINGS OF FACT: In an online complaint, the complainant wrote that he was beaten by officers when he was being non-violent. He also stated that both of his wrists were twisted during the encounter. The complainant stated that the incident resulted in him being hospitalized with an eye injury, a major concussion, and a wrist injury. However, complainant did not respond to multiple attempts by DPA to obtain additional information.

Named Officer #1 stated that he and Named Officer #4 responded to a call for service regarding a burglary. On their way to the scene, a unit broadcast that an individual was resisting arrest. When Named Officer #1 got to the location, he saw that Named Officer #3 and Named Officer #6 were on the ground struggling with the complainant. Named Officer #1 attempted to grab the complainant's right arm, but it was tense, and he could not move it. Named Officer #1 told the complainant to put his hand behind his back and the complainant did not comply. To gain compliance and effect an arrest, Named Officer #1 punched the complainant three times in the face. Named Officer #1 stated that he did not have any access to any other part of the complainant's body and that was why he delivered his strikes to that area. Named Officer #1 stated that he did not use a wrist lock on the complainant, but he may have used the bent wrist technique when escorting him to the ambulance. Named Officer #1 stated that the complainant had blood on his face when the incident was over with. Named Officer #1 stated he did not see any uses of force done by the other named officers on scene.

Named Officer #2 stated that Named Officer #5 and himself responded to a call for service regarding an alarm call where there was "continuous aggravations." As Named Officer #2 was enroute to the scene with his partner, officers on scene broadcast that the subject was resisting arrest. Named Officer #2 stated when they arrived on scene, they saw a pile of people on the ground. Named Officer #2 took the left side of the complainant and attempted to grab the complainant's right arm that was underneath his stomach. The named officers on scene were giving the complainant commands to stop resisting but he was not complying. Named Officer #2 delivered a knee strike with his left knee to the left side of the complainant's face. Named Officer #2 stated this was only viable target at the time given his position. After Named Officer #2 delivered his knee strike, he stated that they were able to place the complainant in handcuffs. Named Officer #2 denied using a wrist lock or doing any sort of wrist manipulation on the complainant. Named Officer #2 stated that he used force during this incident to overcome resistance and to effect a lawful arrest. Named Officer #2 stated that he did not see any uses of force done by the other named officers on scene.

Named Officer #3 stated that Named Officer #6 responded to a call for service regarding a burglary alarm. When they arrived on scene, Named Officer #3 stated that they saw the front window to the establishment

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was broken and there was an individual inside, later identified as the complainant. Named Officer #3 stated that they identified themselves as police officers and ordered the complainant to come outside. The complainant refused to comply and exited out the back door of the establishment. Named Officer #3 stated that he and Named Officer #6 chased after the complainant. Named Officer #3 stated that they chased the complainant to a grassy area where the complainant fell on the ground. Named Officer #3 was carrying an extended range impact weapon, pointed it at the complainant, and told him not to move or he was going to shoot. Named Officer #3 stated that the complainant got up and began to run towards Named Officer #6. Named Officer #3 shot the complainant with the extended range impact weapon in the leg in defense of Named Officer #6. Named Officer #3 stated that he did not have time to give the “Red light! Less lethal!” admonishment as the complainant was running towards Named Officer #6. Named Officer #3 stated that the extended range had little to no impact on the complainant. Named Officer #3 stated that the complainant began to backpedal away from Named Officer #6 and Named Officer #6 pushed the complainant to the ground. Named Officer #3 attempted to grab the complainant, and the complainant grabbed the extended range impact weapon that was slung around his chest. Named Officer #3 told the complainant to let go of the extended range impact weapon and he was pulled to the ground. Named Officer #3 stated that he then punched the complainant three times in the face. Named Officer #3 and Named Officer #6 continued to wrestle with the complainant for over three minutes. Named Officer #3 stated he pressed his emergency button and gave an update to dispatch that they were still fighting with the complainant. Named Officers #1, 2, 4, 5, and 7 arrived on scene shortly after and they were able to get the complainant into handcuffs. Named Officer #3 stated he did not observe any of the other uses of force done by other officers on scene.

Named Officer #4 stated that Named Officer #1 and himself responded to a call for service pertaining to a burglary. While enroute to the call, named officers broadcast a resisting arrest call, an individual that was actively resisting. When they arrived on scene, Named Officer #4 stated that he saw Named Officers #3 and 6 on top of the complainant and he was actively resistant. Named Officer #4 stated that officers were giving the complainant commands to put his hands behind his back, and he was not complying. Named Officer #4 stated that he delivered two knee strikes to the complainant’s right shoulder area. The complainant was still non-compliant so he elbowed and punched the complainant in the right shoulder area. Named Officer #4 stated that he did not issue any commands to the complainant because the other named officers were already doing that. Named Officer #4 stated that they were eventually able to get control of the complainant’s arms and place him in handcuffs. Named Officer #4 stated that he saw Named Officer #1 punch the complainant but could not see where the punch landed. Named Officer #4 stated he did not know if he used a wrist lock or wrist manipulation on the complainant. Named Officer #4 reiterated that he used force during this incident to overcome resistance and to effect an arrest.

Named Officer #5 stated that Named Officer #2 they responded to a call for service regarding someone resisting arrest. When they arrived on scene, they saw Named Officer #3 and Named Officer #6 on the ground, on top of the complainant, and were giving him commands. Named Officer #5 stated that both the complainant’s hands were concealed under his chest. Named Officer #5 stated that he told the complainant to “stop resisting” and “give me your hands.” The complainant refused to comply so Named

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Officer #5 delivered three knee strikes to the right side of the complainant's middle torso. Named Officer #5 stated that he used force to overcome resistance and to effect an arrest. After he delivered his knee strikes, Named Officer #5 stated the complainant gave his left hand. The complainant was still resisting so Named Officer #5 used a wrist lock on his left hand to try to put him in handcuffs. The named officers on scene were eventually able to put him in handcuffs. Named Officer #5 stated that he did not see any of the other named officers on scene used a wrist lock or wrist manipulation on the complainant. Named Officer #5 stated he did not see any of the other uses of force done by the named officers on scene.

Named Officer #6 stated that Named Officer #3 and himself responded to a call for service regarding an alarm call. When they arrived on scene, they noticed that the front window was broken and that there was an individual inside. They announced themselves as officers and ordered the complainant to come outside. He refused and ran out the back door. Named Officer #6 and Named Officer #3 chased after him. Named Officer #6 told the complainant several times to stop but he refused. Named Officer #6 told the complainant they would hurt him if he didn't stop. Named Officer #6 stated that the complainant fell down on the ground, got up, and proceeded to run towards him. Named Officer #6 stated that this was when Named Officer #3 shot the complainant with the extended range impact weapon. Named Officer #6 then shoved the complainant to the ground. As the complainant was on the ground, he kicked off Named Officer #6 BWC. Named Officer #6 and Named Officer #3 struggled to get the complainant into handcuffs as he was being actively resistive. Named Officer #6 stated he saw the complainant grab Named Officer #3 extended range impact weapon that was slung around his chest which caused Named Officer #3 to get pulled to the ground. Named Officer #6 said Named Officer #3 told the complainant to let it go and then Named Officer #3 punched the complainant in the face. Named Officer #6 stated that he punched the complainant in the face during the struggle for Named Officer #3's extended range impact weapon. Named Officer #6 stated that Named Officer #3 and himself continued to wrestle with the complainant, and he delivered another punch to the complainant's face to gain compliance. Named Officer #6 stated that the complainant got "amped up" when the other named officers arrived on scene. Named Officer #6 stated that they were eventually able to place the complainant in handcuffs. Named Officer #6 stated that he did not observe any of the other uses of force that were used by the other named officers on scene. Named Officer #6 denied using a wrist lock on the complainant and denied seeing any of the other named officers on scene use it.

Named Officer #7 stated that he responded to a call for service regarding a burglary. While enroute, named officers broadcast a resisting arrest call. When Named Officer #7 arrived on scene, he saw Named Officer #3 and Named Officer #6 attempting to handcuff the complainant and he was being physically resistive. Named Officer #7 broadcast over the radio that the complainant was still being resistive. Named Officer #7 grabbed the complainant's left arm and gave him commands to put his hands behind his back. Named Officer #7 stated that he did not see any of the uses of force used by the other named officers on scene. Named Officer #7 reiterated that he only grabbed the complainant's left arm and did not use any of the reportable uses of force that fell under the prior version of DGO 5.01.

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A witness officer stated that he conducted the use of force evaluation related to this incident. After conducting his evaluation, the witness officer concluded that the named officers' uses of force were within policy.

The DPA obtained the CAD related to this incident. The CAD showed that named officers on scene broadcasted a 148 – the code for resisting arrest – multiple times during the incident.

The DPA also obtained a copy of the incident report. The written statements by all the named officers are consistent with the statements they provided in their DPA interviews. DPA also obtained the Supervisory Use of Force evaluation form from the witness officer. The form was consistent with the statement provided by the witness officer. All the uses of force reported by the named officers were documented in the form and reviewed by the witness officer.

The DPA obtained photos taken by one of the named officers of the complainant's injuries. The photos showed the complainant's face, which was covered in blood. Blood appeared to be coming out of his nose. His right eye appears to be swollen. Additionally, photos were taken of the complainant's back, which showed redness, bruising, and cuts. DPA also obtained a photo that showed Named Officer #3's sling to his ERIW. The photo shows one of the clips to the sling had broken off.

The DPA reviewed all the named officers' body-worn camera footage of the incident. The incident happened at night, in an area with no lighting and the footage was almost impossible to see. It is unclear, based on the BWC footage, who was doing what at the time and when the uses of force were used by the named officers.

The DPA was also unable to locate any surveillance cameras in the area that would've captured the incident.

SFPD Department General Order 5.01, Use of Force, states, "Officers may use reasonable force options in the performance of their duties in the following circumstances: to effect a lawful arrest, detention, or search, to overcome resistance or to prevent escape, in defense of others or in self-defense, and to gain compliance with a lawful order." The DGO later specifies that officers may use personal body weapons when an individual is actively resisting.

The DPA attempted to follow up with the complainant to get more information and obtain a release for his medical records, but he stopped responding to the DPA's emails. Additionally, a key component to this investigation, or any DPA investigation, is the review of BWC footage. In this case, the BWC footage was unclear and did not provide viable viewing of what happened and which named officer did what.

The evidence fails to prove or disprove that the alleged conduct occurred.

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

CATEGORY OF CONDUCT: Neglect of Duty

FINDING: IE

FINDINGS OF FACT: The complainant stated that he was assaulted by multiple officers. It was later discovered through department records that the named officer conducted the use-of-force evaluation.

The named officer stated that he responded to the scene regarding officers that had reported using force. The named officer interviewed witnesses, reviewed the incident report and written statements by the named officers, and reviewed the witness officers' BWC footage of the incident. The named officer came to the conclusion that given the actions taken by the complainant, being physically resistive, refusing commands, assaulting an officer, and continuously trying to stand up, the witness officers' uses of force were within department policy.

DPA obtained the witness officers' BWC footage from the incident. The incident happened at night, and the witness officers were in extreme close proximity with the complainant while attempting to gain control of him. The footage did not accurately capture the incident.

Due to the BWC footage not being able to show a clear picture of what happened during the incident, it could not prove or disprove if the named officer's actions were proper. The evidence fails to prove or disprove that the alleged conduct occurred.

OFFICER ANDREW KIDD #4043

SUMMARY OF DPA ADDED ALLEGATION #1: The officer behaved or spoke inappropriately.

CATEGORY OF CONDUCT: Conduct Unbecoming of an Officer

FINDING: IE

FINDINGS OF FACT: Through the course of DPA's investigation, it was discovered through the named officer's BWC footage that that the named officer used profanity while issuing commands to the complainant.

The Named Officer stated that he used that language because he and other officers on scene were fighting with the complainant. The Named Officer stated that he was trying to emphasize to the complainant that they were serious. The Named Officer stated that he did not make that statement out of disrespect.

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Six other witness officers confirmed that the complainant was being physically resistive with them when they were trying to place him into handcuffs. The BWC footage from the incident shows that there was some sort of struggle with the complainant, but it was unclear who was doing what at the time.

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

While the evidence showed that the named officer used profanity, the named officer used it while issuing an order to the complainant who was being physically resistive with multiple officers on the scene. While it is not in best practice for officers to use profanity while in the field, given the circumstances, the actions taken by the officer did not rise to the level of misconduct.

The evidence fails to prove or disprove that the alleged conduct occurred.

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

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated the officers did not investigate catalytic converter thefts from his vehicle. The complainant described his catalytic converter being stolen several times and officers not investigating further.

Department of Emergency Management records showed at least three calls-for-service from the complainant regarding a stolen catalytic converter. The first record was coded as a "C" priority Auto Boost/Strip. The record showed that the complainant visited his district police station and filed a walk-in report. The second and third records were coded as a "C" priority Meetings with a Citizen. The records showed that the responding officers took incident reports.

Department records showed that the complainant filed three reports regarding his stolen catalytic converter. The first report was titled, 'Malicious Mischief - Vandalism to Vehicle.' The complainant reported that he parked and locked his vehicle. When he returned to the vehicle the following day, he heard a loud noise consistent with not having a muffler. The complainant believed someone stole his catalytic converter and did not believe there was video surveillance footage in the area. The second report was titled, 'Malicious Mischief-Vandalism to Vehicle.' The complainant flagged down a patrol vehicle and reported that his catalytic converter was stolen after parking his vehicle on the street. The responding officers canvassed the area for video surveillance and witnesses, with negative results. The third report was titled, 'Theft, Vehicle Strip.' The complainant reported he parked his vehicle on the street; when he returned, he discovered the catalytic converter stolen. The record showed the responding officer canvassed the area and located a camera at a business near the area the complainant's vehicle was parked. The officer contacted the business' supervisor, who said they would attempt to gain access to the footage to see if it captured the incident.

Body-worn camera footage showed that the responding officers obtained the complainant's statement, canvassed for surveillance video, and prepared an incident report.

Department General Order (DGO) 1.03, Duties of Patrol Officers, requires officers to take reports of crimes brought to their attention.

The evidence showed that the complainant was a victim of repeated theft of his catalytic converter in a three-month period. The complainant reported each theft, and police responded to all three calls-for-service and documented each incident with an incident report. Unfortunately, each incident took place

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while the vehicle was parked and unoccupied and there was lack of evidence to identify involved suspects.

Department records demonstrated that a full investigation was completed for each reported theft. While the DPA acknowledges the complainant's unfortunate situation, the officers' actions complied with Department policy.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

SUMMARY OF ALLEGATION #2: The officer behaved or spoke inappropriately.

CATEGORY OF CONDUCT: CUO

FINDING: NF

FINDINGS OF FACT: The complainant said that his catalytic converter had been stolen six times and that an officer made several inappropriate comments about his situation. He told the complainant that the District Attorney was at fault for choosing not to prosecute that type of crime. He also said that the complainant would only be contacted if an investigator chose to investigate the thefts.

Inquiries into the identity of the officer yielded negative results. The officer involved could not be identified.

No finding is reached when an officer cannot be reasonably identified.

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

CATEGORY OF CONDUCT: Neglect of Duty

FINDING: Proper Conduct

FINDINGS OF FACT: The complainant stated that her brother was arrested without cause for elder abuse and robbery of their mother. The complainant stated that there were no signs of physical abuse and no merit to the robbery allegation since the key taken by her brother was given to her mother by her brother. The complainant stated that the named officers were only listening to her mother and not her brother.

The named officers stated that they responded to a call for service regarding a mother that had been assaulted by her son. When they arrived on scene, they encountered the elderly mother who had been locked out of her house without any shoes on. The mother stated that she had gotten into an argument with her son, and that he hit her and forcibly removed her key from around her neck. She stated that her son had locked her out of the house and then left.

The named officers spoke with a witness on scene who was visiting the mother. She witnessed the beginning of the argument between the mother and then went outside. She stated that she could see the brother follow his mother down the hallway and then lost sight of the pair. She then heard a struggle from inside of the house. When the witness saw the complainant's mother exit the house, she appeared disheveled. The witness saw the mother walk to a neighbor's house to call 911 after being locked out. The brother then came back a few minutes later to also lock the back door. While named officers were speaking with the witness, the brother arrived on scene.

The officers immediately detained and mirandized the complainant's brother. The brother informed the named officers that his mother suffers from dementia and had been placed on a psychiatric hold the night before. The named officers conducted records check and confirmed the psychiatric hold. The brother explained he has power of attorney over his mother and that the mother was not allowed to stay home alone because she had previously started a fire while cooking. He said he arrived home from work to find her cooking and that he locked her out because he needed to run an errand.

During this encounter, the brother gave the officers several conflicting accounts about the mother's housekeys. First, he said the mother does not have her own key because she always loses it. He later told the officers he did not take a key from his mother. When he was asked to provide the house key to let the mother in, the brother provided three sets of keys, including one on a shoelace that was fashioned as a necklace. He then acknowledged that he took the key on the shoelace from his mother.

Both named officers did not see physical injuries on the complainant's mother at the time. The named officers had paramedics come to the scene to evaluate the complainant's mother due to her claims that she

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was assaulted. The paramedics determined that the complainant's mother could answer their questions lucidly and clearly and was not in any sort of crisis. As a result, the complainant's mother was able to refuse transport to a hospital. The named officers stated that the fact the complainant's brother had her key on his person when they detained him, and the fact there was a witness that was somewhat corroborating the complainant's mother's story, they felt they had enough probable cause to place the complainant's brother under arrest. The named officers also requested the Special Victims Unit and their sergeant responded to approve the charges.

DPA obtained the named officers' body-worn camera footage of the incident. The named officers' body-worn camera footage was consistent with the statements they provided in their DPA interviews as well as their written statements included with the incident report.

DPA also obtained a copy of the Emergency Protective Order (EPO) associated with this incident. The protected person listed on the EPO was the complainant's mother and the restrained person was listed as the complainant's brother. The EPO was signed by a commissioner and served on the complainant's brother after the incident.

The evidence supporting an arrest included the victim's statement, a corroborating witness statement, the suspects contradictory statements, and the physical evidence recovered by officers. Additionally, the officers consulted the Special Victims Unit and Adult Protective Services regarding this incident and were granted an EPO by a commissioner. The evidence showed that the named officers were able to establish probable cause to place the complainant's brother under arrest.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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

CATEGORY OF CONDUCT: Neglect of Duty

FINDING: Proper Conduct

FINDINGS OF FACT: The complainant stated that the named officers did not properly investigate the incident to determine if an actual assault had occurred or if it was only a mental-health incident.

The facts from the prior section are hereby incorporated by reference. The named officers stated that they confirmed the previous psychiatric hold and had paramedics evaluate the mother. The named officers also went into the complainant's mother's home, with the permission of the complainant's mother, after the complainant told them that her mother was a hoarder who had recently almost burned her house down. The named officers determined that while there was smoke damage to one ceiling in the bedroom, there was no structural damage and everything inside the house appeared to be in order. The named officers stated that the complainant's mother did not appear to be suffering from any mental-health condition at the time.

The named officers also consulted with a sergeant who responded to the scene to approve the charges. They also notified the Special Victims Unit and Adult Protective Services per department policy. Finally, they obtained an Emergency Protective Order which was signed by a commissioner.

DPA obtained the incident report and the named officers' body-worn camera footage of the incident. The incident report and their body-worn camera footage was consistent with the statements the named officers provided during their DPA interviews. The named officers' body-worn camera footage also showed them evaluating the allegations of the complainant's mother's mental health condition.

While the complainant's mother was involved in other incidents that were related to her mental health, those past incidents did not exclude her from being a victim in an unrelated incident. The named officers were able to establish probable cause based on the evidence in this incident and placed the complainant's brother under arrest.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATIONS #5-7: The officers failed to comply with Department Bulletin 17-010.

CATEGORY OF CONDUCT: Neglect of Duty

FINDING: Unfounded

FINDINGS OF FACT: The complainant stated that the named officers failed to comply with Department Bulletin 17-010, the policy outlining officers' responsibilities when dealing with someone in crisis.

The named officers stated that paramedics assessed the complainant's mother on scene, and she was able to answer all their questions to their satisfaction. The named officers stated that the complainant's mother was not in crisis at the time and no Crisis Intervention Team tactics were deployed.

DPA obtained the named officer's body-worn camera footage of the incident. The footage did not show the complainant's mother suffering from any sort of mental-health incident.

Department Bulletin 17-010 advises SFPD to maintain working knowledge of the policy and procedures of the Crisis Intervention Team (CIT) Response to Person in Crisis Calls for Service.

The evidence showed that the incident the officers were responding to did not involve a person who was in crisis.

The evidence proves that the conduct alleged did not occur or that the accused officer was not involved.

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SUMMARY OF ALLEGATION #8: The officer behaved or spoke inappropriately.

CATEGORY OF CONDUCT: Conduct Unbecoming of an Officer

FINDING: Proper Conduct

FINDINGS OF FACT: The complainant stated that the named officer hung up the phone on her when she was speaking with him about an incident.

The named officer stated that he was speaking with the complainant over the phone when a family member arrived on scene. The named officer did not know who they were at the time or why they were approaching the scene, so he ended the phone conversation with the complainant. The named officer reiterated that his ending of the phone conversation was not meant to be disrespectful.

DPA obtained the named officer's body-worn camera footage of the incident. The body-worn camera footage shows the complainant's son arriving on scene while the named officer is still speaking with the complainant on the phone. The complainant's son approaches the complainant's brother. The named officer states, "Ma'am, I am going to have to call you back, okay?" The named officer then ends the phone call and begins speaking with the complainant's son.

The evidence showed that the named officer did not hang up the phone out of malice but to respond to a family member that had arrived on scene and was approaching the complainant's brother. The officer told the complainant he would call her back before hanging up.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATION #9: The officer failed to properly supervise.

CATEGORY OF CONDUCT: Neglect of Duty

FINDING: Proper Conduct

FINDINGS OF FACT: The complainant stated that the named officer approved the arrest charges on her brother, which she felt was unjustified.

The facts from the prior sections are hereby incorporated by reference. The named officer stated that when he arrived on scene, two witness officers informed him of the facts of the incident. They informed the named officer that a house was taken from the complainant's mother by force and that she was involved in a battery. The named officer stated that there was a witness on scene that corroborated the mother's statements which provided enough probable cause for him to approve the arrest.

DPA obtained two witness officers' body-worn camera footage of the incident. The body-worn camera footage was consistent with the statements they and the named officer provided to DPA.

The evidence showed that enough probable cause was established to arrest the complainant's brother and have the named officer approve the charges.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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

CATEGORY OF CONDUCT: Neglect of Duty

FINDING: Proper Conduct

FINDINGS OF FACT: During the course of DPA's investigation, it was discovered there were potential issues regarding the named officers securing an individual to stay with the complainant's mother after her son, who had power of attorney, was placed under arrest.

The named officers stated that while on scene, the complainant's son arrived and stayed with the complainant's mother after her brother was placed under arrest.

The named officer's body-worn camera footage is consistent with the statements they provided during their DPA interviews.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATIONS #1-3: The officers detained a person without reasonable suspicion.

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complainant stated the co-complainant was in a rideshare vehicle on his way to court when plainclothes officers stopped the car and detained the co-complainant.

The named officers stated that they were en route to execute a search warrant at the address where the co-complainant resides; however, the co-complainant was not the subject of the search warrant. The named officers stated that at the search warrant service briefing, the lead investigator told them to detain the co-complainant and his vehicle if they saw him, despite the fact that he was not the subject of the warrant. The named officers stated that while conducting surveillance at the residence before the search warrant service, a sergeant saw the co-complainant enter his parked vehicle, take something out of the trunk, and then saw him enter a rideshare vehicle. The sergeant described the rideshare vehicle for the named officers to stop and detain the co-complainant. The named officers stated that the lead investigator had probable cause to believe that the co-complainant and his vehicle were involved in a shooting. However, he was still gathering evidence and had not prepared a search warrant.

DGO 5.03, Investigative Detentions, establishes policies and procedures regarding investigative detentions. It states that reasonable suspicion is a set of specific facts that would lead a reasonable person to believe that a crime is, was, or is about to occur and the person under suspicion is reasonably connected to the crime.

Department records showed that the co-complainant was not the subject of the search warrant. However, there were records indicating that there was another on-going investigation for which the co-complainant was the suspect in a shooting. Sufficient reasonable suspicion existed to support the detention.

Body-worn camera showed that the named officers detained the co-complainant, brought him to the location of the search warrant service, and then transported him to the station for further investigation. Transportation of the co-complainant constituted a de facto arrest. However, probable cause existed to support the arrest based upon information known to the investigating officer at the time. The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATIONS #4-5: The officers conducted an improper search or seizure.

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complainant stated the co-complainant was searched after he was detained.

The named officers stated that they searched the co-complainant for weapons because of his suspected involvement in a shooting, his criminal history, and because the search warrant service involved a firearm. After the co-complainant was searched, he was transported to the search warrant service scene, then transported to the station for further investigation.

Department records showed that the co-complainant was not the subject of the search warrant service. However, there were records indicating another ongoing investigation for which the co-complainant was the suspect in a shooting.

Body-worn camera showed that the co-complainant was pat searched after being detained and then placed in the named officers' unmarked vehicle and transported to the scene of the search warrant service.

DGO 5.03 states that the following combination of factors may elevate an investigative detention into a de facto arrest: an unreasonably lengthy detention, the use of restraints without officer safety justification, the use of force beyond what is necessary to effect the detention, and the transportation of a detainee without valid consent.

Transportation of the co-complainant constituted a de facto arrest. However, probable cause existed to support the arrest based upon information known to the investigating officer at the time. Per the evidence, the officers had the authority to search the co-complainant incident to arrest.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATION #6: The officer conducted an improper search or seizure.

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complainant stated the co-complainant's backpack was searched.

The named officer said after the co-complainant exited the rideshare vehicle, he retrieved the co-complainant's property. He stated that he saw the co-complainant's backpack on the floor and his cell phone on the seat. He stated that he searched the co-complainant's backpack for weapons.

Department records showed that the co-complainant was not the subject of the search warrant service; however, there were records indicating that there was another ongoing investigation for which the co-complainant was the suspect in a shooting.

The body-worn camera footage showed that the co-complainant's backpack was searched after he was detained and transported to the scene of the search warrant service.

DGO 5.03 states that the following combination of factors may elevate an investigative detention into a de facto arrest: an unreasonably lengthy detention, the use of restraints without officer safety justification, the use of force beyond what is necessary to effect the detention, and the transportation of a detainee without valid consent.

Transportation of the co-complainant constituted a de facto arrest. However, probable cause existed to support the arrest based upon information known to the investigating officer at the time. Per the evidence, the officers had the authority to search the co-complainant incident to arrest. A search incident to arrest lawfully included a search of his backpack under these particular circumstances.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATIONS #7-10: The officers conducted an improper search or seizure.

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complainant stated the co-complainant's vehicle was searched without a search warrant.

The named officers stated that during the search warrant briefing, they were told that the co-complainant's vehicle would be subject to a search as it had been determined that the vehicle was the suspect vehicle in a different shooting. During the search warrant service, the officers also stated they seized a firearm that may have been the possible weapon used in the other shooting. Therefore, the officers believed they had probable cause to search the co-complainant's vehicle.

Department records showed that the co-complainant was not the subject of the search warrant service; however, there were records indicating another on-going investigation for which the co-complainant was the suspect in a shooting.

Per the evidence, the named officers had enough probable cause to search the vehicle. The best practice, however, would have been to prepare a search warrant for that vehicle, as they were already executing a search warrant at the same address.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATION #11: The officer conducted an improper search or seizure.

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complainant stated the co-complainant was forced to do a DNA swab.

The named officer stated that officers located a firearm with the same caliber as was used in the shooting in which the co-complainant was a suspect. The residence subject to the search warrant service was also the co-complainant's known address. He also stated that the co-complainant was arrested for firearm possession, but he was not booked. The named officer interviewed the co-complainant and then conducted a DNA swab. He did not rely on the co-complainant's consent; the co-complainant was arrested for a felony firearm offense for which the named officer had the right to seize a DNA swab.

The body-worn camera footage showed that the co-complainant had reservations about being DNA swabbed and questioned what would happen if he rejected the DNA swab. The footage also showed the named officer telling the co-complainant he would get a court order to get the DNA or he could book the co-complainant, which he did not want to do. The co-complainant said he wanted to attend work and signed the DNA swab forms.

Per the evidence, the named officer had the authority to do a DNA swab of the co-complainant, because he arrested the complainant for a qualifying offense. Any "consent" given was not voluntary. However, consent was not required under these circumstances.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATION #12: The officer conducted an improper search or seizure.

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complainant stated the named officer did not return the co-complainant's cell phone after he was released from the station. The co-complainant stated he was told to provide the passcode to his cell phone; otherwise, they would keep it.

The named officer stated he seized the co-complainant's cell phone pending a search warrant.

Department records showed that a judge granted a search warrant for the cell phone.

Per the evidence, the named officer had probable cause of the co-complainant's involvement in a shooting, the search warrant disclosed the seizure of the cell phone, and a judge granted the search warrant.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATION #13: The officer failed to properly care for, process, or book property.

CATEGORY OF CONDUCT: ND

FINDING: IC/S

FINDINGS OF FACT: The complainant stated that the co-complainant's cell phone was not listed as evidence on the incident report although he was issued a property receipt.

The named officer stated that he retained the co-complainant's cell phone in his case file in his locked cabinet while he sought the search warrant. He stated this was his usual custom and practice. He stated that DGO 6.15 did not address how to handle cell phones. The named officer stated that the cell phone is typically listed as evidence on the report, and he believed he made a clerical error.

DGO 6.02 Physical Evidence and Crime Scenes. (Sections II. Procedures E. LEGAL REQUIREMENTS, G. PACKAGING EVIDENCE 1. GENERAL GUIDELINES.)

DGO 6.15 Property Processing. (Sections I. A. Responsibilities; II. A.1. a. EVIDENCE; III. PROCEDURES, A. 8. COMPUTERS, and 10. INCIDENT REPORT.)

Department records showed that the co-complainant was issued a property receipt for his cell phone. However, the incident report showed that the cell phone was not listed as evidence and was not booked with Property Control.

The only mention of the cell phone was in the narrative of the report, which only stated that the cell phone was retained "in the case file." It turned out that the named officer retained the cell phone in his case file in a locked cabinet in his office pending a search warrant, which does not comply with Department rules. The named officer's failure to list the phone as evidence, book the phone, and his retention of the phone in this manner was not in accordance with Department rules. Had the phone contained evidence relevant to a criminal matter, the chain of custody could have been seriously compromised and could have resulted in the evidence being inadmissible.

A preponderance of the evidence proves that the alleged conduct occurred and that the conduct violated Department policy or procedure.

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SUMMARY OF ALLEGATION #14: The officer prepared an incomplete or inaccurate incident report.

CATEGORY OF CONDUCT: ND

FINDING: IC/S

FINDINGS OF FACT: The complainant stated that the co-complainant's cell phone was not listed as evidence on the incident report.

The named officer stated that the cell phone is typically listed as evidence on the report, and he believed he made a clerical error.

DGO 2.01 General Rules of Conduct, Rule 9. Misconduct in pertinent part:

Any breach of peace, neglect of duty, misconduct or any conduct by an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action

Department records showed that the complainant's cell phone was not listed in the incident report as evidence.

The only mention of the cell phone was in the narrative of the report, which only stated that the cell phone was retained "in the case file." The named officer's failure to list the phone as evidence was not in accordance with Department rules. Had the phone contained evidence relevant to a criminal matter, the chain of custody could have been seriously compromised and could have resulted in the evidence being inadmissible.

A preponderance of the evidence proves that the alleged conduct occurred and that the conduct violated Department policy or procedure.

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

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated that several officers responded to the formation of a stunt driving/side show incident and failed to take any enforcement action. The officers' inaction caused the officers to pursue the fleeing vehicles at a high rate of speed, placing bystanders in danger.

SFPD created a specialized unit to address and respond to stunt driving incidents. SFPD has also trained all officers, even those not in the unit, on how to respond and what to do and not do for the safety of everyone involved. Pursuant to this training, the officers are to maintain their distance from the active scene while making their police presence apparent. An officer's objective is to "flush out," or disperse the participating vehicles from the scene and collect information on the vehicles for potential follow-up investigations.

The named officers responded to a stunt driving incident. While the named officers are not a part of the specialized unit, they received training regarding how to respond to such incidents and explained their training, which was consistent with the policy and practices described above. The named officers also emphasized that they are specifically taught not to physically intervene, as intervention can pose a great danger where they are often outnumbered by the participants.

Here, the named officers stated that consistent with their training, they on-viewed the formation of a side show, contacted Dispatch, and positioned their vehicles at a distance while activating their lights and sirens. Throughout the incident, they maintained communication, via dispatch, with the Commander for the specialized unit, who was aware of their actions. Roughly 5-10 minutes after their established presence, the vehicles dispersed and "flushed," from the area. The named officers explained that they refrained from physical intervention or taking any specific law enforcement action due to safety reasons.

While an onlooker would have perceived that the officers were not intervening in the stunt driving, their conduct was within Department policy and consistent with their training.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATIONS #3-4: The officers drove improperly.

CATEGORY OF CONDUCT: ND

FINDING: IE

FINDINGS OF FACT: The complainant stated that the officers' inaction at a stunt driving event resulted in officers pursuing the fleeing vehicles at a high rate of speed, placing bystanders in danger.

The named officers denied driving at an excessive speed or placing anyone in danger at any point throughout the incident. The named officers explained that pursuant to their training, they followed the fleeing vehicles onto the freeway on-ramp to flush them out of the area and prevent them from forming another side show in the jurisdiction. The officers stated that while the vehicles were driving well above the speed limit, the officers intentionally drove behind them at a slower rate of speed to avoid any danger. Additionally, the officers stated that their actions in following the vehicles did not amount to a vehicle pursuit as their objective was not to apprehend or capture the vehicles, but to disperse them from the area.

Due to the lack of body-worn camera footage or any additional evidence, DPA cannot determine, by a preponderance of evidence, whether the officers drove improperly.

The evidence fails to prove or disprove that the alleged conduct occurred.

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

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated that SFPD officers failed to take any enforcement action during a vehicle stunt show incident. Through DPA's investigation, it was discovered that the named officer was the Commander of a specialized unit that responds to vehicle stunt shows. The named officer responded to the scene accordingly. The named officer became aware of the incident via Dispatch. As the Commander, he explained his plan for responding to the incident is as follows: depending on the terrain and location of incident, the officers would stage their vehicles side by side, maintain a safe distance from the activity, and activate their lights and sirens. The primary objective, he stated, is to disperse the crowd.

Upon his arrival to this incident, the crowd had dispersed. He maintained communication with the officers following the disbursement of the vehicles to ensure resolution.

The named officer acted consistent with his duties as Commander, and additionally, the officers under his supervision did not engage in any actions that rose to the level of misconduct.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF DPA-ADDED ALLEGATIONS #1-2: The officers failed to activate a body-worn camera as required.

CATEGORY OF CONDUCT: ND

FINDING: IE

FINDINGS OF FACT: During its investigation, DPA was informed that the named officers' body-worn camera footage does not exist.

The named officers attested that they activated their cameras upon viewing the formation of the incident, as they usually do. The named officers are aware that the footage no longer exists and believe, per Department policy, the footage had been deleted.

DPA requested the BWC Audit trail for the officers. The Audit trail is not dispositive as to whether the officers activated their cameras. Thus, DPA cannot prove, by a preponderance of the evidence whether the officers purposely did not activate their BWC.

The evidence fails to prove or disprove that the alleged conduct occurred.

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

CATEGORY OF CONDUCT: ND

FINDING: IE

FINDINGS OF FACT: The complainant stated that she heard a loud noise, went outside of her residence, and observed a vehicle had crashed into a parked vehicle. She stated that the driver of the vehicle exited his vehicle. He was stumbling and had an alcoholic beverage can in his hand. She stated that the driver placed the can back inside his vehicle and later urinated in the area. She stated that the named officers arrived at the scene of the accident and allowed the driver to leave the scene even though it was clear he was intoxicated.

The named officers stated they responded to a call regarding a vehicle accident involving injury. The named officers stated the driver of a vehicle hit a parked vehicle. The named officers stated that although a paramedic on scene made a comment to them about the driver having alcohol, they had to complete their own investigation. They said the driver did not exhibit any objective signs of intoxication, including bloodshot eyes, slurred speech, or the smell of alcoholic beverages and that they did not conduct any sobriety tests with him. Named Officer #1 stated that the driver was distraught and said that his spouse had recently passed away. Named Officer #1 stated that he did not see any open alcoholic beverages inside the driver's vehicle but recalled that Named Officer #2 advised him after their investigation was concluded that there may have been an open container in the driver's crashed vehicle. Named Officer #2 stated that she observed an open can inside the crashed vehicle but did not see what type of can it was and did not take a closer look. Named Officer #1 stated that a bystander told him that the driver urinated when he was waiting for a ride to leave the scene, but it was not something he considered for his investigation as having to urinate is not exclusive to being under the influence. The named officers stated that there was no cause to arrest the driver during this incident based on their investigation.

Body-worn camera (BWC) footage for this incident showed that a paramedic told the named officers something regarding alcohol. Named Officer #1 spoke to the driver of the vehicle with the paramedic's assistance. The driver communicated that he crashed while trying to park and was upset because his spouse had recently passed away. BWC footage showed what appeared to be an open can inside the driver's vehicle and bystanders on scene mentioned the open container to Named Officer #2. BWC footage also showed a firefighter looking inside the crashed vehicle and making a comment about an alcoholic beverage being inside the vehicle. BWC footage showed the named officers speak to each other about how they did not observe any signs of intoxication for the driver. BWC footage showed that the driver's vehicle was towed, and driver was free to leave the scene.

Tow records showed a photograph taken of the interior area of the driver's vehicle which showed at least four cans of alcoholic beverages, some opened, inside the vehicle.

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A witness stated that he observed that the driver exited his crashed vehicle and urinated in the area and on himself. He stated that it was obvious the driver was intoxicated, that he was stumbling around, and that there was an alcoholic beverage inside his vehicle.

The driver of the vehicle that crashed into the parked car stated that he was trying to park his vehicle, lost control and hit a parked car. He stated that he had not been drinking any alcoholic beverages during that day and was not under the influence of any drugs or alcohol when he got into the accident.

The evidence showed that although there were open cans of alcohol beverages within the driver's vehicle, the driver was not asked on scene if he had been drinking and no further follow-up was conducted. Because the named officers failed to conduct a proper investigation, it is unclear if the driver was under the influence.

The evidence fails to prove or disprove that the alleged conduct occurred.

SUMMARY OF ALLEGATION #3: The officer behaved or spoke inappropriately.

CATEGORY OF CONDUCT: CUO

FINDING: IC/S

The complainant stated that she heard a loud noise, went outside of her residence, and observed a vehicle had crashed into a parked vehicle. She stated that the driver of the vehicle exited his vehicle, was stumbling and had an alcoholic beverage can in his hand. She stated that the driver placed the can back inside his vehicle and later urinated in the area. She stated that the named officers arrived at the scene of the accident, did their investigation, and allowed the driver to leave the scene. She stated that a member of the public asked one of the officers why they weren't going to arrest the driver and the officer replied that they did their job and that the member of the public could apply for the job if he wanted to.

The named officer stated that she told a member public on scene that she that she had completed her investigation and that he could apply for the San Francisco Police Department to inform him that she is trained and that if he wanted to be trained in investigating and doing the job, he could apply. She said she did not see anything inappropriate with the comment and that it was not meant to be inappropriate. She confirmed that it was more of an informative statement. She stated that she felt she treated all members of the public with courtesy and respect during the incident.

Body-worn camera (BWC) footage for this incident showed a member of the public ask the named officer about an open container in the crashed vehicle that and if anything was going to happen to the driver regarding it. The named officer replied that she completed her investigation and that if the member of the public wanted to be an officer he could apply.

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The DPA interviewed the member of the public seen in the BWC video. He stated that he found the comment offensive, and that the named officer made the statement loud enough for his neighbors to hear.

Department General Order 2.01, Rule 9, states: "MISCONDUCT. Any breach of peace, neglect of duty, misconduct or any conduct by an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

The named officer made a statement that offended and embarrassed a member of the public, bringing discredit upon the department.

A preponderance of the evidence proves that the alleged conduct occurred and that the conduct violated Department policy or procedure.

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

CATEGORY OF CONDUCT: ND

FINDING: IC/S

FINDINGS OF FACT: The complainant stated that the named officers failed to take reasonable investigative steps to look into a possible driving under the influence incident. The complainant stated that a vehicle had crashed into a parked vehicle. She stated that the driver of the vehicle exited his vehicle, was stumbling and had an alcoholic beverage can in his hand. She stated that the driver placed the can back inside his vehicle and later urinated in the area. The officers who arrived on scene ignored all this evidence and let the man leave the area without a citation or arrest.

The named officers stated that they responded to a call regarding a vehicle accident involving injury. The named officers stated that the driver of a vehicle hit a parked vehicle. The named officers stated that although a paramedic on scene mentioned something to them about the driver having alcohol, they had to complete their own investigation. They said the driver did not exhibit any objective signs of intoxication, including bloodshot eyes, slurred speech, or the smell of alcoholic beverages and they did not conduct any sobriety tests with him. Named Officer #1 stated that the driver was distraught and said that his spouse had recently passed away. Named Officer #1 stated that he did not see any open alcoholic beverages inside the driver's vehicle but recalled that Named Officer #2 advised him after their investigation was concluded that there may have been an open container in the driver's crashed vehicle. Named Officer #2 stated that she observed an open can inside the crashed vehicle but did not see what type of can it was and did not take a closer look.

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Body-worn camera (BWC) footage for this incident showed that a paramedic told the named officers something regarding alcohol in relation to the driver and Named Officer #1 spoke to the driver of the vehicle with the assistance of a paramedic. The driver communicated that he crashed while trying to park and was upset because his spouse had recently passed away. BWC footage showed what appeared to be an open can inside the driver's vehicle. BWC footage additionally showed bystanders on scene mention the open alcoholic beverage inside the vehicle to Named Officer #2. Named Officer #2 acknowledged at one point that she had seen the alcoholic beverage inside the vehicle. BWC footage also showed a firefighter look inside the crashed vehicle and make a comment about an alcoholic beverage being inside the vehicle. Named Officer #2 completed an inventory search of the vehicle and Named Officer #1 stood by the driver's crashed vehicle while going through vehicle related documents that were in the glove compartment. BWC footage showed the named officers speak to each other about how they did not observe any signs of intoxication for the driver.

Tow records revealed a photograph of the front interior area of the driver's vehicle which showed four cans of alcoholic beverages, some opened, inside the vehicle.

A witness stated that he observed the driver exit his crashed vehicle. He stated that it was obvious the driver was intoxicated. He was stumbling around, and there was an alcoholic beverage inside his vehicle. The witness took video of the alcoholic beverage in the vehicle and shared it with the DPA. The driver of the vehicle that hit the parked car stated that he was trying to park his vehicle, lost control, and hit a parked car. He stated that he was not under the influence of any drugs or alcohol when he got into the accident.

Department General Order 1.03 Duties of Patrol Officers, states in part that patrol officers shall "be considered in neglect of duty if they fail to discover serious crimes committed in their area which could have been discovered through the exercise of reasonable diligence."

Neither officer asked the driver if he had been drinking. They did not ask any questions in relation to the open alcoholic beverage containers that were visible inside the vehicle. Multiple people on scene made comments regarding an alcoholic beverage being inside the driver's vehicle and Named Officer #2 acknowledged that she had seen the open alcoholic beverage inside the vehicle when replying to a bystander. The evidence showed that neither named officer reasonably followed up to investigate if the driver was under the influence.

A preponderance of the evidence proves that the alleged conduct occurred and that the conduct violated Department policy or procedure.

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SUMMARY OF ALLEGATION #1: Policy/Procedure

CATEGORY OF CONDUCT: Policy

FINDING: PF

FINDINGS OF FACT: The complainant stated that her son was arrested and transported to a district station where officers mistreated him and held him for an extended amount of time.

Department of Emergency Management (DEM) records indicated that the complainant requested a wellness check for her son. Officers responded to the scene to conduct the wellness check and determined that the complainant's son had been reported missing and had outstanding warrants for his arrest. The complainant called Dispatch and attempted to cancel the wellness check, informing the dispatcher that she overreacted. The dispatcher informed the complainant that the call could not be canceled due to the particular circumstances.

Body-worn camera (BWC) footage showed that officers approached the door and contacted the complainant's son. The complainant's son complied with the officers' commands and confirmed that he was aware of the outstanding warrants. The complainant's son was placed into handcuffs and taken into custody without issue.

Department records indicated that while the complainant's son was held at the district station, there was an Emergency Suspension to the Compliance Measures in the Department's Booking and Detention Manual. Due to unforeseen circumstances, at the time of the arrest, the San Francisco Sheriff's Department was not accepting inmates in a timely manner into the City's jail facilities. County Jail #1 was closed and would not accept new custodies, so the complainant's son was held for under 24 hours at the district station. The complainant's son was fed while at the district station and was transported to County Jail #1 when it reopened.

Correspondence with the San Francisco Sheriff's Department corroborated that County Jail #1 was closed due to staffing issues at the time the complainant's son was held at the district station.

San Francisco Police Department (SFPD) booking and detention manual states that a prisoner is not to be held in a holding cell for longer than 4 hours or 12 hours at an SFPD station. The manual does not state what officers are supposed to do with the prisoner if they go beyond these times.

An SFPD Subject-Matter Expert (SME) interviewed by DPA stated that the SFPD policy was out of date and did not provide important information to officers for dealing with prisoners, especially when they are held for extended periods due to unforeseen circumstances. The expert stated that SFPD did not have emergency or contingency policies related to booking and detention facilities.

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Additionally, the California Board of State and Community Corrections (“CBSCC”) documents show that SFPD custody holding facilities are inspected every 2 years. During the last two inspections conducted by CBSCC, the holding facilities and SFPD have been deemed as failing to comply with California State laws related to detention facilities. Recommendations were made to SFPD, but no action was taken. The detention manual should be reviewed and updated every two years. SFPD’s manual has not been updated since 2008.

Department of Police Accountability (DPA) recommends that SFPD review and update their booking and detention policies and bring them into compliance with California State law. The policies should provide clear guidelines for officers, for the safety of both the officers and the prisoners in SFPD custody. Additionally, policies should provide officers with guidance for how to process detained individuals during unforeseen circumstances, such as a pandemic.

The evidence proves that SFPD policy and procedure are out of date, out of compliance with State mandated regulations, and it is recommended that they be updated and modified to address the issues discussed above and documented in CBSCC’s reports.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 06/17/22 COMPLETION DATE: 03/12/23 PAGE# 1 of 2

SUMMARY OF ALLEGATIONS #1-2: The officers failed to comply with Department General Order 5.01.

CATEGORY OF CONDUCT: UOF

FINDING: NF

FINDINGS OF FACT: The complainant stated officers used unnecessary force when taking a male subject to the ground during a large street celebration following a major sporting event. The complainant did not witness the events leading up to the officers' contact.

The Department of Police Accountability (DPA) identified the male subject involved in the incident. The individual did not respond to DPA's requests for an interview.

The named officers were not interviewed because they are no longer with the Department.

The witness stated he saw a group of officers traveling across an intersection when a random man approached an officer and grabbed the officer's arm. That officer attempted to push the man away about two times and told the man to stay back. The man approached another officer and did the same thing, touching him and grabbing his arm. He stated the second officer pushed the man away and placed him on the ground with assistance from other officers.

The BWC evidence shows the named officers used a physical control hold/ takedown to bring the male subject to the ground to effect an arrest in response to the male subject shoving and making physical contact with both named officers in an unruly crowd situation. After being taken to the ground, the officers handcuffed the subject. The subject was arrested and transported to a police station. The subject sustained superficial injuries to his face. Medics were on scene, but the subject refused medical treatment while on scene and again at the station. The BWC shows the male subject was likely intoxicated at the time of the incident.

Department records show that the named officers reported the use of force as required, and a Supervisory Use of Force evaluation was conducted. The actions of the named officers were found to be within Department policy.

Department General Order 5.01, Use of Force, authorizes officers to use force to accomplish a lawful purpose. Officers are trained to use levels of force that correlate to a suspect's actions or resistance. Officers may use physical control holds and personal body weapons in self-defense when a person is physically assaultive or actively resisting.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 06/17/22 COMPLETION DATE: 03/12/23 PAGE# 2 of 2

No finding outcomes occur under four circumstances: the complainant did not provide additional requested evidence material to a determination of misconduct, the complainant requested a withdrawal for the complaint, the officer could not reasonably be identified, or the officer is no longer with the Department and therefore is no longer subject to Department discipline. Here, the named officers are no longer employed with the Department and therefore are no longer subject to Department discipline.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 06/28/22 DATE OF COMPLETION: 03/27/23 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 went to a district police station and reported a sexual assault that had occurred many years prior in a different country. According to complainant, the named officer took her statement and told her he would prepare a courtesy report and send it to Interpol. However, the complainant subsequently learned the report was not sent to Interpol and she was told it was because the report was improperly titled.

The named officer stated that he interviewed the complainant, and she was provided with referral cards and follow up forms as required by policy. He stated that he did not notify the local law enforcement agency and acknowledged that he did not forward the report to Interpol. He stated he could not recall the complainant making such a request.

The incident report showed the named officer prepared a Courtesy Report which noted that the incident occurred outside of San Francisco. The report also documented that copies were assigned to Crime Information Services. A supplemental incident report showed that the complainant contacted the special victims' unit by phone approximately one month later and requested that her police report be forwarded to Interpol. The supplemental report reflected that the civilian employee who answered the phone emailed the report to Interpol.

Department Bulletin 21-137, Outside Agency Courtesy Reports, which amends DGO 5.11, provides in part that outside agency reports shall have the primary title of Courtesy Report and that Courtesy Reports are auto assigned to Crime Information Services. The Bulletin further notes that any reportee or outside agency may request a copy of the incident report through current Department protocol and that Crime Information Services shall forward a copy of the report to the appropriate jurisdiction.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful and proper.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 07/11/22 COMPLETION DATE: 03/15/23 PAGE# 1 of 2

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

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated the officers failed to take required action after four female customers acted unruly and trashed her restaurant. The individuals were outside when the officers arrived. The complainant asked the officers to bring the individuals back to her restaurant to look at the cleaned bathroom and to apologize to her and the people dining inside her restaurant. Instead, the officers spoke to the individuals and then let them go. The complainant did not provide requested restaurant surveillance video.

Body-worn camera footage showed that the complainant confronting three individuals outside her restaurant as officers arrived. The officers separated the parties and obtained their statements. The three individuals denied any involvement in the destructive activity as described by the complainant. The complainant told the officers that the individuals broke a glass and threw up all over the bathroom. One officer asked the complainant what she wanted done and she told him the parties were no longer welcome in the restaurant. The complainant also told the officer she was pushed but she was okay and wanted the individuals to apologize to her customers and to look at the bathroom that she had cleaned. The officer expressed that he would ask, but that he could not force the individuals to apologize. The officers then advised the parties they were no longer welcome at the restaurant and asked if they were willing to apologize. The parties refused to apologize but agreed not to return. No damage was apparent on the footage. The complainant told the officers to leave too.

A short while later, the complainant called to report that the individuals had return to her restaurant and asked the officers to return as well. The complainant reported that the individuals had trashed her place again. She showed them a picture of her floor and explained that she had already cleaned the mess. She told the officers that she called them back to the scene so she could tell them how unhelpful they had been, even though the individuals had already left.

No policy or procedure requires officers to make someone apologize. There was no evidence a crime had been committed. The officers advised the subjects to leave and that they were no longer welcome at the restaurant and were free to go. The complainant told the officers to leave and did not want further police action.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 07/11/22 COMPLETION DATE: 03/15/23 PAGE# 2 of 2

SUMMARY OF ALLEGATIONS #3: The officer behaved or spoke inappropriately.

CATEGORY OF CONDUCT: CUO

FINDING: PC

FINDINGS OF FACT: The complainant stated the named officer was rude to her when the officer told the complainant she could "vent" to him about the situation, then told the complainant to stop yelling.

Body-worn camera footage showed that the named officer tried to de-escalate the situation by talking to the complainant, who was yelling, pacing, and appeared agitated. The officer offered that the complainant could "vent" to him. The officer did not tell the complainant to stop yelling. The officer was professional in his demeanor. There was no evidence the officer behaved or spoke inappropriately when interacting with the complainant.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 07/11/22 COMPLETION DATE: 03/12/23 PAGE: #1 of 2

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

CATEGORY OF CONDUCT: UF

FINDING: U

FINDINGS OF FACT: DPA received a complaint via mail from an anonymous complainant. The complainant stated that the police hurt and took an individual's car who was in a hospital emergency room. Additionally, the complainant stated that the individual was under the influence.

Department records showed that officer #1 left a district station parking lot in his personal vehicle after completing his shift when an individual in an unknown vehicle followed behind him. Officer #1 attempted to lose the individual by accelerating and making quick turns. However, due to safety concerns, officer #1 returned to the district station parking lot. Officer #1 contacted officer #2, informed him what happened, and requested his assistance. The individual drove into the district station parking lot, a restricted area, and parked his vehicle. The officers grabbed the individual, removed him from his vehicle, and placed him in handcuffs. The individual made paranoid and irritational comments and the officers believed that the individual suffered from a mental health condition or he was under the influence of narcotics. The individual informed officer #2 that he was under the influence of a narcotic and was "strung out" and paranoid. An ambulance was summoned, and the individual was evaluated and released to the care of the San Francisco Fire Department. The individual's vehicle was left in the district station parking lot, and he was told he could retrieve his vehicle once he was released from the hospital.

DPA contacted the individual and obtained his statement. He stated that he did not file the complaint. He stated that the officers saved his life that day, and he was grateful. He stated that he informed the officers that he was on drugs and asked to be arrested; instead, the officers called an ambulance, and he was taken to the hospital. He stated that he had no complaints against the officers or SFPD.

Based on the individual's statements, the officers did not hurt him but saved his life.

The evidence proves that the conduct alleged did not occur.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 07/11/22 COMPLETION DATE: 03/12/23 PAGE: #2 of 2

SUMMARY OF ALLEGATION #3: The officer conducted an improper search or seizure.

CATEGORY OF CONDUCT: UA

FINDING: U

FINDINGS OF FACT: DPA received a complaint via mail from an anonymous complainant. The complainant stated that the police hurt and took an individual's car who was in a hospital emergency room.

DPA contacted the individual and obtained his statement. He stated that after he was released from the hospital, he went to the district station to pick up his vehicle.

The evidence proves that the conduct alleged did not occur.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 07/14/22 COMPLETION DATE: 03/12/23 PAGE# 1 of 4

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

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated a security guard attacked him at a bar. He stated the named officer failed to conduct a thorough investigation because he did not check for video surveillance footage. The complainant said the security guard informed the officer that the cameras were not working. The complainant stated the named officer should not have relied on the word of the security guard because he was a party to the assault. The complainant also stated that the named officer, as part of his investigation, failed to interview independent third-party witnesses to the assault.

The named officer stated he conducted a thorough investigation. He stated he instructed the witness officer to search for video surveillance footage, who indicated to him that she reviewed the footage, and it did not capture the event. In addition, the named officer stated he interviewed the complainant, the security guard, a bar employee, and the complainant's friend.

A witness officer stated she reviewed video surveillance footage with the bar manager's assistance. She stated the video surveillance footage did not capture the event.

The incident report documents that the complainant and a security guard were engaged in an altercation resulting in the complainant suffering a minor laceration and swelling to his lower lip. The report included statements by the complainant, security guard, witnesses, bar employees, and the complainant's friend. In addition, the record documented that an officer reviewed video surveillance footage; however, that footage did not capture the altercation.

Body-worn camera footage showed the named officer asked the witness officer to search for video surveillance footage. Body-worn camera footage showed the witness officer meeting with the office's bar manager. The witness officer reviewed video surveillance footage captured by the cameras at the bar. The video surveillance footage did not capture the incident.

Video surveillance footage from the bar, as seen on body-worn camera, did not show the altercation.

The named officer conducted a thorough investigation by ensuring witnesses were interviewed, and video surveillance footage was reviewed.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 07/14/22 COMPLETION DATE: 03/12/23 PAGE# 2 of 4

SUMMARY OF ALLEGATION #2: The officer prepared an incomplete or inaccurate incident report.

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated the named officer wrote an inaccurate report because the report indicated that the fight began outside the bar when the fight began inside the bar.

The named officer stated he interviewed the parties who provided differing accounts of what transpired. He stated he did not indicate in the incident report that the fight started outside. He stated the narrative in the police report accurately documents and summarizes the statements made to him by the parties he spoke with through their words as he understood them.

Department records indicate that the complainant and a security guard were engaged in an altercation resulting in the complainant suffering a minor laceration and swelling to his lower lip. Statements attributed to the security guard indicate that the altercation began outside the bar. Statements attributed to the complainant indicated that the altercation began inside the bar.

Body-worn camera footage showed the security guard report the altercation began outside the bar, and the complainant reported that the altercation began inside the bar.

The named officer correctly prepared the incident report as he attributed statements made by each party during the investigation. The police report does not conclude where the altercation began.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 07/14/22 COMPLETION DATE: 03/12/23 PAGE# 3 of 4

SUMMARY OF ALLEGATION #3: The officer prepared an incomplete or inaccurate citation.

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated a security guard attacked him at a bar. The complainant said the named officer cited the suspect with simple assault. However, the complainant stated the named officer should have cited the suspect with assault with Great Bodily Injury (GBI) because he was transported to the hospital for injuries to his face requiring stitches.

The named officer stated the complainant and the security guard were both cited because they wished to pursue criminal prosecution against one another for a battery. He stated he did not cite the security guard with GBI because the injuries sustained by the complainant did not qualify. He stated the complainant did not appear to have any broken bones, reported a loss of consciousness, serious disfigurement, physical or reported signs of concussion, and no observed wounds requiring extensive suturing. Based on the evidence gathered, the officer stated probable cause did not exist to cite the security guard with GBI.

Witness officers stated that the complainant's injuries did not appear to meet the GBI criteria.

Department records indicate that the complainant and a security guard were engaged in an altercation resulting in the complainant suffering a minor laceration and swelling to his lower lip. It noted that the complainant complained of pain to his face, neck, and back area. Both parties signed a Citizen's Arrest Form and were issued citations for Battery (Penal Code §242).

The citations issued to both parties show that the security guard and the complainant were cited for Penal Code §242.

Photographs of the complainant taken at the time of the incident show the complainant standing upright with a lower bloody lip and a small amount of blood on his nose.

Body-worn camera footage showed the named officer responding to a call regarding a fight at a bar. The footage showed the complainant, who exhibited intoxication and had a bloody lip, reporting that he was punched multiple times by a security guard. He reported the fight began inside the bar, where he was grabbed from behind and punched. He stated the attack was unprovoked. The footage also showed the security guard report that female patrons informed him that the complainant touched them and became aggressive. The security guard stated he attempted to get the complainant's attention by tapping him on his shoulder; however, he stated that the complainant became enraged and pushed him, which escalated

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 07/14/22 COMPLETION DATE: 03/12/23 PAGE# 4 of 4

into a fistfight. The footage showed the complainant requesting an ambulance, which transported him to the hospital. While in the ambulance, the complainant became extremely upset and verbally abusive.

California Penal Code §242 states, "A battery is any willful and unlawful use of force or violence upon the person of another."

California Penal Code §243 defines serious bodily injury as "a serious impairment of the physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement."

The named officer correctly cited the security guard with the proper violation, as there is no evidence to support that the complainant suffered serious bodily injuries as defined in the California Penal Code. In addition, SFPD submits the charges to the District Attorney's Office for consideration, which could then re-evaluate the charges if necessary.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 07/10/22 COMPLETION DATE: 03/17/23 PAGE# 1 of 3

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

CATEGORY OF CONDUCT: UF

FINDING: IE

FINDINGS OF FACT: The complainant alleged in a handwritten statement that while being detained at a station and awaiting transport by medics, the officer became upset with him. There was a verbal exchange between him and the officer, and the officer slapped him with an open palm and headbutted him while he was handcuffed.

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

The named officer stated he headbutted the complainant once to gain control of him in response to the complainant punching him in the face while he and the arresting officer were trying to handcuff the complainant to a gurney. The named officer observed the complainant was not cuffed to anything, and the handcuff on the complainant's left wrist was swinging loose, posing a safety issue as it could be used as a weapon. The complainant pulled his right arm away from the arresting officer to avoid being handcuffed to the gurney. The named officer moved in closer to assist when the complainant broke free from the arresting officer's grasp and punched the named officer in the face with a closed right fist. The named officer stated he headbutted the complainant to distract him so they could handcuff him to the gurney as he was using both hands to control the complainant's left arm. His head was the only personal body weapon he had available at that moment. A third officer had to respond to get the complainant securely handcuffed. The named officer stated he had no time to employ de-escalation tactics as the incident unfolded rapidly. The named officer promptly reported his use of force to his supervisor as required by department policy. The named officer stated he was not upset with the complainant. The named officer stated the complainant was upset and did not know why. The officer stated the complainant was not handcuffed when the use of force occurred.

Witness Officer #1 stated that the complainant and the named officer started exchanging words. The complainant made verbal threats to the named officer. The complainant had a loose handcuff on his left arm, sat on the gurney, and continued to be agitated. Witness Officer #1 stated when he attempted to put a handcuff on the complainant's right arm to handcuff him to the gurney, the complainant pulled his right arm away from him and punched the named officer in the face. The named officer then headbutted the complainant. A brief struggle ensued between the complainant, Witness Officer #1, and the named officer. Eventually, the officers were able to get control of the complainant, and he was handcuffed with assistance from a third officer.

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COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 07/10/22 COMPLETION DATE: 03/17/23 PAGE# 2 of 3

Witness Officer #2 stated he did not witness the complainant punch the named officer. The officer stated he heard a commotion, and he entered the holding area to assist officers and saw the complainant sitting on a gurney. The complainant was agitated and yelling profanity at the named officer and the arresting officer. Witness Officer #2 stated the complainant resisted when he entered the holding area. He observed the arresting officer trying to control the complainant's left hand and the complainant resisting and not following commands. Witness Officer #2 stated he grabbed the complainant's uncuffed right hand to get control of him. Witness Officer #2 stated he was unaware that the named officer had been punched in the face.

The two medics who were present when the use of force occurred stated the complainant was agitated and exchanged words with the named officer. Both medics stated that while the officer was handcuffing the complainant to the gurney, he punched the officer in the face. In response, the officer headbutted him once.

In accordance with department policy, the named officer was not equipped with a body-worn camera on the date of the incident as the officer was assigned to station keeper duty.

Station surveillance video (no audio) captures the arresting officer assisting the complainant as he is seated on the gurney. The arresting officer is standing in front of the complainant. The named officer is standing behind the arresting officer. The named officer steps towards the complainant and tries to assist the arresting officer with handcuffing the complainant's right wrist to the gurney when the complainant resists being handcuffed to the gurney. A physical struggle ensues between the two officers and the complainant. The named officer tries to gain control of the complainant's left arm. The complainant breaks free from the grasp of the arresting officer, raises his right arm, and punches the named officer in the face. The named officer then uses his head as a personal body weapon to headbutt the complainant. A third comes out from the office to assist in getting control of the complainant and is soon followed by other officers. The surveillance video does not capture the named officer slapping the complainant with an open hand, as alleged by the complainant. The video shows the complainant was not handcuffed, and his arms were free when he struck the named officer.

Department records show that the named officer reported the use of force as required, and a Supervisory Use of Force evaluation was conducted. The actions of the named officer were found to be within Department policy.

The incident report documents that the complainant was under arrest for a previous incident and awaiting transport to county jail. The complainant was experiencing withdrawal symptoms and requested medication, so medics were called and responded to the station. The complainant was being transferred to a gurney to be transported to the hospital when the incident occurred.

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COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 07/10/22 COMPLETION DATE: 03/17/23 PAGE# 3 of 3

Department General Order 5.01, Use of Force, authorizes officers to use force to accomplish a lawful purpose. Officers are trained to use levels of force that correlate to a suspect's actions or resistance. Officers may use physical control holds and personal body weapons in self-defense when a person is physically assaultive or actively resisting.

The officer was permitted to use force to apprehend and gain control of the complainant, who was actively resisting the officers attempts to handcuff and control his body movements when seated on the gurney. The complainant became assaultive when he punched the named officer in the face. In response, the named officer used his head as a personal body weapon and headbutted the complainant. There was insufficient evidence either to either prove or disprove that the named officer's use of force was intended to "gain control" of the complainant, who was actively resisting, or punish the complainant for punching the officer in the face. In addition there was insufficient evidence to either prove or disprove that the named officer's use of force was minimally necessary to gain control of the complainant.

The evidence fails to prove or disprove that the alleged conduct occurred.

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COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 07/22/2022

COMPLETION DATE: 03/15/2023

PAGE# 1 of 2

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

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant called officers to report a burglary in progress at their apartment unit. The complainant stated that the named officers failed to investigate and did not notify the Crime Scene Investigation Unit.

Named officer #1 stated that they were the first to respond to a call for service for a burglary in progress. Upon arrival, the complainant told them the burglar may still be inside their residence. Once they determined that was not the case and the apartment unit was safe, they proceeded with their burglary investigation. They identified the entry and exit point and inspected the complainant's apartment unit for fingerprints or other physical evidence. They determined what was stolen from the complainant and documented the last time the complainant saw those specific items. They officers did not see any security cameras inside the apartment building. The officers decided not to call the Crime Scene Investigation Unit because they found no fingerprints or physical evidence for collection.

Named officer #2 also responded to the burglary in progress call for service. They said that named officer #1 was in charge of the investigation. They agreed with named officer #1's steps and decisions in attending to the burglary, including not calling the Crime Scene Investigation Unit due to no physical evidence being found.

The DPA obtained the body-worn camera footage from the incident for both named officers. The footage showed the officers inspected the apartment unit's damaged front door and a glass door to the closet where the complainant said their stolen property had been stored. They advised the complainant that they would call the Crime Scene Investigation Unit if they found any visible signs of physical evidence such as fingerprints.

Department records showed that the named officers took photos of the apartment unit's damaged front door and collected photos of the complainant's stolen property for documentation in the incident report. They noted on the report that the Crime Scene Investigation Unit was not contacted due to the lack of physical evidence.

There is currently no Department requirement that the Crime Scene Investigative Unit be notified of every residential burglary.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

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The evidence showed that, despite their attempts, the officers could not find any visible physical evidence that would warrant calling out the crime scene unit.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

SUMMARY OF ALLEGATION #3: The officer behaved or spoke inappropriately.

CATEGORY OF CONDUCT: CUO

FINDING: PC

FINDINGS OF FACT: The complainant alleged that the named officer asked them if they were “high” and said they “looked high.”

The named officer described the complainant’s demeanor when they first arrived on the scene as excited, frantic, and having high energy. The named officer said they asked the complainant if they were intoxicated due to this initially observed behavior and because the complainant repeatedly asked how the burglar entered their apartment when it seemed clear the perpetrator broke open their front door. The named officer stated that the complainant appeared of someone intoxicated based off what he learned in his department training and on-the-job experience.

The DPA obtained the body-worn camera footage, which showed that the named officer asked the complainant if they were “on the influence of anything” or “intoxicated” after they displayed abnormal behavior.

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

The evidence showed that the named officer made comments similar to those described by the complainant. DPA understands how the complainant could have felt that the comments were inappropriate. However, the named officer’s questions were appropriate at the time and for the situation. The officer’s tone was not rude nor condescending.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 07/08/22 COMPLETION DATE: 03/17/23 PAGE# 1 of 5

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

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complainant believed he was wrongly targeted and detained by the named officer for not having a front license plate affixed to his car.

Both the named and the witness officer, the named officer's partner, stated that the complainant was pulled over due to his vehicle missing a front license plate and failing to use a turn signal. During the traffic stop, the vehicle's front seat passenger indicated to the witness officer that they needed help. The officers stated they were concerned for the occupant's safety as they believed the passenger might have been kidnapped. The named officer said the complainant was detained for about 20 minutes while the officers spoke with the passenger and investigated if the incident was a potential kidnapping crime.

Body-worn camera (BWC) footage showed the exchange, and the complainant's vehicle did not have a front license plate. Footage from the witness officer's camera showed that the occupant said "help me" as the officer engaged the vehicle occupants. The footage showed that the complainant was detained while the officer completed an interview of the passenger and conducted checks and searches. The passenger initially gave an account that suggested he was in the vehicle against his will but clarified later that he did enter the vehicle of his own volition. The officers allowed the complainant to leave the scene without the passenger.

Department documents corroborated the officers' accounts and the footage from the BWC.

Department General Order 5.03.02 states:

(C) Objective Reasonableness- Reasonable suspicion to detain or pat search are based on an objective analysis of the totality of the circumstances known at the time of the detention or pat search, including observations, training and experience, and information from eyewitnesses, victims and/or other members.

(D) Reasonable Suspicion to Detain- Reasonable suspicion is a set of specific facts that would lead a reasonable person to believe that a crime is, was, or is about to occur and the person under suspicion is reasonably connected to the crime. Reasonable suspicion to detain is also established whenever there is any violation of law. Reasonable suspicion cannot be based solely on a hunch or instinct.

The evidence shows that the named officer had grounds to detain the complainant while trying to establish if a kidnapping had occurred.

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COMPLAINT SUMMARY REPORT**

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The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

SUMMARY OF ALLEGATION #2: The officer applied handcuffs without justification.

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complainant stated that he was unjustifiably handcuffed during a traffic stop by the named officer.

The named officer reported explaining to the complainant the reason why he was detained during the traffic stop. The named officer conducted a records check, which showed that the complainant had a history of serious violent charges. Additionally, the named officer was informed by his partner that another occupant in the vehicle appeared distressed by the complainant. The named officer and his partner were alone with the two individuals, and due to the potential kidnapping, the named officer handcuffed the complainant to prevent the complainant from escaping.

Body-worn camera footage showed that the complainant was removed from his vehicle after the occupant indicated they were in danger. The named officer handcuffed the complainant.

In this instance, the named officer provided specific and articulable facts that caused him to believe the complainant was dangerous and could be potentially armed. These facts included the potential kidnapping allegations made by the vehicle passenger and the violent criminal history of the complainant. Given these circumstances, the handcuffing was in policy and was justified.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 07/08/22 COMPLETION DATE: 03/17/23 PAGE# 3 of 5

SUMMARY OF ALLEGATION #3: The officer knowingly engaged in biased policing or discrimination.

CATEGORY OF CONDUCT: CUO

FINDING: U

FINDINGS OF FACT: The complainant believed that the named officer racially profiled him when he was subject to the traffic stop.

The named officer stated that the traffic stop was made at night; however, there were streetlights as well the use of their flashlights. The named officer reported he did not know the race, ethnicity, color, or national origin of the complainant, and these characteristics were not a factor in the detention of the stop. The traffic stop was due to the vehicle missing a front license plate and failure to use a turn signal.

The body-worn camera showed that the named officer explained the reason for the traffic stop to the complainant. The footage also showed the complainant acknowledged knowing his vehicle's front license plate was not attached to his front bumper. The footage also showed that the complainant's vehicle did not have a front license plate.

Vehicle Section 5200 states:

(A) When two license plates are issued by the department for use upon a vehicle, they shall be attached to the vehicle for which they were issued, one in the front and the other in the rear.

(B) When only one license plate is issued for use upon a vehicle, it shall be attached to the rear thereof, unless the license plate is issued for use upon a truck tractor, in which case the license plate shall be displayed in accordance with Section 4850.5."

The evidence shows that the complainant's vehicle did not have a front license plate, which was the initial reason for the named officer to stop the complainant. There is no evidence to corroborate the complainant's account that the traffic stop was made based on a bias from the named officer.

The evidence proves that the conduct alleged did not occur.

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COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 07/08/22 COMPLETION DATE: 03/17/23 PAGE# 4 of 5

SUMMARY OF ALLEGATION #4: The officer conducted an improper search or seizure.

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complainant believed that the officer's search of his person and car was unlawful.

The named officer stated that the complainant consented to allow the named officer to search his vehicle. The officer said the complainant was pat searched due to the initial statements from the front seat passenger, who initially indicated he could be subject to a kidnapping. The officer stated he checked the complainant's details on the police database and found that the complainant had previous convictions for very serious violent crimes. The officer said that based on these facts, as well as the high volatility of traffic stops, the location occurring in a high crime area, and the complainant was wearing baggy clothing that could potentially hide a weapon, he decided to conduct a pat search for the safety of all people at the scene.

The body-worn camera showed that the complainant gave verbal and explicit consent for the named officer to search the vehicle. The footage also showed the named officer pat-searched the complainant. The search of the complainant's person and vehicle did not result in anything illegal or concealed being found.

Department General Order 5.03.02 (E) states:

(E) Reasonable Suspicion to Conduct a Pat Search- A pat search allows officers to safely pursue their investigation without fear of violence, not to discover evidence of a crime. Two conditions must be met before a pat search is permitted:

1. The underlying detention must be legal.
2. The officer must be able to point to specific and articulable facts causing them to believe the suspect is armed and dangerous. The validity of a pat search depends on the totality of the circumstances and turns on whether a reasonably prudent officer would be warranted in the belief that the officer's safety, or that of others, was in danger.

In this instance, the named officer provided specific and articulable facts that caused him to believe the complainant was dangerous and could be potentially armed. These facts included the potential kidnapping allegations made by the vehicle passenger and the violent criminal history of the complainant. The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 07/08/22 COMPLETION DATE: 03/17/23 PAGE# 5 of 5

SUMMARY OF DPA-ADDED ALLEGATION #1: The officer failed to activate their body-worn camera.

CATEGORY OF CONDUCT: ND

FINDING: IC/S

FINDINGS OF FACT: DPA found that the named officer failed to activate his body-worn camera as required during the investigation.

Department General Order 10.11 require members equipped with body-worn cameras to activate them to record detention and arrests. Furthermore, Department Bulletin 20-175 clarified members shall ensure the entire event is captured during all mandated recording circumstances by beginning the recording prior to approaching the person, vehicle, and location.

The named officer activated his body-worn camera after arriving at the traffic stop scene.

A preponderance of the evidence proves that the alleged conduct occurred and that the conduct violated Department policy or procedure.

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COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 08/09/22 COMPLETION DATE: 03/15/23 PAGE# 1 of 3

SUMMARY OF ALLEGATIONS #1-5: The officers failed to take required action.

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The restaurant/bar's front glass door was shattered by a vandal. The anonymous complainant stated a vandal shattered a restaurant/bar's front glass door. The restaurant was burglarized multiple times for hours because the named officers did not secure the business.

Named Officer #1 stated he was at the station when an anonymous person entered and yelled about the Central Intelligence Agency (CIA), aliens, and a broken glass door at the business. When Officer #1 pressed for further details, he stated the anonymous person left. Named Officers #1 and #2 went to the business. The front glass door was damaged, and a subject exited the building. The officers detained and then eventually released the person. Officers #3, #4, and #5 arrived at the location and said they searched the premises, which was found to be empty. The officers stated they tried to locate a contact person for the business without success. Officer #4 said the business phone number went straight to voicemail. The officers stated fire personnel responded to the crime scene to secure the building. They confirmed that San Francisco Fire Department (SFFD) was the agency tasked to secure the door. All named officers stated they did not know what material SFFD used to secure the door.

The dispatch report (CAD) showed a Priority C burglary at the location. It showed the named officers arrived at the scene within seconds of each other. The CAD included a note about the front door of the business. The CAD also indicated that a person was detained and that a walk-through was made.

The CAD audio showed the named officers looking for the business's contact information. It showed one officer returned to the station to assist in finding the information.

The Incident Report (IR) showed two units responded to the scene. The front door to the business was shattered. The report stated the named officers entered the business and conducted a search with negative results. Officer #3 observed broken glasses and overturned items on the ground. The report also revealed that SFFD responded to the scene to secure the building. Officer #4 left SFPD forms inside the business because no responsible parties were found.

The Supplemental IR showed two officers went to the business ten days later. An employee provided a thumb drive that contained six to seven hours of video footage from the night of the burglary. The thumb drive was submitted to the Burglary Unit for review.

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Officers #1 and #2's body-worn cameras (BWC) showed the officers stopped, detained, and eventually released a male person who exited the premises via the broken door as they arrived on the scene. Officers #3,#4, and #5 entered the business but found no one inside. Officer #4 tried the contact number for the business, but the call went straight to voicemail. The footage revealed that the officers left the scene while SFFD personnel were still securing the front of the premises.

The surveillance video showed a passerby breaking the glass door to the business with a skateboard. The video showed numerous people entering the business through the broken door and stealing liquor, musical instruments, and other items. The footage showed the officers arrive on the scene, followed by SFFD personnel. The SFFD personnel were still in the process of securing the premises when the named officers left the scene. Sometime after the SFFD personnel left the scene, numerous people again forced entry to the premises and continued stealing items from inside.

The photos showed the shattered front door, broken glasses, and upturned chairs.

And DGO 6.02, I. Policy, A states:

"IDENTIFYING AND PRESERVING THE CRIME SCENE

It is the responsibility of the officer who arrives first to isolate and protect the crime scene from contamination until relieved by the direction of a superior officer."

The SFPD Field Training Manual, VII, page 83, showed the order of responsibility for such incidents:

"Secure the building

- By owner, employee, or alarm company
- By station lock
- Fire Department"

The named officers responded to the scene as soon as they heard from an anonymous person about the broken glass door to the business. The named officers conducted an investigation and remained at the crime scene until their investigation was completed. Per the SFPD Training Manual, it is not the responsibility of SFPD officers to secure a building. It was the responsibility of the SFFD personnel who attended to secure the building.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATION #6: The officer failed to properly care for, process or book property.

CATEGORY OF CONDUCT: ND

FINDING: IO-1

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

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

CATEGORY OF CONDUCT: Neglect of Duty

FINDING: Insufficient Evidence

FINDINGS OF FACT: The complainant stated he was walking his dog at a park when another dog came his way and engaged with his dog. He put his hand out to make the other dog stay away. Shortly after, the other dog's owner came up to the complainant, punched him in the face, and brandished a knife at him. He then called for police assistance. The named officers took the call and responded to the complainant's location. The complainant waited for the officers outside the park and flagged them down when he saw them coming. The complainant said the officers never got out of their vehicle to look for the man, who was still at the park. He said the officers failed to investigate appropriately and did not take the incident seriously.

Named Officer #1 said they responded to the call and drove around the park's surrounding area to look for the suspect but did not find him. He stated they then looked for the complainant and contacted him in front of a restaurant. They asked him what the suspect looked like and if he wanted to press charges. Named Officer #1 stated that the complainant said "no" and walked away. They then drove around the park again to look for the suspect but with negative results. Named Officer #1 admitted they remained in their vehicle and did not go into the park to find the suspect, check for cameras, or locate possible witnesses. He stated that they had nothing to investigate because the complainant did not wish to press charges and the offenses were misdemeanors that did not occur in the officer's presence.

Named Officer #2 said they immediately searched for the suspect upon arrival at the park's vicinity. At some point, the complainant flagged them down in front of a restaurant. At first, the officer did not know that the complainant was the caller or victim, and by the time they figured out who he was, the complainant had walked away. Named Officer #2 stated his partner advised him that the complainant was not interested in pressing charges. The situation eventually turned out as a well-being check, and the complainant did not want them to do anything. They did not ask further questions since the complainant walked away and did not have visible injuries. He said they remained in their vehicle and did not go into the park to investigate further because it would have wasted their time.

A witness officer responded to the scene. They stated that they cleared the call and returned to their vehicle after the named officers told them no further police action was needed.

Department records show that the call was for an A-priority person with a knife. The caller, the complainant, reported seeing the person who punched and brandished a knife at him. He described the person as a black male, about 22 years old, six feet tall, skinny, wearing a gray hoody, with a gray pit bulldog, and armed with a knife. The complainant also provided the last approximate location of the suspect to Dispatch. The named officers were the primary unit assigned for the call. They arrived at the

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scene approximately seven minutes after the 911 call. According to the document, the officers cleared the call two minutes later, stating that the suspect could no longer be found at the scene.

The complainant disputed the officers' version of their initial conversation. The complainant stated that he wanted the officers to investigate the matter. The officers did not ask for his information, the description of the suspect, or specific details as to how and where the incident happened. The named officers remained in their vehicle and did not go into the park to look for the suspect. Department records show they arrived at the scene approximately seven minutes after the complainant's call with information about the suspect's description. The complainant saw the suspect sitting on a bench in the park while calling 911. He found him still seated on the bench after the officers had left the scene. Had the named officers gone into the park to look for the suspect, it was likely that they would have found him or witnesses to the incident. Additionally, the named officers admitted to not checking for surveillance camera footage of the incident. The park is in the heart of the city and is surrounded by various establishments with cameras. The properness of the officers' actions turns on whether the complainant in fact stated that he did not want to press charges and walked away from the officers. However, as the officers did not activate their body-worn cameras, no independent evidence is available to determine what conversation the officers had with the complainant.

A preponderance of the evidence fails to prove or disprove that the alleged conduct occurred.

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

CATEGORY OF CONDUCT: Neglect of Duty

FINDING: Sustained

FINDINGS OF FACT: During the course of DPA's investigation, it was discovered the named officers did not activate their body-worn cameras during the incident.

Named Officer #1 stated that he did not activate his BWC because they were in a vehicle and were unable to approach the victim or the suspect in this matter.

Named Officer #2 stated that he did not activate his BWC due to the rapidly changing environment pertaining to the incident.

Department General Order 10.11, Body Worn Cameras, states in part, "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 member of the public may have knowledge of criminal activity as a suspect, witness, or victim, except as noted in Section 10.11.03D. Failure to activate a BWC as outlined in this order shall subject a member to an administrative investigation and, if warranted, appropriate discipline."

Department Bulletin 20-175, Activation of Body Worn Cameras, states in part, "Members shall ensure the entire event is captured during all mandated recording circumstances or their involvement at the incident is completed. When responding to calls for service with a potential for law enforcement activity or any of the mandatory recording circumstances, members shall begin recording by pressing the **Event** button while enroute and prior to arriving on scene."

The complainant was assaulted and threatened with a knife. The named officers should have activated their body-worn cameras to record the contact with the complainant. The named officers also violated DB 20-175, which required them to record while proceeding to the scene of the incident. The evidence shows the officers responded to an A-priority call regarding a person with a knife that, undoubtedly, was a law enforcement activity.

A preponderance of the evidence proves that the alleged conduct occurred and that the conduct violated Department policy or procedure.

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

CATEGORY OF CONDUCT: CUO

FINDING: U

FINDINGS OF FACT: The complainant stated that the named officers were rude to her when she tried to file a police report.

The complainant failed to provide any further information or evidence for this allegation.

The named officers denied being rude to the complainant. The officers stated they dealt with the complainant calmly and professionally.

Body worn camera footage showed the named officers spoke to the parties involved in the incident. The officers listened to the complainant's description of alleged criminal behavior and professionally explained the conclusion they reached regarding her allegations. There is no indication on the video, which captured the entire contact with the complainant, that the officers were rude.

The evidence proves that the alleged conduct did not occur.

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

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated the named officers failed to write a report about a criminal complaint that she made to them.

The complainant failed to provide further information or evidence for this allegation.

The named officers stated that they did not write a report because the complainant's allegations were civil in nature and not criminal. The named officers conducted an initial investigation and determined the complainant did not provide evidence of a specific crime.

Department records of the named officers' response stated that the complainant's allegations did not amount to a crime and that the incident was a civil matter between landlord and tenant.

Body worn camera footage showed the named officers speaking with the complainant and other parties involved. The complainant described to the officers the behavior she considered to be a crime. The body

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camera footage documented that the complainant showed the officers video footage on her phone that she alleged was proof of criminal behavior. The named officers told the complainant that there were no criminal acts described by her or captured on her phone, and this was a civil matter.

Officers are not required to write a report for a civil matter.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATION #1: The officer displayed threatening, intimidating, or harassing behavior.

CATEGORY OF CONDUCT: CUO

FINDING: PC

FINDINGS OF FACT: The complainant felt threatened by the officer's presence while trying to file a report at the station. The complainant filed a complaint against the named officer at the Department of Police Accountability (DPA) before filing an unrelated report at the station. The named officer attempted to meet the complainant at the station; however, the complainant believed this was a conflict of interest. Additionally, the complainant felt threatened due to the named officer's presence while the complainant attempted to file an unrelated report.

The body-worn camera footage of the named officer, other members, and the department station footage were viewed for the investigation. The footage showed that the named officer greeted and re-introduced himself to the complainant. The complainant immediately stated that the named officer could not take his report because the complainant had filed a complaint against the named officer earlier that day. The complainant stated the report was filed at the DPA due to the named officer lying about submitting a separate complaint to the DPA. During their exchange, the named officer told the complainant that the separate complaint, which the named officer took, was mailed to the DPA. The complainant continued to express that the named officer should not be speaking with him and was intimidating. The named officer left the station's lobby, and the complainant proceeded to file reports with another officer at the station.

DPA records confirm that the named officer did mail the complainant's separate complaint to the DPA.

The footage showed an interaction between the complainant and the named officer. However, at no time did the named officer threaten the complainant. The footage showed that the officer's behavior was not intimidating or harassing.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 09/12/22 COMPLETION DATE: 03/15/23 PAGE# 1 of 2

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

CATEGORY OF CONDUCT: ND

FINDING: NF

FINDINGS OF FACT: The complainant stated they went to the local police station to report a sexual assault. They spoke to an unknown officer at the front desk who asked the complainant to describe why the complainant was at the station. The complainant was uncomfortable discussing the incident in front of other people in the lobby and requested to talk privately, but this request was denied. The complainant left the police station without reporting the crime.

Department Bulletin 21-174 (Sexual Assaults at District Stations) states, “to provide the best service possible at District Stations to reportees of sexual assault, sworn members shall adhere to the following procedures: If the reportee is explaining a sexual assault incident the officer shall provide as much privacy as reasonably possible to the reportee, including using an interview room.”

Complainant could not adequately identify the officer. An officer identification poll was sent to the district station where the incident occurred. The poll came back with negative results. There was insufficient information to identify the officer.

The identity of the alleged officer could not be established. No findings are made if the officer cannot reasonably be identified.

SUMMARY OF ALLEGATION #2: The officer failed to write an incident report.

CATEGORY OF CONDUCT: ND

FINDING: NF

FINDINGS OF FACT: The complainant said the same unknown officer failed to write an incident report at the police station. The unknown officer told the complainant that the officer could not take a police report unless the complainant recounted the incident to the officer. Department General Order 1.03 (Duties of Patrol Officers) states, “patrol officers shall make written reports on crimes observed or brought to their attention that have not been previously reported. In addition.”

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Department General Order 2.01 (General Rules of Conduct) states, “while on duty, members shall make all required written reports of crimes or incidents requiring police attention.”

Complainant could not adequately identify the officer. An officer identification poll was sent to the district station where the incident occurred. The poll came back with negative results. There was insufficient information to identify the officer.

The identity of the alleged officer could not be established. No findings are made if the officer cannot reasonably be identified.

SUMMARY OF ALLEGATION #3: The officer failed to promptly respond to a scene.

CATEGORY OF CONDUCT: ND

FINDING: U

FINDINGS OF FACT: The complainant called San Francisco Police dispatch to report an incident and waited for 2 hours without a police response. The complainant walked to a district station to report the incident.

Department General Order 1.03 (Duties of Patrol Officers) states, “patrol officers shall respond promptly to assigned calls, regardless of the area of assignment. When in the immediate vicinity of a serious incident, respond, and render assistance to the unit assigned.”

Department records revealed there were no reports made to dispatch from the complainant around the location, date, and time provided of the incident.

The evidence proves that the conduct alleged did not occur.

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SUMMARY OF ALLEGATION #1: The officer drove a City vehicle in a grossly negligent or reckless manner.

CATEGORY OF CONDUCT: ND

FINDING: IE

FINDINGS OF FACT: The complainant alleged that the named officer drove his police vehicle recklessly, almost striking them and their dog while they crossed the street. They also alleged that the named officer did not have his vehicle's emergency lights activated and drove on the opposite side of the road after he completed his turn.

The named officer stated that he was driving in his vehicle, heading to assist another officer at the time. He recalled seeing the complainant crossing the intersection and motioning with his hand to say he was heading toward them. The named officer stated that his vehicle's red lights were on at the time, and he sounded his air horn before he turned into the intersection. The named officer also stated that his driving speed when he turned into the intersection was about five mph, and the distance between him, the complainant, and their dog was approximately 8-12 feet. The named officer denied turning into oncoming traffic and only drove on the opposite side of the road to park his vehicle in front of the officer that he was assisting.

Department records showed that the named officer responded to a Priority C auto boost call for service at the time of the incident.

The DPA obtained the named officer's body-worn camera footage. The footage showed the complainant asking the named officer for their name and badge number because they had almost struck them and their dog in the crosswalk. The BWC footage showed the named officer telling the complainant that he saw her walking, that he did have his vehicle lights on at the time, and that he was sorry. The footage also showed that the officer's vehicle was parked on the opposite side of the road, in front of another police vehicle, with his vehicle lights activated.

The DPA was unable to locate any video footage showing the initial interaction between the complainant and the named officer.

The evidence fails to prove or disprove that the alleged conduct occurred.

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COMPLAINT SUMMARY REPORT**

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SUMMARY OF ALLEGATIONS #1-3: The officers made an arrest without cause.

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complainant stated that she had a dispute with another tenant in the building regarding her dog defecating in the hallway. She denied threatening the tenant but was arrested for that.

Named officer #1 stated that the victim said the complainant verbally threatened her that the complainant's cousin would come and throw the tenant into a car and take her to Guantanamo Bay. The victim believed the threats were credible because they had previous negative interactions where a physical altercation occurred. Both named officers #1 and #3 confirmed that the complainant said she would "beat her (tenant) ass." All three officers said the tenant said she was fear for her safety.

Department records indicate that the complainant told the tenant that she would "whoop her ass" if she passed by her in the hallway and would kick her children's ass. The record indicates that the tenant feared for her and her children's safety and believed the threat was credible based on previous interactions. The documents indicate that the officers conducted a cold show with the tenant, who positively identified the complainant as the person who made the threats.

Body-worn camera footage captured the tenant reporting to police that the complainant threatened her verbally. She feared for her and her children's safety based on the past altercation between the complainant and her son. The footage also shows a cold show where the tenant positively identified the complainant as the person who threatened her.

Penal Code 422(a) states that:

"any person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat,...and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, shall be punished by imprisonment in the county jail..."

The evidence proves that the officers had probable cause to believe that the complainant had threatened to commit a crime against the tenant, which caused them to fear for their safety.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF DPA-ADDED ALLEGATION #1: The officer failed to comply with Stop Data Collection Requirement.

CATEGORY OF CONDUCT: ND

FINDING: IC/S

FINDINGS OF FACT: Department Bulletin 21-062 Stop Data Collection System states, "all members shall submit data for all stops" and "a stop is defined as 1. Any detention, by a peace officer of a person...." "The member responsible for the initial detention or contact shall enter the stop data."

Department records showed that no Stop Data entry was made related to the detention in this incident. The records also showed that the named officer was one of the officers contacting the complainant.

The body-worn camera footage shows that the named officer approached the complainant and handcuffed them.

The named officer confirmed that he initiated the complainant's detention but forgot to submit Stop Data. He said he takes responsibility for the error he made.

The evidence proves that the named officer initiated the detention. However, he failed to enter Stop Data as required.

A preponderance of the evidence proves that the alleged conduct occurred and that the conduct violated Department policy or procedure.

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

CATEGORY OF CONDUCT: UF

FINDING: PC

FINDINGS OF FACT: The complainant alleged that while they were arrested, the officer repeatedly punched them in the face while they were lying on the ground and in handcuffs. The complainant stated that they suffered a shattered tooth and a blackened eye from the incident.

Named officer #1 responded to a call for service regarding a trespasser trying to enter an apartment building. Upon arriving at the scene, named officer #1 witnessed the complainant gaining entry into the building by assaulting one of the residents, witness #1. Named officer #1 tried to communicate with the complainant, but he was not listening or responding to their verbal commands. Named officer #1 stated that they first tried to use control holds to arrest the complainant, but the complainant resisted their attempts and managed to grab onto named officer #1's vest. Named officer #1 ordered the complainant to let go of his vest, but the complainant refused. Named officer #1 stated that they managed to bring the complainant to the ground, but the complainant continued to resist and told named officer #1 that he would hit the officer. To de-escalate the situation and effect an arrest, named officer #1 punched the complainant twice on the left side of the face. Named officer #1 stated he chose to use his fist to gain compliance because control holds did not work, and the situation made other force options unfeasible. Named officer #1 stated that he did not recall the complainant sustaining any injuries from the incident.

The DPA obtained the officer's body-worn camera footage of the incident. The footage showed that the complainant entered the apartment building, forcing his way past witness #1. It showed that the complainant refused to comply with named officer #1's commands and resisted his attempts to effect an arrest. The footage showed that the complainant already had a black mark around the left eye before the incident escalated. The complainant grabbed onto named officer #1's vest and refused to let go. The footage also showed the complainant telling named officer #1 that he would "fight back" and "hit them for two minutes." The footage showed that named officer #1 gave the complainant warnings to comply before he used force. When the complainant refused, the footage showed that named officer #1 delivered two punches to the complainant's face in rapid succession. The footage showed witness #1 provided statements to the supervising officer that the complainant assaulted him and named officer #1. The footage also showed that the complainant told attending paramedics that he was experiencing some pain in his jaw area, but it was unclear what injury occurred.

The DPA attempted to follow up with the complainant to get more information and obtain a release for their medical records, but the complainant was unresponsive.

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The DPA also obtained a copy of the incident report. The written statements by all the named officers are consistent with the statements they provided in their DPA interviews and their BWC footage. The witness' statement was documented and consistent with what they told the officers.

DPA obtained the Supervisory Use of Force evaluation form. The named officer's use of force was properly documented in the evaluation form.

The DPA obtained Department photos taken of the complainant after the incident. The photos showed a black mark around the complainant's left eye, but it was determined from the BWC footage that it existed before named officer #1's use of force.

SFPD Department General Order 5.01, Use of Force, states, "Officers may use reasonable force options in the performance of their duties in the following circumstances: to effect a lawful arrest, detention, or search, to overcome resistance or to prevent escape, in defense of others or in self-defense, and to gain compliance with a lawful order." The DGO later specifies that officers may use personal body weapons when an individual is actively resisting.

The evidence showed that named officer #1's decision to use force was proper and within Department rules.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

SUMMARY OF ALLEGATION #2: The officer's discourteous behavior or statements were related to ethnicity or race.

CATEGORY OF CONDUCT: CUO

FINDING: U

FINDINGS OF FACT: The complainant alleged that the officer shouted racist jokes at him while he was being placed under arrest.

The named officer denied the allegation.

The DPA obtained the named officer's BWC footage of the incident. It did not show the named officer or any witness officer on scene making racist jokes or comments during the incident.

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The evidence showed that the named officer, or any attending officers, did not make racist or discourteous comments to the complainant.

The evidence proves that the conduct alleged did not occur.

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DATE OF COMPLAINT: 10/03/22 **DATE OF COMPLETION:** 03/15/23 **PAGE#** 1 of 2

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

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated the named officers failed to arrest her neighbor for a restraining order violation.

Body-worn camera (BWC) footage showed that the complainant told the named officers that her neighbor had violated a Temporary Restraining Order (TRO) by walking past her door. The complainant showed the named officers two doorbell camera videos, which showed the complainant's neighbor walking past her door earlier that day. The complainant provided a copy of a TRO listing her neighbor as the restrained party and ordering her neighbor to stay 3 yards away when inside the apartment building. The complainant told the named officers that her neighbor lived across and down the hallway from her, and that the complainant's door was located between her neighbor's door and the stairway, the elevator and the trash chute. The complainant told the named officers that she wanted her neighbor to stay on her side of the hallway and to refrain from walking past her door. BWC footage showed that the named officers attempted to talk with the complainant's neighbor, who opened the door for the named officers but said she was sick and quickly closed the door.

Department records indicated that the named officers documented the incident in a report. The named officers confirmed that the TRO was valid and that it had been served on the complainant's neighbor. The incident report noted that the TRO did not indicate whether the 3-yard stay away order was specific to the complainant herself or to the complainant's front door.

Court records confirmed the terms of the TRO and that it was valid at the time of the incident.

The evidence showed that the named officers did not have probable cause to arrest the complainant's neighbor for a restraining order violation. The complainant's neighbor walking past the complainant's door was not, by itself, a violation of the TRO. It would be an unreasonable interpretation of the TRO to consider such conduct a violation, especially considering that the complainant's door was located between her neighbor's door and access to the stairwell, the elevator and the trash chute. Additionally, no evidence suggested whether the restrained party had any way of knowing whether the complainant was home. Even if the conduct had been a violation of the TRO, the named officers could not have arrested the complainant's neighbor without an arrest warrant because the complainant's neighbor remained inside her

residence. The DPA found that the named officers took appropriate steps by attempting to talk with the complainant's neighbor and by documenting the incident in a report.

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The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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

CATEGORY OF CONDUCT: NA

FINDING: IO-1/IAD

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

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

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COMPLAINT DATE: 10/05/22

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

CATEGORY OF CONDUCT: CUO

FINDING: PC

FINDINGS OF FACT: The complainant received a traffic citation from the named officer for speeding. They alleged that the named officer acted disrespectfully and condescendingly during the traffic stop.

The named officer stated he was parked in his marked vehicle working traffic enforcement when he observed the complainant driving at a high rate of speed. Through visual estimation and vehicle pacing, the named officer said he determined the complainant was driving over the posted 25 mph speed limit. The named officer then initiated a traffic stop. The named officer said he had a command presence demeanor due to the rate of speed the complainant was driving, and the possibility that the complainant could have been fleeing the scene of a crime. The named officer stated that he treated the complainant leniently. He lowered the complainant's observed speed on the citation. His tone with the complainant changed to disbelief because it appeared that the complainant did not understand why he was receiving a lesser citation rather than a set of harsher penalties for their driving speed.

The DPA obtained the CAD for the incident. It stated that the complainant was cited for driving at a high rate of speed, more than 50 mph, on a street with a 25 mph speed limit.

The DPA obtained and reviewed the named officer's body-worn camera footage from the incident. The named officer admonished the complainant for driving at high speed in a 25 mph zone. The officer told the complainant that he reduced the documented speed on their citation, so they would avoid being cited for reckless driving and having their license suspended.

A witness riding with the complainant at the time of the incident stated that the named officer was rude and spoke sarcastically.

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

DPA understands how the named officer's demeanor, comments, and behavior could be perceived as unusual or a bit rude, but they did not rise to the level of misconduct. The named officer felt that he was giving the complainant a break by only citing them for an infraction. The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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COMPLAINT DATE: 10/24/22 DATE OF COMPLETION: 03/22/23 PAGE# 1 of 3

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

CATEGORY OF CONDUCT: UF

FINDING: PC

FINDINGS OF FACT: The complainant stated that the named officers used excessive force on him. The complainant stated that he was struck to the face and had his head pushed into a window by the named officers.

The named officers stated that they used justifiable force. The named officers stated that the force used was to subdue the complainant after he had acted violently towards one of the named officers. The complainant continued to resist and had to be held while being handcuffed. The named officers denied pushing the complainant's face into a window and did not see any other officer perform this act.

One of the named officers stated that he struck the complainant with a fist to the face after the complainant used a closed fist to hit the officer in the face. Two other officers confirmed that they saw the complainant strike the officer.

San Francisco Police Department records show the complainant was arrested after assaulting officers and chasing a member of the public.

Body-worn camera footage showed the complainant chasing a member of the public. One named officer stood between the complainant and the member of the public. The complainant assaulted an officer by striking his arm with his hand. The complainant is pushed to the floor where officers attempted to restrain him. The footage showed the complainant bring his arm up with a closed fist towards an officer's face. The officer is then seen striking the complainant with a fist to the face before being able to turn the complainant over onto his belly and place the complainant in handcuffs with the assistance of other officers.

Surveillance footage from the police station showed the complainant chasing after two members of the public. The complainant stood in a doorway and swung his fist at an officer in the doorway. The officer used two hands to push the complainant to the floor. Multiple officers then piled on the complainant to subdue him. The footage showed the complainant and two officers struggling near the complainant's head briefly before the complainant was subdued and placed in handcuffs by another officer.

Department General Order 5.01, Use of Force, states that when a subject is being assaultive – meaning aggressively attempting to assault an officer or another person or displaying an intention to assault an officer or another person – the officer may use force such as the use of personal body weapons to gain control of the suspect. The DGO defines body weapons as an officer's use of their body part, including

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but not limited to hand, foot, knee, elbow, shoulder, hip, arm, leg, or head by means of high velocity kinetic energy transfer (impact) to gain control of a subject.

The complainant entered a police station and was chasing two members of the public around. Officers confronted the complainant, and the complainant threw a punch at one officer. An officer pushed the complainant to the ground and appeared to try and punch an officer again. One of the named officers punched the complainant in the facial area, and the complainant was subdued. The level of force used was justified and proportionate to the level of threat presented by the complainant. The use force was within policy.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

SUMMARY OF DPA-ADDED ALLEGATIONS #1-2: The officers failed to activate a body-worn camera as required.

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: During its investigation, the DPA discovered that two officers failed to activate their body-worn cameras (BWC) as required by SFPD Policy.

The first named officer activated his camera after the incident had already begun. This named officer stated that he was inside a police station where he cannot have his BWC on due to policy. He walked into the lobby and approached two people and at that time was unsure what was happening. One of the parties struck an officer in the arm. At this point the named officer activated his BWC. The named officer stated he activated as soon as it was practical to do so after the party became hostile, keeping in mind officer safety. The named officer noted in the incident report his late activation per SFPD policy.

The second named officer stated that she was in a police station and had her camera off as per SFPD policy. She was informed of a situation in the station lobby which was ten feet from where she was. On entering the lobby, the complainant saw her colleague being assaulted and acted to restrain the suspect. The named officer stated that her first concern was restraining the suspect and so she did not activate her camera. The named officer recorded the failure to activate in the incident report per SFPD policy.

SFPD documents show that both named officers recorded that they failed to activate their body-worn cameras.

SFPD DGO 10.11 and DB 20-175 Body Worn Cameras state that officers should activate their cameras during all detentions and arrests and during any encounter with a member of the public that becomes

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hostile. Unless an immediate officer safety concern exists, the Event button shall be activated as soon as safely possible and continue recording until the contact or incident is concluded.

It is also stated that members shall turn the BWC off completely while in private areas of police facilities, including but not limited to locker rooms, restrooms, or other areas where they will not be in contact with members of the public who may be the suspect, witness or victim of a crime.

Finally it is stated that Members submitting an incident report or completing a written statement shall indicate whether the BWC was activated and whether it captured footage related to the incident.

The named officers did not activate their body-worn cameras due to the hostile situation and the concern for officer safety. Both officers recorded that their cameras were not activated in their reports.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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COMPLAINT DATE: 11/04/22 COMPLETION DATE: 03/15/23 PAGE# 1 of 1

SUMMARY OF ALLEGATION #1: The officer drove a City vehicle in a grossly negligent or reckless manner.

CATEGORY OF CONDUCT: ND

FINDING: NF

FINDINGS OF FACT: The complainant stated that an officer drove recklessly through a red light without activating their siren. The complainant was riding his bike when he was forced to brake suddenly due to a police vehicle running through a red light. The officer was ignoring traffic laws and endangering people's lives.

No other witnesses were identified.

Department records were requested to identify the officer who was driving the patrol vehicle with the license plate number that the complainant provided. An ID Poll, as well as Fleet Management Records, were returned with negative results.

Attempts to follow up with the complainant were made to inquire if any more information could be provided. However, these attempts were not responded to by the complainant.

No finding outcomes occur under four circumstances: the complainant did not provide additional requested evidence, the complainant requested a withdrawal of the complaint, the officer could not reasonably be identified, or the officer is no longer with the Department and therefore is no longer subject to Department discipline.

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COMPLAINT DATE: 11/14/22 COMPLETION DATE: 03/15/23 PAGE# 1 of 3

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

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complainant was working as a driver for a rideshare company and stated that he parked his vehicle outside of an airport parking lot. He stated that he noticed a police vehicle drive by and since he thought he was parked in the wrong area, he got in his vehicle and pulled away. He stated that the named officer turned around, pulled him over and told him that he was parked in a restricted area. The complainant said he asked the named officer why he did not pull over the other vehicles also parked in the area, and the named officer replied that he was the last vehicle and later commented something regarding his own rules and laws. The complainant stated that he was pulled over without justification.

The named officer stated that while on patrol he noticed several vehicles stopped next to a fence in a restricted area. He stated that the complainant's vehicle was the last vehicle stopped in that area and the vehicle was blocking a bicycle lane nearby a posted "Tow Away" sign that indicated there was no parking or staging of vehicles in the area. He said he stopped the complainant's vehicle and had probable cause to do so as the complainant violated California Vehicle Codes by blocking a bike lane and disobeying signs in the area. He said the complainant asked why he was stopped rather than other vehicles and he advised the complainant that he was only able to stop one vehicle at a time and that he stopped the last vehicle parked next to fence. He denied telling the complainant it was his law during their conversation and when further questioned by the complainant advised him that it was his decision to make the stop.

There was no available body-worn camera footage because no airport officers were equipped with them at the time.

Street view images of the area showed a bike lane next to a fence as well as a posted "Tow Away" sign that indicated there was no parking or staging of vehicles or equipment within ten feet of the fence.

Both the complainant's statements and the street view images show the named officer had reasonable suspicion to stop the complainant.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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

CATEGORY OF CONDUCT: UA

FINDING: IE

FINDINGS OF FACT: The complainant was working as a driver for a rideshare company and stated that the named officer pulled him over and cited him for being parked in a restricted area and for failure to display his rideshare company credentials properly. He stated that he had his credentials on his dashboard and the named officer said they needed to be on his windshield. The complainant said that he was cited without justification.

The named officer stated that he stopped the complainant's vehicle and spoke with the complainant who said that he was working as a driver for a rideshare company. He said he did not observe any trade dress on his front or rear windshield, or an appropriate permit displayed on his windshield or dashboard in violation of San Francisco International Airport Rule 4.7. He stated that after confirming the vehicle was a rideshare vehicle, he issued the complainant an administrative citation. The citation was issued for not complying with road markings for parking in the bike lane and for disobeying a tow away sign as well as for lack of proper trade dress and placard. The named officer stated the complainant later pulled out what appeared to be his permit document from his glove box and placed it on the dashboard during their conversation, but he did not adjust the citation as the complainant had committed the violation at the time he was stopped.

A supervising officer stated that he was called to the scene by the named officer as the complainant believed he was wrongfully issued a citation and had requested a supervisor. The witness officer stated that the named officer informed him that he issued the complainant an administrative citation for not obeying the posted signs along the roadway and for lack of proper trade dress and placard. He stated that he spoke with the complainant and explained how he can contest the administrative citation if he felt he was wrongfully cited. He stated that he did not see if the complainant had the proper rideshare placard during the interaction.

The complainant provided a copy of an administrative citation that was issued to him by the named officer. He was cited for failure to comply with all signs and road markings and for lack of proper trade dress and placard.

There was no available body-worn camera footage because no airport officers were equipped with them at the time.

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Street view images of the area showed a bike lane next to a fence as well as a posted “Tow Away” sign that indicated there was no parking or staging of vehicles or equipment within ten feet of the fence.

It is unclear if the complainant had the proper trade dress and permit materials displayed when he was stopped and there was no objective evidence to support the complainant’s or the named officer’s version of events.

The evidence fails to prove or disprove that the alleged conduct occurred.

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DATE OF COMPLAINT: 11/20/22 **DATE OF COMPLETION:** 03/20/23 **PAGE# 1 of 1**

SUMMARY OF ALLEGATION #1: The officer drove improperly.

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

FINDINGS OF FACT: By mutual agreement of the complainant and named officer, the complaint was mediated and resolved in a non-disciplinary manner on 3/5/23.

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DATE OF COMPLAINT: 10/03/22 **DATE OF COMPLETION:** 03/15/23 **PAGE# 1 of 1**

SUMMARY OF ALLEGATION #1: The officer failed to make an arrest.

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated that the named officer failed to arrest her neighbor for a restraining order violation.

Body-worn camera (BWC) footage showed that the complainant told the named officer that her neighbor put a cardboard box in front of her door, in violation of a Temporary Restraining Order (TRO). The complainant showed the named officer a copy of the TRO and a doorbell camera video. BWC footage showed that the named officer spoke with the building manager, who told the named officer that he instructed the complainant's neighbor to put her trash outside the door to the stairwell, which was located directly across from the complainant's door. BWC footage showed that the named officer told the complainant he did not believe the complainant's neighbor violated the restraining order because the building manager asked the complainant's neighbor to put her trash near the door to the stairwell. BWC showed that the named officer talked to the complainant's neighbor (whose residence was located across and down the hall from the complainant's residence) and asked her to stay away from the complainant and to put her trash in front of her own door.

Court records confirmed that the TRO was valid at the time of the incident. The terms of the TRO indicated that the complainant's neighbor must stay 3 yards away while both parties were inside the apartment building.

The evidence shows that the named officer did not have probable cause to arrest the complainant's neighbor for a restraining order violation. The complainant's neighbor placing her trash near the complainant's door pursuant to the building manager's instruction was not, by itself, a violation of the TRO absent some evidence that it was done purposely to harass the complainant. It would be an unreasonable interpretation of the TRO to consider such conduct a violation, especially considering that the complainant's door was located between her neighbor's door and access to the stairwell, the elevator and the trash chute.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated that the named officers failed to arrest her neighbor for a restraining order violation.

Body-worn camera (BWC) footage showed that the complainant told the named officers that her neighbor had violated a Civil Harassment Restraining Order (RO). The complainant showed the named officers a copy of the RO and provided a doorbell camera video, which showed the complainant's neighbor walking past the complainant's door to the trash chute and then back past the complainant's door, raising her elbow and saying something in another language. The named officers called a sergeant, who instructed them to try to contact the complainant's neighbor and to arrest her if she admitted to violating the restraining order, and to write a report if the complainant's neighbor did not want to talk or did not answer the door. BWC footage showed that the named officers attempted to contact the complainant's neighbor (whose residence was located across and down the hall from the complainant's residence), but the complainant's neighbor did not answer the door.

Department records indicated that the named officers documented the incident in a report, which noted that the complainant's neighbor must walk in front of the complainant's door in order to use the stairs, the elevator and the trash chute. The incident report also noted that based on the available evidence, the named officers did not find that the complainant's neighbor acted with malice, negligence or intent to violate the RO.

Court records confirmed that the RO was valid at the time of the incident. The terms of the RO indicated that the complainant's neighbor must not harass or contact the complainant and that she must stay 2 yards away while inside the apartment building.

The evidence shows that the named officers did not have probable cause or authority to arrest the complainant's neighbor for a restraining order violation. The video was not clear that the complainant was saying anything harassing, or anything directed at the complainant's camera. Additionally, the complainant's door was located between her neighbor's door and access to the stairwell, the elevator and the trash chute. Even if the conduct had been a violation of the RO, the named officers could not have arrested the complainant's neighbor without an arrest warrant because the complainant's neighbor did not

answer the door. The DPA found that the named officers took appropriate investigative steps by attempting to talk with the complainant's neighbor and by documenting the incident in a report as instructed by their sergeant.

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The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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COMPLAINT DATE: 11/02/22 COMPLETION DATE: 03/15/23 PAGE# 1 of 1

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

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated that the named officers failed to arrest her neighbor after she caught her neighbor trespassing in her apartment.

Body-worn camera (BWC) footage showed that the complainant told the named officers that she believed someone had trespassed into her apartment because her phone alerted her to a manual key entry to her door while she was away. The complainant told the named officers that nothing was missing from her apartment. BWC footage showed that the named officers spoke to the building manager, who stated that there had been a building inspection that day and that he and the landlord noticed that the complainant's door was open and unlocked, so they closed and secured the complainant's door. The building manager said that nobody went into the complainant's apartment, and that the landlord had tried to contact the complainant multiple times that day to inform her that her door had been left open. BWC footage showed that the complainant's neighbor spoke to the named officers and told them that she saw the complainant's door open for 5-6 hours that day and that she had reported it to the building manager. The complainant thanked her neighbor, and the named officers left the scene without taking further action.

Department records indicated that the named officers closed the incident with disposition, "No Merit."

The evidence shows that the named officers did not have reason to believe that a crime had occurred, or that the complainant's neighbor had trespassed into the complainant's apartment.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 11/28/22 **DATE OF COMPLETION:** 03/15/23 **PAGE# 1 of 1**

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

CATEGORY OF CONDUCT: ND

FINDING: M

FINDINGS OF FACT: By mutual agreement of the complainant and a representative for SFPD, the complaint was mediated and resolved in a non-disciplinary manner on 2/28/23.

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COMPLAINT DATE: 12/06/22 **COMPLETION DATE:** 03/15/23 **PAGE# 1 of 1**

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

CATEGORY OF CONDUCT: CUO

FINDING: NF

FINDINGS OF FACT: An officer accosted the complainant, and their friend, in an unprovoked encounter that led to the officer getting in the complainant's face.

Attempts were made to identify the officer by requesting an ID Poll and a cursory search of possible interactions an officer may have had with the complainant based on the information provided. Additionally, the DPA requested to speak to the complainant to ascertain more details about the incident. The complainant did not respond to those attempts.

While the evidence does not support that the unknown officer behaved or spoke inappropriately to the complainant, DPA could not prove or disprove the complaint based on the information provided.

No findings are made if the officer cannot reasonably be identified.

SUMMARY OF ALLEGATION #2: The officer intentionally damaged property.

CATEGORY OF CONDUCT: UA

FINDING: NF

FINDINGS OF FACT: The officer stormed out of their vehicle and poured the beverages the complainant (and a friend) had on the complainant's property.

Attempts were made to identify the officer by requesting an ID Poll and a cursory search of possible interactions an officer may have had with the complainant based on the information provided. Additionally, the DPA requested to speak to the complainant to ascertain more details about the incident. The complainant did not respond to those attempts.

While the evidence does not support that the unknown officer behaved or spoke inappropriately to the complainant, DPA could not prove or disprove the complaint based on the information provided.

No findings are made if the officer cannot reasonably be identified.

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COMPLAINT DATE: 12/08/22 **COMPLETION DATE:** 03/15/23 **PAGE# 1 of 2**

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

CATEGORY OF CONDUCT: ND

FINDING: NF

FINDINGS OF FACT: The complainant stated that an individual took his cookies and would not return them. He stated that he got into a dispute with this individual over the cookies and observed three officers in the area. He stated that the officers approached and told him and the other individual to leave the area. He stated that the officers ignored and failed to assist him during the incident.

A search of department records failed to identify the officers.

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

No finding outcomes occur under four circumstances: the complainant did not provide additional requested evidence, the complainant requested a withdrawal of the complaint, the officer could not reasonably be identified, or the officer is no longer with the Department and therefore is no longer subject to Department discipline.

SUMMARY OF ALLEGATION #2: The officer knowingly engaged in biased policing or discrimination.

CATEGORY OF CONDUCT: CUO

FINDING: NF

FINDINGS OF FACT: The complainant stated an individual took his cookies and would not return them. He stated that he got into a dispute with this individual over the cookies and observed three officers in the area. He stated that the officers approached and told him and the other individual to leave the area. He stated that he felt the officers' behavior was discriminatory and that they ignored and failed to assist him because of his age and ethnicity.

A search of department records failed to identify the officers.

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

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No finding outcomes occur under four circumstances: the complainant did not provide additional requested evidence, the complainant requested a withdrawal of the complaint, the officer could not reasonably be identified, or the officer is no longer with the Department and therefore is no longer subject to Department discipline.

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COMPLAINT DATE: 12/23/22 **COMPLETION DATE:** 03/16/23 **PAGE# 1 of 2**

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

CATEGORY OF CONDUCT: ND

FINDING: NF

FINDINGS OF FACT: The complainant reported that an individual threatened him. Officers responded and obtained a statement from him, and he provided an audio recording of the suspect's threat. The complainant stated an officer later called and advised him that his case was not being forwarded to the San Francisco District Attorney's Office (SFDA). The complainant stated that his case should have been forwarded to the SFDA's office.

Department records revealed that an incident report was authored for this incident and that the case was not assigned for follow-up investigation.

The reporting officer documented their determination that no elements of criminal threats were met based on the lack of third-party witnesses and their review of an audio recording provided by the complainant. Department records showed that this case was not assigned for further investigation.

Officer identification polls were sent to the district station where the incident occurred to identify the supervising officer responsible for reviewing and evaluating the incident report. The DPA also sent a poll to identify the officer that allegedly called the complainant and told him his case was not being forward to the SFDA's Office. Both polls came back with negative results.

Body-worn camera (BWC) footage showed that the complainant told the responding officers that an individual threatened him, and he had an audio recording. BWC footage showed when they listened to recordings, the complainant commented that he was not afraid of the other individual but of what she could do if she called someone. The complainant made a comment at one point about empty threats. He clarified that on the recording he said that the other party was "full of it" and that he couldn't believe the other party was threatening him. The officers spoke to the other individual and attempted to obtain video surveillance footage from the property manager, but it was unavailable at the time.

An audio recording submitted as evidence with the incident report documented that an individual stated "you better not go outside, and that's a threat" as well as something about others having pistols. It also documented that the complainant told the other individual to tell their friend to be ready and that he was going outside.

The responding officer for this incident stated that he did not find probable cause for the alleged threats. He stated there were no third-party witnesses, no specific threat was made to the complainant, the

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 12/23/22 COMPLETION DATE: 03/16/23 PAGE# 2 of 2

complainant could not articulate being in sustained fear for his safety, and that the complainant made a comment stating that he was going to go outside and meet with the alleged other parties.

Department Notice 20-107, Case Assignments for Investigation, states that when assigning cases for investigation, staffing levels and other factors should be considered, including the severity of the crime, the solvability of the crime, the presence or lack of physical evidence and the presence or lack of video footage.

The DPA was unable to identify the supervising officer responsible for assigning this case for investigation.

No finding outcomes occur under four circumstances: the complainant did not provide additional requested evidence, the complainant requested a withdrawal of the complaint, the officer could not reasonably be identified, or the officer is no longer with the Department and therefore is no longer subject to Department discipline.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 12/14/22 **DATE OF COMPLETION:** 03/15/23 **PAGE# 1 of 1**

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

CATEGORY OF CONDUCT: ND

FINDING: M

FINDINGS OF FACT: By mutual agreement of the complainant and a representative for SFPD, the complaint was mediated and resolved in a non-disciplinary manner on 2/28/23.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 12/21/22 COMPLETION DATE: 03/16/23 PAGE# 1 of 1

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

CATEGORY OF CONDUCT: CUO

FINDING: U

FINDINGS OF FACT: The complainant stated the named officer spit on his porch and foot. Additionally, the complainant stated the officer was "loud-mouthed" and "made a scene in his neighborhood."

The body-worn camera (BWC) video evidence captured the complainant chastising the officer for spitting outside his house but did not capture the officer spitting. The officer is heard explaining to the complainant the need to spit due to having acid reflux and apologizes. The footage showed the officer standing on the sidewalk next to the boundary wall of the complainant's property while the complainant stood inside his property behind the boundary wall. There is no evidence of the officer behaving or speaking inappropriately. The BWC evidence shows that the named officer acted calmly and professionally throughout his contact with the complainant.

Department General Order 2.01, 14. PUBLIC COURTESY states: "When acting in the performance of their duties, while on or off duty, members shall treat the public with courtesy and respect and not use harsh, profane or uncivil language. Members shall also address the public using pronouns and titles of respect appropriate to the individual's gender identity as expressed by the individual. When requested, members shall promptly and politely provide their name, star number, and assignment. "

Based on the officer's verbal response, he acknowledges that he spit on the ground. The complainant's assertion that the officer spits on his porch and his foot is not corroborated by the BWC. The complainant is standing on the porch above the two officers on the scene. He is standing behind what appears to be a wall or fence. The complainant only questions the officer about spitting outside his house and makes no mention the officer spit on his foot or porch. The officer also stands about four to five feet from the complainant. The officer was sincere in his apology when the complainant remarked about it.

The BWC did not support the complainant's allegation against the named officer.

The evidence proves that the conduct alleged did not occur.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 12/22/22 COMPLETION DATE: 03/15/23 PAGE# 1 of 2

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

CATEGORY OF CONDUCT: CUO

FINDING: PC

FINDINGS OF FACT: The complainant was cited for failing to stop at a stop sign. The officer who issued the citation refused to show the complainant a video of her failing to stop, so she initially refused to sign the citation. The complainant perceived the officer's behavior as inappropriate because every time she asked to see the video, the officer said she needed to sign the citation and could dispute the citation later. The complainant stated that the officer also yelled at her.

Body-worn camera footage showed that the named officer promptly and courteously explained the reason for the traffic stop. The complainant asked to see video evidence of her failure to stop at the crosswalk. The officer said that he could not show her the footage and explained that signing the citation was not an admission of guilt. The officer also explained that she could dispute the citation after the fact. The complainant argued with the officer and raised her voice, at which point the officer also raised his voice and advised the complainant to listen and to stop interrupting and talking over him.

While Department General Order 2.01, Rule 14, Public Courtesy, requires officers to treat the public with courtesy and respect and not use harsh, profane, or uncivil language.

Department General Order 5.01, Use of Force, advises officers to use verbal commands with noncompliant subjects.

Records showed that the complainant was cited for failing to stop at a crosswalk. When issuing traffic citations, California law requires officers to arrest drivers who refuse to sign a citation.

The investigation showed that although the complainant perceived the officer's behavior as inappropriate, his behavior complied with Department policies.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 12/22/22 COMPLETION DATE: 03/15/23 PAGE# 2 of 2

SUMMARY OF ALLEGATION #2: The officer displayed threatening, intimidating, or harassing behavior.

CATEGORY OF CONDUCT: CUO

FINDING: PC

FINDINGS OF FACT: The complainant stated the officer discriminated against her by threatening to take her to jail for refusing to sign the citation.

Body-worn camera footage showed the officer explaining that he would be required to take her to jail for refusing to sign the citation. The complainant refused to sign the citation several times, demanded to be shown video footage of her traffic violation, and complained that other drivers were not being cited for the same violation. The officer explained that he was doing enforcement at the intersection and that he had just cited another driver for the same violation. He explained that he could only issue one citation at a time, which is why he could not also cite the people passing them during the traffic stop. The officer gave the complainant several chances to comply. The complainant signed the citation when the officer explained that he would need to remove her from her car and arrest her if she did not sign the citation. The officer explained that the citation was not an admission of guilt and that there were procedures for contesting the citation.

Department General Order 5.06, Citation Release, outlines procedures for citing a person who refuses to sign a notice to appear. Officers are advised to explain that signing a citation is not an admission of guilt and to give the person another opportunity to sign. Officers are required by California law to arrest an individual who refuses to sign a citation.

The officer complied with department policies and procedures. Although the complainant perceived the interaction as intimidating, the officer's behavior aligned with procedures.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 12/26/22 **COMPLETION DATE:** 03/15/23 **PAGE# 1 of 2**

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

CATEGORY OF CONDUCT: ND

FINDING: U

FINDINGS OF FACT: The complainant, who is white, stated that the named officer, who is Asian, failed to investigate an incident where he was the victim of a hit-and-run. The complainant stated that the named officer did not investigate because the person who hit him with her vehicle was also Asian.

The named officer stated he does not recall the incident, nor does he recall interacting with the complainant.

DPA could not locate police records documenting the alleged incident as described by the complainant.

The complainant's credibility is questionable as he made several overtly biased and racist statements about the named officer, witnesses, and others. In addition, the complainant failed to respond to multiple requests for further information to help identify the incident he was complaining of.

The evidence proves that the conduct alleged did not occur or that the accused officer was not involved.

SUMMARY OF ALLEGATION #2: The officer knowingly engaged in biased policing or discrimination.

CATEGORY OF CONDUCT: CUO

FINDING: U

FINDINGS OF FACT: The complainant, who is white, stated that the named officer, who is Asian, failed to investigate an incident where he was the victim of a hit-and-run. The complainant stated that the named officer did not investigate because the person who hit him with her vehicle was also Asian. The named officer denied engaging in biased policing. He stated he does not recall the incident, nor does he recall interacting with the complainant.

DPA could not locate police records documenting the alleged incident as described by the complainant.

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COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 12/26/22 COMPLETION DATE: 03/15/23 PAGE# 2 of 2

The complainant's credibility is questionable as he made several overtly biased and racist statements about the named officer, witnesses, and other people of color. In addition, the complainant failed to respond to multiple requests for further information to help identify the incident he was complaining of.

The evidence proves that the conduct alleged did not occur or that the accused officer was not involved.

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 12/29/22 **DATE OF COMPLETION:** 03/15/23 **PAGE# 1 of 1**

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

CATEGORY OF CONDUCT: NA

FINDING: IO-1/DEM

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: 12/29/22 DATE OF COMPLETION: 03/15/23 PAGE# 1 of 1

SUMMARY OF ALLEGATION #1: The officers behaved or spoke inappropriately.

CATEGORY OF CONDUCT: CUO

FINDING: NF

FINDINGS OF FACT: The complainant stated that the named officers followed him around, constantly harassed him, and stole from him.

The officers could not reasonably be identified.

SUMMARY OF ALLEGATION #2: The officers engaged in unwarranted action.

CATEGORY OF CONDUCT: UA

FINDING: NF

FINDINGS OF FACT: The complainant stated that the named officers were undocumented and working illegally.

The officers could not reasonably be identified.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 01/04/23 COMPLETION DATE: 03/15/23 PAGE# 1 of 1

SUMMARY OF ALLEGATION #1: The officer displayed threatening, intimidating, or harassing behavior.

CATEGORY OF CONDUCT: CUO

FINDING: U

FINDINGS OF FACT: The complainant stated that his son's mother did not take his son to a police station for their arranged visitation exchange. He said he requested a police standby, parked his vehicle down the street from the mother's residence, and waited for officers to respond to assist with the visitation exchange. He stated that the named officer arrived and told him multiple times that he could be arrested for harassment. He stated that the named officer threatened him with arrest for no reason.

Department records documented a call for a citizen standby. Department records showed that the named officer responded to a call for a custody dispute.

Body-worn camera (BWC) footage for this incident showed that the named officer contacted the complainant and calmly discussed the family court matter and court order with him. The footage showed that the visitation exchanges appeared to be an ongoing issue for the complainant. The named officer advised the complainant that he could attempt to contact his son's mother to find out what was going on and that the court order does not allow the police to take a child and move them from one parent to another. BWC footage showed that the named officer advised the complainant that if the mother documented him showing up and parking outside her residence when there are legitimate reasons for the visitation exchange to not take place, it could potentially not work in his favor. BWC footage showed that the named officer spoke with the child's mother. The mother agreed to conduct the visitation exchange later at a police station. The named officer relayed the information to the complainant. BWC footage does not show the named officer threatening the complainant with arrest for harassment or for any other reason.

The evidence proves that the conduct alleged did not occur.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 01/06/23 COMPLETION DATE: 03/15/23 PAGE# 1 of 1

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

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated that he was arrested, and his puppy was taken by the arresting officers. The complainant stated that he received documentation, but that documentation told him that the dog did not exist. The complainant was unaware of what happened to his puppy.

An incident report documented that the complainant was arrested, and the named officer took possession of the puppy. The report further documented that the puppy was brought to a police station and subsequently “seized” by San Francisco Animal Care and Control (SFACC). The report noted that the SFACC seizure paperwork was provided to the complainant with the rest of the complainant’s property.

Body-worn camera footage showed the named officer taking possession of the puppy and officers discussing calling SFACC for assistance.

The Department of Police Accountability (DPA) obtained documentation from SFACC, which detailed that an SFACC officer responded to the police station and took custody of the puppy. The seizure paperwork stated that SFACC was conducting an investigation into a possible violation of laws pertaining to cruelty or neglect of animals. SFACC also sent at least two letters to the complainant regarding the impounding of his animal.

The evidence showed that the named officer kept the puppy safe after the complainant’s arrest. The SFACC seized the puppy from police, which the reporting SFPD officer documented in an incident report. The SFACC seizure documentation was included with the complainant’s property. The paperwork did not state that the puppy did not exist as the complainant claimed.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 01/13/23 COMPLETION DATE: 03/16/23 PAGE# 1 of 3

SUMMARY OF ALLEGATION #1: The officer failed to receive a private person arrest (citizen arrest).

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant, an emergency room nurse, stated she reported to the named officer that three days prior, a recently discharged patient (“subject”) became angry, and when she attempted to use the phone to call for help, the subject grabbed the phone from her and slammed it down. She stated she provided the named officer with the subject’s name and contact information, and although the subject was not present at the time, she told the officer that she wanted the suspect arrested. In addition, the complainant stated she also asked for a police report which was never written.

The named officer stated he was dispatched to the complainant’s place of employment regarding a possible assault. He stated the complainant told him that a recently discharged patient (“subject”) became angry three days prior, grabbed a phone, and slammed it down. He stated the complainant did not inform him that the subject grabbed the phone from her hands. The named officer stated the subject was not present at the time of the complainant’s report, but she provided him with the subject’s name and contact information and told him that the subject “needs to be arrested or something.” The named officer stated he investigated by asking the complainant questions regarding property damage, robbery, and assault, all of which were negative. Based on the complainant’s responses, he determined a crime did not occur. The named officer stated he did not write a police report but documented the incident in the CAD, which was acceptable to the complainant.

Department records indicate the named officer responded to the complainant’s place of employment regarding a possible assault that occurred three days prior. There was no record of an incident report.

Body-worn camera footage was unavailable as the incident occurred inside a hospital where Department policy prohibits recording.

Department General Order 5.04 states in the relevant part, “A private person may arrest for public offenses not committed in the member’s presence, and the member is required to receive a person so arrested.” In addition, it states, “If probable cause does not exist, accept the arrest and then advise the individual that they are free to leave. In the event of no arrest or citation, the member shall advise and explain the situation to both parties and shall document the incident in a report.”

The complainant and the named officer offered differing facts regarding what the complainant reported regarding the actions of the discharged patient. Based on the evidence, it is unclear if probable cause existed for the named officer to arrest or cite the subject under Department General Order 5.04. However,

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COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 01/13/23 COMPLETION DATE: 03/16/23 PAGE# 2 of 3

because the subject was not present when the request for arrest was made, the named officer would not be able to place him under arrest, and therefore he did not violate Department Policy.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

SUMMARY OF ALLEGATION #2: The officer failed to write an incident report.

CATEGORY OF CONDUCT: ND

FINDING: IC/S

FINDINGS OF FACT: The complainant, an emergency room nurse, stated she reported to the named officer that three days prior, a recently discharged patient (“subject”) became angry, and when she attempted to use the phone to call for help, the subject grabbed the phone from her hand and slammed it down, thus preventing her from calling for help. She stated she provided the named officer with the subject’s name and contact information, and although the subject was not present at the time, she told him that she wanted him arrested. In addition, the complainant stated she also asked for a police report which was never provided.

The named officer stated he was dispatched to the complainant’s place of employment regarding a possible assault. He stated the complainant told him that a recently discharged patient (“subject”) became angry three days prior, grabbed a phone, and slammed it down. He stated the complainant did not inform him that the subject grabbed the phone from her hands. The named officer stated the subject was not present at the time of the complainant’s report, but she provided him with the subject’s name and contact information and told him that the subject “needs to be arrested or something.” The named officer stated he investigated by asking the complainant questions regarding property damage, robbery, and assault, all of which were negative. Based on the complainant’s responses, he determined a crime did not occur. The named officer stated he did not write a report and did not recall if the complainant asked him to write a report. He stated he is required to write a report when there is a crime or one is requested. He stated he was not required to write a report under Department General Order 5.04 because the complainant did not make an arrest. He stated he documented the incident in the CAD, which was acceptable to the complainant.

Department records indicate the named officer responded to the complainant’s place of employment regarding a possible assault that occurred three days prior. There was no record of an incident report.

Body-worn camera footage was unavailable as the incident occurred inside a hospital where Department policy prohibits recording.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 01/13/23 COMPLETION DATE: 03/16/23 PAGE# 3 of 3

Department General Order 5.04 states in the relevant part, “A private person may arrest for public offenses not committed in the member’s presence, and the member is required to receive a person so arrested.” In addition, it states, “If probable cause does not exist, accept the arrest and then advise the individual that they are free to leave. In the event of no arrest or citation, the member shall advise and explain the situation to both parties and shall document the incident in a report.”

The named officer acknowledged that the complainant indicated to him that she wanted the subject arrested. Although the named officer did not arrest or cite the subject because he found that there was no probable cause that a crime occurred, he was still obligated under Department General Order 5.04 to write a report to document the incident. The named officer violated Department policy by not writing a report.

A preponderance of the evidence proves that the alleged conduct occurred and that the conduct violated Department policy or procedure.

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COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 01/15/23 COMPLETION DATE: 03/15/23 PAGE# 1 of 1

SUMMARY OF ALLEGATION #1-6: The officers failed to take required action.

CATEGORY OF CONDUCT: ND

FINDING: U

FINDINGS OF FACT: The complainant stated the named officers allowed burglars to flee from the home of their neighbor.

Department records document that the named officers responded to a call for service for a residential burglary. The records indicate that there were no suspects at the scene when the officers arrived.

Body-worn camera footage showed the named officers respond to a residence that was reported to have been burglarized. The footage showed the named officers make entry into the home and encounter the resident who reported the burglary. The footage does not show a suspect on scene at any time.

Evidence shows that the named officers did not let the suspect flee as there were no suspects on scene when the named officers arrived.

The evidence proves that the conduct alleged did not occur.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 01/17/23 COMPLETION DATE: 03/15/23 PAGE# 1 of 2

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

CATEGORY OF CONDUCT: CUO

FINDING: PC

FINDINGS OF FACT: The complainant stated he went to the police station to pick up a vehicle release form after he was informed his stolen vehicle was recovered. He stated that while at the station, the named officer served him with a restraining order that only gave him four days' notice for the family court hearing. He stated the named officer acted maliciously by serving him with the restraining order because he only went to the station for the vehicle release form.

The named officer stated his supervisor directed him to serve the complainant with a restraining order at the police station. He stated that it is his understanding that per Department General Order 6.18, he was required to serve the restraining order.

Department records indicate that the complainant was served with a restraining order from the family law court.

Body-worn camera footage showed the named officer serving the complainant with a restraining order from the family law court.

Department General Order 6.18 (Warrant Arrests) states in the relevant part that officers must conduct a warrant check before issuing a vehicle release.

Department General Order 6.09 (Domestic Violence) III Ic Notification/Service by Members states, "If existence of a restraining order is confirmed, but a member cannot verify proof of service or proof of notice, members shall notify the suspect of the restraining order and describe the terms. If a copy of the restraining order is available, and it is practical to do so, members should serve the suspect."

The named officer did not violate Department policy when he served the complainant with an unserved restraining order. Per Department policy, the complainant's name was searched during a mandatory warrant check when he attempted to pick up a vehicle release form. When it was discovered that the complainant had an unserved restraining order against him, the restraining order was unserved as per the court's instructions. The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 01/17/23 COMPLETION DATE: 03/15/23 PAGE# 2 of 2

SUMMARY OF ALLEGATION #2: The officer behaved or spoke inappropriately.

CATEGORY OF CONDUCT: CUO

FINDING: U

FINDINGS OF FACT: The complainant stated he went to the police station to pick up a vehicle release form after he was informed his stolen vehicle was recovered. He stated that while at the station, the named officer served him with a restraining order that only gave him four days' notice for the family court hearing. He stated the named officer acted maliciously by serving him with the restraining order because he only went to the station for the vehicle release form.

The named officer stated he did not serve the complainant with the restraining order.

Department records indicate that the named officer's partner served the complainant with a restraining order from the family law court.

Body-worn camera footage showed the named officer's partner serving the complainant with a restraining order from the family law court.

The evidence proves that the conduct alleged did not occur or that the accused officer was not involved.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 01/16/23 COMPLETION DATE: 03/15/23 PAGE# 1 of 1

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

CATEGORY OF CONDUCT: ND

FINDING: NF

FINDINGS OF FACT: The complainant stated a busy street suffered from a power outage that caused traffic lights to malfunction. She stated the lack of traffic control that police officers should have provided created a hazardous situation for cars, bicycles, and pedestrians.

The complainant did not provide additional requested information that would assist in identifying the responsible officer (s).

Department records did not reveal any calls for service on the date, time, and location described by the complainant.

The identity of the alleged officer could not be established.

No findings are made if the officer cannot reasonably be identified or the officer has left the Department and is, therefore, no longer subject to discipline.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 01/25/23 COMPLETION DATE: 03/15/23 PAGE# 1 of 1

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

CATEGORY OF CONDUCT: ND

FINDING: NF/W

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

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 01/30/23 COMPLETION DATE: 03/15/23 PAGE# 1 of 1

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

CATEGORY OF CONDUCT: NA

FINDING: IO-1/SFMTA

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

SFMTA Department of Parking & Traffic
11 Van Ness Avenue
San Francisco, CA 94102
United States

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 02/02/23 COMPLETION DATE: 03/06/23 PAGE# 1 of 1

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

CATEGORY OF CONDUCT: NA

FINDING: IO-1/SFSO

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

San Francisco Sheriff's Office
Internal Affairs Division
25 Van Ness Ave. #350
San Francisco, CA 94102

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 02/02/23 COMPLETION DATE: 03/15/23 PAGE# 1 of 1

SUMMARY OF ALLEGATION #1: The complaint raised matters that were imaginary or not rationally within DPA jurisdiction.

CATEGORY OF CONDUCT: NA

FINDING: IO-2

FINDINGS OF FACT: The complaint raised matters that were imaginary or not rationally within DPA jurisdiction.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 02/06/23 COMPLETION DATE: 03/15/23 PAGE# 1 of 1

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

CATEGORY OF CONDUCT: NA

FINDING: IO-1/Office of Professional Accountability

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

Richmond Police Department
Office of Professional Accountability
1701 Regatta Blvd,
Richmond, CA 94804

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 02/07/23 COMPLETION DATE: 03/15/23 PAGE# 1 of 1

SUMMARY OF ALLEGATIONS #1-2: The officers drove a City vehicle in a grossly negligent manner.

CATEGORY OF CONDUCT: ND

FINDING: IE

FINDINGS OF FACT: The complainant stated he observed a marked patrol vehicle, occupied by the named officers, drive recklessly by ignoring a stop sign and speeding around another moving vehicle.

The named officers stated they were assigned to the marked patrol vehicle identified by the complainant. They stated they could not recall who was driving at the time the complainant alleged negligent driving occurred. However, named officer #1 denied driving in a manner described by the complainant and denied observing the other officer drive in such a manner. Officer #2 stated he did not recall driving as described by the complainant because he could not recall who was driving.

Department records document that the named officers were assigned to the marked patrol vehicle identified by the complainant.

Body-worn camera (BWC) was not required to be activated during this incident, so DPA could not obtain BWC.

Department General Order 2.01 states in relevant part that officers “shall use and operate Department vehicles and equipment in a reasonable and prudent manner . . .”

The complainant and the officers provided different accounts of the incident. No other evidence was available to support or refute either version of events.

The evidence fails to prove or disprove that the alleged conduct occurred.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 02/08/23 COMPLETION DATE: 03/15/23 PAGE# 1 of 1

SUMMARY OF ALLEGATION #1: The complaint raised matters that were not rationally within DPA jurisdiction.

CATEGORY OF CONDUCT: NA

FINDING: IO-2

FINDINGS OF FACT: The complaint raised matters that were not rationally within DPA jurisdiction.

**SAN FRANCISCO DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 02/13/23 COMPLETION DATE: 03/15/23 PAGE# 1 of 2

SUMMARY OF ALLEGATION #1: The officer failed to make an arrest.

CATEGORY OF CONDUCT: ND

FINDING: NF

FINDINGS OF FACT: The complainant stated that officers responded to his son's residence for the report of an assault, and the officers failed to arrest the suspect.

DPA attempted to contact the complainant's son for further details of the incident, but the complainant's son was not responsive.

Department records did not reveal any calls for service on the date, time, and location described by the complainant.

The identity of the alleged officer could not be established.

No finding outcomes occur under four circumstances: the complainant did not provide additional requested evidence, the complainant requested a withdrawal of the complaint, the officer could not reasonably be identified, or the officer is no longer with the Department and therefore is no longer subject to Department discipline.

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

CATEGORY OF CONDUCT: ND

FINDING: NF

FINDINGS OF FACT: The complainant stated that the officers failed to detain the suspect for a mental health evaluation.

DPA attempted to contact the complainant's son for further details of the incident, but the complainant's son was not responsive.

Department records did not reveal any calls for service on the date, time, and location described by the complainant.

The identity of the alleged officer could not be established.

No finding outcomes occur under four circumstances: the complainant did not provide additional requested evidence, the complainant requested a withdrawal of the complaint, the officer could not

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reasonably be identified, or the officer is no longer with the Department and therefore is no longer subject to Department discipline.

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

CATEGORY OF CONDUCT: NA

FINDING: Referral/DEM

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

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

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

CATEGORY OF CONDUCT: NA

FINDING: Referral/Omaha Police Department

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

Omaha Police Department
505 South 15th Street
Omaha, NE 68102

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

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant reported that sergeants at her district police station continually disregard her calls-for-service.

Department of Emergency Management records showed that the complainant frequently calls 911 for non-emergency calls or calls that do not require law enforcement action. Additionally, when officers are dispatched to respond to the complainant's residence, the complainant is either unavailable or the officers do meet with her, but the complainant does not recall the reason for her call. The records also showed that the complainant's calls regarding her non-emergency reports were disregarded.

A witness confirmed that the complainant frequently calls the police and visits the district station to file reports regarding perceived crimes or incidents that are a figment of the complainant's imagination.

The guiding policy for assigning police resources between Dispatch and Patrol indicates that Patrol Sergeants are responsible for directing unit activities, prioritizing waiting assignments, ensuring that runs are being handled efficiently and acknowledging serious situations requiring immediate supervision over the radio. Sergeants are required to review waiting assignments on an hourly basis to determine if a waiting assignment requires an expedited response. There are instances where Department of Emergency Management Dispatchers may refer callers to District Stations to make reports to reduce the volume of calls-for-services. When that occurs, members are required to prepare reports as required by Department policy.

Based on the totality of circumstance, the SFPD's decision to disregard the complainant's calls-for-service was within Department policy.

The evidence proves that the alleged conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATION #1: The complaint raised matters that were imaginary or not rationally within DPA jurisdiction.

CATEGORY OF CONDUCT: NA

FINDING: IO-2

FINDINGS OF FACT: The complaint raised matters that were imaginary or not rationally within DPA jurisdiction.

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SUMMARY OF ALLEGATION #1: The complainant raised matters that were imaginary or not rationally within DPA jurisdiction.

CATEGORY OF CONDUCT: NA

FINDING: IO-2

FINDINGS OF FACT: The complainant raised matters that were imaginary or not rationally within DPA jurisdiction.

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

CATEGORY OF CONDUCT: ND

FINDING: Withdrawal

FINDINGS OF FACT: The complainant alleged that he called the police for assistance with an incident report and was on hold for an extended amount of time.

The complainant requested a withdrawal of the complaint.

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

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

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

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

CATEGORY OF CONDUCT: NA

FINDING: IO-1

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

SFPD Internal Affairs Division
1245 3rd Street
San Francisco
CA 94158

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

CATEGORY OF CONDUCT: ND

FINDING: Withdrawal

FINDINGS OF FACT: The complainant needed assistance with obtaining an incident report.

The complainant requested a withdrawal of the complaint.

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

CATEGORY OF CONDUCT: NA

FINDING: Referral/SFSO

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

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

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

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated that sergeants at her district police station continually disregard her calls for service.

Department of Emergency Management (DEM) records showed that the complainant made frequent 911 calls for matters that did not require law enforcement response or action. Records showed that DEM flagged complainant's calls as "disregard" and that this was approved by sergeants in the field.

DEM protocol allows dispatchers to place a "disregard" or Telephone Denial of Service (TDOS) on a phone line when "attackers (or abusers) make multiple calls to a phone number, thereby tying up the network and preventing legitimate calls from getting through." A "disregard" may be placed on frequent and/or repeat 911 calls.

There is not currently an explicit controlling Department General Order, Department Bulletin, or Department Notice. However, Department Bulletin 19-106, Clarifying Issues between Dispatch and Patrol (guiding policy), indicated that Patrol Sergeants are responsible for directing unit activities, prioritizing waiting assignments, ensuring that runs are being handled efficiently and acknowledging serious situations requiring immediate supervision over the radio. Sergeants are required to review waiting assignments on an hourly basis to determine if a waiting assignment requires an expedited response. DPA is aware of supervising members' ability to authorize officers not to respond to repeat callers where the calls do not require police action or are without merit.

The evidence shows that the named officer's decision to disregard the complainant's repeated calls for service was within Department policy.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATIONS #2-3: The officers behaved or spoke inappropriately.

CATEGORY OF CONDUCT: CUO

FINDING: U

FINDINGS OF FACT: The complainant stated that the named officers had an attitude and were dismissive towards her.

Body-worn camera (BWC) footage showed that the named officers were professional, courteous and patient during their conversation with the complainant. The named officers asked the complainant clarifying questions and requested that the complainant produce evidence in support of her allegation of harassment. None of the named officers' questions were inappropriate or disrespectful.

The evidence proves that the alleged misconduct did not occur.

SUMMARY OF ALLEGATIONS #4-5: The officers failed to write an incident report.

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated that the named officers failed to take her report of harassment.

Body-worn camera (BWC) footage showed that the named officers spoke with the complainant and asked her for evidence of a crime, but the complainant was unable to produce any.

Department records indicated that after the named officers responded and spoke with the complainant, they requested to disregard the call due to the complainant being a "known" and "repeat" caller. Records indicated that a sergeant approved the named officers' request to disregard the call. The named officers closed the incident with disposition, "No Merit," and noted that the complainant had been referred to the SFPD Psych Liaison.

The evidence shows that the named officers did not have reason to believe that a crime had occurred.

The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.