



The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

September 22, 2021

Chief William Scott
Chief of Police

Dear Chief Scott:

At the meeting of the Police Commission on Wednesday, September 15, 2021, the following resolution was adopted:

MALLA COHEN
President

CINDY ELIAS
Vice President

JOHN HAMASAKI
Commissioner

DION-JAY BROOKTER
Commissioner

LARRY YEE
Commissioner

CHRIS BYRNE
Commissioner

RESOLUTION NO. 21-75

Sergeant Stacy Youngblood
Secretary

ADOPTION OF FINDINGS OF FACT REGARDING THE COMMISSION'S JULY 14, 2021 DECISION IN DISCIPLINARY CHARGES FILED AGAINST OFFICER JOEL BABBS, STAR NO. 330 (FILE NO. IAD 2019-0172)

RESOLVED, that the Commission adopts these Findings of Fact in support of its previously issued decision on July 14, 2021 in the matter of Officer Joel Babbs, Star No. 330, from the San Francisco Police Department, in Case No. IAD 2019-0172:

This matter came before the Police Commission for hearing on June 16, 2021. Following deliberation on June 16 and July 14, 2021, the Commission voted four-to-one to sustain Specifications Nos. 1, 2, and 3 against Officer Joel Babbs and to terminate his employment. The Commission now adopts these Findings of Fact in support of its decision and imposition of penalty.

PROCEDURAL HISTORY

On August 20, 2020, Police Chief William Scott served a complaint alleging that Officer Babbs committed a series of sexual batteries against a co-worker, spread a false rumor about co-workers having a sexual affair, provided false statements during an internal investigation, and retaliated against a co-worker after she reported the sexual batteries. Based on these allegations, the complaint asserts four charges against Officer Babbs:

Specification No. 1: Sexual Harassment and Battery (Department General Order (DGO) 11.07 & 2.01, Rule 9);

Specification No. 2: Spreading False Rumor in Workplace (Department Bulletin 18-163);

Specification No. 3: False Statements During Administrative Interview (DGO 2.01, Rule 21); and

Specification No. 4: Retaliation (DGO 11.07).

The Commission assigned this matter to Commissioner Cindy Elias to serve as hearing officer. On May 7, 2021, Commissioner Elias held an evidentiary hearing, at which time the Department and

Officer Babbs had the opportunity to present evidence, including witness testimony. Attorney Steven M. Betz represented the San Francisco Police Department (SFPD). Officer Babbs represented himself.¹ At the conclusion of the hearing, the full evidentiary record, including a transcript and all admitted exhibits, was provided to the Commission for its consideration. The parties were also permitted to submit written closing arguments.

At the Commission's June 16, 2021 meeting, Mr. Betz and Officer Babbs presented closing statements to the Commission. Because Officer Babbs requested a public hearing and waived his right to confidentiality during the disciplinary process, the Commission heard the matter in open session, which allowed full public access to the proceeding and an opportunity for public comment. After closing statements and public comment, the Commission began deliberation on the matter in closed session. Because it did not arrive at a decision during this meeting, the Commission held further deliberation at its July 14, 2021 meeting.

Following consideration of all the evidence in the record, and the evidence and arguments presented by both parties at the June 16, 2021 hearing, the Police Commission voted four to one to sustain Specification No. 1 (Sexual Harassment and Battery), Specification No. 2 (Spreading False Rumor in Workplace), and Specification No. 3 (False Statements During Administrative Interview). The Commission further voted four to one to terminate Officer Babbs' employment. The Commission found the evidence was insufficient to sustain Specification No. 4 (Retaliation).

The Police Commission now adopts these findings in support of its decision. The findings are based on consideration of all the evidence in the record and the closing statements presented at the June 16, 2021 Commission hearing. The failure to cite a specific item of evidence or a specific argument in these findings does not indicate that the Commission did not consider that evidence or argument in reaching its decision.

FACTUAL FINDINGS AND LEGAL CONCLUSIONS

1. At all times mentioned herein, Officer Babbs, Star Number 330, was a sworn police officer employed by the SFPD.
2. Officer Babbs has been a member of the SFPD since approximately 1992. As a member of the SFPD, Officer Babbs was responsible for knowing and obeying the SFPD's rules, orders and procedures.

Sexual Batteries

3. In May 2019, Officer Babbs was assigned to the Department Operations Center (DOC).
4. In May 2019, Police Services Aide (PSA) [REDACTED] also was assigned to the DOC, where she worked alongside Officer Joel Babbs.
5. In May 2019, PSA [REDACTED] was also working at the DOC, but on a different shift than PSA [REDACTED] and Officer Babbs.
6. On May 1, 2019, PSA [REDACTED] PSA [REDACTED] and Officer Babbs went to Philz Coffee across the street from the DOC. While PSA [REDACTED] stood in line, she felt someone swipe her buttocks from left to right. PSA [REDACTED] immediately turned around and saw Officer Babbs standing behind her. PSA [REDACTED]

¹ At the hearing, Officer Babbs acknowledged that he had the right to be represented by counsel and indicated that he would be representing himself.

- █████ testified that Officer Babbs was the only person close enough to have touched her and Officer Babbs was standing to her right-hand side, where the swipe across her buttocks ended.
7. At the time, PSA █████ was unsure whether the touching was intentional.
 8. Upon returning to work, Officer Babbs told PSA █████ "Don't be telling anyone."
 9. PSA █████ was in shock about what had occurred, but decided not to tell a supervisor at the time.
 10. PSA █████ did not believe PSA █████ had observed the touching or Officer Babbs' subsequent remark.
 11. Later on May 1, 2019, PSA █████ was getting something out of the refrigerator located in the corner of the office at the DOC when she felt someone touch her buttocks. When she turned around, she saw Officer Babbs. Officer Babbs was the only person in range who could have touched her. PSA █████ was unaware of any witnesses to this second incident.
 12. Later that same day, PSA █████ was standing by the filing cabinets in the office filing something when she felt someone touch her buttocks in the same manner as the previous two times that day. When she turned around, she saw Officer Babbs, who again was the only person in range who could have touched her. PSA █████ stated there were no known witnesses to this third incident.
 13. The next day, on May 2, 2019, Officer Babbs called PSA █████ over to his desk to assist him with something on his computer. PSA █████ assisted Officer Babbs. As she walked away, Officer Babbs touched PSA █████ buttocks.
 14. Later on May 2, 2019, PSA █████ called PSA █████ on the way home from work and told her about Officer Babbs touching her buttocks. PSA █████ advised PSA █████ to stay away from Officer Babbs and to report the behavior if it continued.
 15. On May 3, 2019, Officer Babbs again asked PSA █████ to help him with a computer issue at his desk. PSA █████ went to his desk to assist, but intentionally maintained physical distance from him to avoid being touched. When PSA █████ left Officer Babbs' desk area, Officer Babbs leaned over and grabbed PSA █████ between her legs beneath her right buttocks. PSA █████ felt Officer Babbs' fingers in her inner thigh and swipe under and across. PSA █████ described this incident as more invasive than the prior touchings. In response to this grab, PSA █████ told Officer Babbs: "You need to stop touching me!" Officer Babbs stated: "Maybe you need to be touched once in a while."
 16. On May 30, 2019, Officer Babbs told PSA █████ "I can't believe you accused me of something I didn't do." PSA █████ told Officer Babbs that she was not accusing him; she just wanted him to stop touching her. PSA █████ assumed Officer Babbs' comment referenced their conversation on May 3, 2019.
 17. Later that day, PSA █████ was standing while on a phone call, when Officer Babbs walked behind her and swiped his hand across her waist.
 18. PSA █████ did not consent to any of the physical contacts by Officer Babbs.
 19. PSA █████ stated that PSA █████ told her that Officer Babbs touched her buttocks. PSA █████ stated that PSA █████ described the batteries occurring inside the DOC by the copier and at the

back of the office. PSA [REDACTED] also described an occasion where PSA [REDACTED] stated that Officer Babbs "went into her crack" to touch her buttocks.

20. PSA [REDACTED] also described an incident when she worked an overtime shift with Officer Babbs on May 31, 2019. PSA [REDACTED] stated that Officer Babbs approached her and asked why PSA [REDACTED] had stopped talking to him. PSA [REDACTED] stated that PSA [REDACTED] was not talking to him because he "touched her ass and that wasn't right." PSA [REDACTED] stated that Officer Babbs initially denied touching PSA [REDACTED] but then admitted he had and claimed that he had apologized PSA [REDACTED]

Spreading False Rumors

21. PSA [REDACTED] also worked at the DOC during the summer of 2019.
22. PSA [REDACTED] stated that she is friendly with PSA [REDACTED] but they did not have a relationship outside of work.
23. On August 4, 2019, PSA [REDACTED] worked an overtime shift alongside Officer Babbs. During this shift, Officer Babbs told PSA [REDACTED] that Sergeant [REDACTED] and PSA [REDACTED] were having a sexual affair. Officer Babbs told PSA [REDACTED] that Sergeant [REDACTED] and PSA [REDACTED] were "hooking up" at "the Holiday Inn." PSA [REDACTED] had not heard of that affair from any other source and decided to report it to PSA [REDACTED]
24. On August 23, 2019, PSA [REDACTED] told PSA [REDACTED] about the rumor.
25. On August 23, 2019, PSA [REDACTED] resolved to report the batteries by Officer Babbs. PSA [REDACTED] stated that she decided to report the batteries at that time because she did not believe Officer Babbs' harassment would stop. PSA [REDACTED] telephoned Sergeant Dorian McConico and informed her of the aforementioned batteries.
26. In response, Sergeant McConico drafted a memorandum to notify Captain Christopher Pedrini.
27. On August 31, 2019, the Department transferred Officer Babbs out of the DOC.
28. On September 9, 2019, Officer Babbs called Assistant Chief Michael Redmond and accused Sergeant [REDACTED] and PSA [REDACTED] of having an extra marital affair while on-duty.
29. On September 26, 2019, Sergeant Robert Padrones received a text message from Officer Babbs, which read: "Robert, please let Captain Petrini [sic] know that Sgt. [REDACTED] just called me today about 10 minutes ago . . . He was trying to dissuade me from telling all I know about [REDACTED] and him having sex, while on duty using the department's blue Taurus."
30. Sergeant Padrones was unaware of any inappropriate relationship between Sergeant [REDACTED] and PSA [REDACTED]. Sergeant Padrones informed Captain Pedrini of the text message on the day of receipt.

False Statements During Administrative Interviews

31. The SFPD's Internal Affairs Division (IAD) conducted investigations regarding PSA [REDACTED] allegations against Officer Babbs and the allegations Officer Babbs made against Sergeant [REDACTED] and PSA [REDACTED]
32. On December 5, 2019, the IAD interviewed Officer Babbs as a witness to his complaint against Sergeant [REDACTED] and PSA [REDACTED]. Officer Babbs confirmed that he had sent a text message to Sergeant Padrones and claimed that Sergeant [REDACTED] had attempted to dissuade him from reporting what "he knew" about PSA [REDACTED] and Sergeant [REDACTED]

33. Officer Babbs further explained that he learned of an affair between PSA [REDACTED] and Sergeant [REDACTED] from an anonymous journalist who had videotaped or shot pictures of Sergeant [REDACTED] and PSA [REDACTED] in a blue SFPD Ford Taurus. Officer Babbs further explained that Sergeant [REDACTED] and PSA [REDACTED] would meet on Potrero Hill to have sex. Officer Babbs claimed he confronted Sergeant [REDACTED] about his relationship with PSA [REDACTED] and a week later PSA [REDACTED] made the complaint against him.
34. Officer Babbs also claimed he had witnessed PSA [REDACTED] and Sergeant [REDACTED] engaged in oral sex at the DOC sometime during February 2019. Officer Babbs claimed he saw PSA [REDACTED] performing fellatio on Sergeant [REDACTED] in the hallway as Officer Babbs was heading toward the restroom. Officer Babbs stated there were no other witnesses to the incident and that he did not confront Sergeant [REDACTED] or PSA [REDACTED].
35. On January 30, 2020, the IAD interviewed PSA [REDACTED] who denied having any kind of sexual or romantic relationship with Sergeant [REDACTED]. PSA [REDACTED] also denied ever being in an SFPD Ford Taurus and denied engaging in any oral sex with Sergeant [REDACTED] at any time.
36. On January 30, 2020, the IAD also interviewed Sergeant [REDACTED]. Sergeant [REDACTED] stated that he used the SFPD Ford Taurus, but that had never been in the vehicle with PSA [REDACTED]. Sergeant [REDACTED] described his relationship with PSA [REDACTED] as strictly professional and denied any dating, romantic, or sexual relationship with her. Sergeant [REDACTED] denied ever telling anyone that PSA [REDACTED] was "his girl." Sergeant [REDACTED] also denied attempting to dissuade Officer Babbs from reporting any misconduct.
37. On March 11, 2020, the IAD interviewed Officer Babbs as a subject officer in the sexual battery complaint and for spreading false rumors in the workplace. Officer Babbs acknowledged knowing PSA [REDACTED] and working with her since 2017. Officer Babbs described his relationship with PSA [REDACTED] as professional. Officer Babbs denied sexually battering PSA [REDACTED] and denied the comments attributed to him by PSA [REDACTED] and PSA [REDACTED].
38. During the interview, Officer Babbs stated that he had heard rumors about PSA [REDACTED] and Sergeant [REDACTED] through Sergeant [REDACTED]. Officer Babbs stated that Sergeant [REDACTED] told him that PSA [REDACTED] was "his girl" and that they were involved. Officer Babbs stated that Sergeant [REDACTED] did not specifically say PSA [REDACTED] and he were sleeping together. Officer Babbs denied ever hearing that Sergeant [REDACTED] and PSA [REDACTED] were sleeping together.
39. Officer Babbs stated he had never repeated information about PSA [REDACTED] and Sergeant [REDACTED] to anyone. Officer Babbs denied telling PSA [REDACTED] that PSA [REDACTED] and Sergeant [REDACTED] were sleeping together.

PSA [REDACTED] Credibility

40. The Commission has carefully considered the testimony and evidence presented and finds PSA [REDACTED] testimony to be credible.
41. First, PSA [REDACTED] account of the batteries remained consistent over the various retellings, which include her report to Sergeant McConico, her IAD interview, and her testimony at the evidentiary hearing. The Commission finds that PSA [REDACTED] consistency is a sign of her veracity.
42. Second, the Commission finds that PSA [REDACTED] account was corroborated by third parties. PSA [REDACTED] testified that she reported the batteries to a co-worker, PSA [REDACTED] contemporaneously with their occurrence. PSA [REDACTED] appeared at the evidentiary hearing and verified PSA [REDACTED]

account. Additionally, PSA [REDACTED] testified that she confronted Officer Babbs about the batteries and he admitted to them. This gives further credence to PSA [REDACTED] claims.

43. Third, the Commission finds that PSA [REDACTED] lacked a motivation to lie about the allegations of unconsented touchings by Officer Babbs. PSA [REDACTED] testified that she had a normal relationship with Officer Babbs until batteries began. Officer Babbs concurred that PSA [REDACTED] was on good terms with him.
44. Officer Babbs' challenges to PSA [REDACTED] credibility are unconvincing. Officer Babbs speculated that PSA [REDACTED] made up the battery allegations: (1) to prevent him from reporting her affair with Sergeant [REDACTED] or (2) at the direction of Sergeant [REDACTED] as revenge for Officer Babbs not assisting him with his pending discipline case; or (3) at the direction of unknown parties, possibly including the Chief of Police, as revenge for Officer Babbs reporting racial misconduct in the Department. Officer Babbs also alleges that the Chief of Police attempted to kill him through a subordinate, Officer Nicholas Buckley. The Commission finds these motivations lack any evidentiary support. Officer Babbs produced no witnesses or other evidence to substantiate any of these claims. To the contrary, the witnesses who did testify denied participating in any conspiracy to further false allegations against Officer Babbs.
45. Beyond the lack of evidentiary support, accepting Officer Babbs' theories would strain the boundaries of credulity. If PSA [REDACTED] contrived the allegations (for whatever reason), she would need to have conspired with various parties to ensure consistent accounts. These persons would include, at a minimum: Sergeant [REDACTED] PSA [REDACTED] PSA [REDACTED] and Sergeant Padrones. If one accepts Officer Babbs' theory that PSA [REDACTED] made up the allegations because the Department sought revenge for Officer Babbs reporting racial misconduct, then the persons involved in the conspiracy would grow even further to include the Chief of Police, Officer Buckley, and others.
46. Furthermore, accepting Officer Babbs' claim would also require the Commission to find that the Chief of Police conspired with other officers to assassinate Officer Babbs. There is absolutely no evidence to support Babbs' allegations.

Babbs' Credibility

47. The Commission finds that Officer Babbs' testimony is not credible.
48. First, Officer Babbs lied during his IAD statements and told an inconsistent story during multiple interviews. During his first interview, Officer Babbs claimed he had heard that PSA [REDACTED] and Sergeant [REDACTED] were having a sexual affair. Officer Babbs claimed he heard of this rumor through a local journalist. Additionally, Officer Babbs asserted that he had personally observed PSA [REDACTED] and Sergeant [REDACTED] engaging in a sexual act in the hallway at DOC. In his second interview, however, Officer Babbs claimed he had no knowledge of PSA [REDACTED] and Sergeant [REDACTED] being in a sexual relationship. Officer Babbs claimed the only rumor he had heard was Sergeant [REDACTED] claiming PSA [REDACTED] was "his girl." Officer Babbs was adamant, however, that he was unaware of any sexual relationship between Sergeant [REDACTED] and PSA [REDACTED].
49. Officer Babbs' credibility is also undermined by his propensity to levy serious accusations at other persons without offering any evidentiary support. Some of these accusations included: the Chief of Police instructed another officer to kill Officer Babbs; an officer brandished a firearm against Officer Babbs in the Chief of Police's presence; unnamed parties shot at Officer Babbs; an officer attempted to run Officer Babbs off the road; and Officer Babbs' lawyer did not adequately prepare or defend him during the IAD interview because he was having a sexual

affair with another IAD employee. Officer Babbs offered no evidence to support any of these claims, and thus the Commission cannot find they are true. They demonstrate, however, that Officer Babbs has a willingness to assert unsubstantiated theories to deflect attention from his own misconduct.

CONCLUSIONS

Specification No. 1: Sexual Harassment and Battery (DGO 11.07 and 2.01, Rule 9)

The Commission finds that the Department presented sufficient evidence to find that Officer Babbs committed the sexual harassment and batteries in violation of *Department General Order 2.01, Rule 9*, as alleged in Specification 1. As detailed above, the Commission finds that PSA [REDACTED] is credible, her complaint was corroborated by PSA [REDACTED] and Officer Babbs admitted the conduct when confronted by PSA [REDACTED]. Additionally, PSA [REDACTED] had no credible motivation that would explain her contriving false allegations against Officer Babbs. Conversely, the evidence demonstrates that Officers Babbs' accounts and theories are not credible.

Specification No. 2: Spreading False Rumor in Workplace (Dept. Bulletin 18-163)

The Commission finds that the Department presented sufficient evidence to find that Officer Babbs spread a false rumor in the workplace in violation of *Department Bulletin 18-163*, as alleged in Specification 2. PSA [REDACTED] reported that Officer Babbs informed her of a rumor that Sergeant [REDACTED] and PSA [REDACTED] were having a sexual affair. Officer Babbs stated during his first IAD interview that he heard about the purported affair from a "journalist." Additionally, Officer Babbs claimed he had personally observed PSA [REDACTED] and Sergeant [REDACTED] engaging in a sexual act.

The Commission has no reason to doubt the testimony of PSA [REDACTED]. She is a co-worker of PSA [REDACTED] and Officer Babbs, but has no special relationship with either party. Although Officer Babbs denies telling PSA [REDACTED] about the rumor, Officer Babbs' telling PSA [REDACTED] about the rumor is consistent with his other behavior. Officer Babbs undeniably told both Sergeant Padrones and Assistant Chief Redmond about the rumor. Furthermore, if PSA [REDACTED] did not learn of the rumor through Officer Babbs, there is no evidence indicating where else she could have heard it: the only verified source of the rumor was Officer Babbs. Finally, the Commission finds Officer Babbs is generally not credible for the reasons discussed above and thus gives little weight to his denial.

Specification 3: False Statements During Administrative Interview (DGO 2.01, Rule 21)

The Commission finds that the Department presented sufficient evidence to find that Officer Babbs produced false statements during his administrative interviews in violation of *Department General Order 2.01, Rule 21*, and as alleged in Specification 3. Officer Babbs claimed during his first interview that he had heard a rumor that PSA [REDACTED] and Sergeant [REDACTED] were engaged in a sexual affair. Officer Babbs claimed that he had heard about the rumor from a journalist, who was aware that PSA [REDACTED] and Sergeant [REDACTED] were engaging in sexual activity in a Department-owned vehicle. Additionally, Officer Babbs claimed that he had personally observed PSA [REDACTED] and Sergeant [REDACTED] engaged in oral sex in the hallway at the DOC.

Officer Babbs changed his account when the IAD re-interviewed him. During his second interview, Officer Babbs disavowed any knowledge of a rumor that PSA [REDACTED] and Sergeant [REDACTED] were involved in a sexual affair. Officer Babbs only admitted to hearing Sergeant [REDACTED] claiming that PSA [REDACTED] was "his girl," but still stated that he had no knowledge of any sexual relationship. Additionally, Officer Babbs falsely claimed that he did not tell PSA [REDACTED] about the rumor.

Specification No. 4: Retaliation (DGO 11.07)

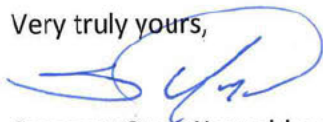
The Commission finds that the Department did not present sufficient evidence to sustain Specification 4. The Commission finds that the Department did not produce sufficient evidence to show that Officer Babbs' motivations in spreading the rumor regarding PSA [REDACTED] were to retaliate against her for confronting him about the batteries.

PENALTY

The Commission carefully considered the appropriate penalty based on the sustained charges. As detailed above, the sustained charges involve unconsented sexual batteries on a co-worker, which cannot be tolerated. What is particularly troubling in this matter is that it was not a single incidence, but a series of unconsented physical contacts, which escalated in severity from initially touching PSA [REDACTED] buttocks to groping her between her legs. Further, there is no question that Officer Babbs' conduct was intentional, as evidenced by his statements to PSA [REDACTED] that she should not tell anyone about the contact and that she needed to be touched. Again, this behavior is intolerable and must be taken seriously. Additionally, sustained Specifications Nos. 2 and 3 involve dishonest and deceitful conduct that sought to undermine the Department's internal affairs investigations and propagate false statements about other members of the Department. The severity of these charges compels the Commission to conclude that Officer Babbs' termination is justified in this matter.

AYES: Commissioners Hamasaki, Yee, Byrne, Elias, Cohen
ABSENT: Commissioner Brookter

Very truly yours,



Sergeant Stacy Youngblood
Secretary
San Francisco Police Commission

cc: Attorney S. Betz/IAD
Joel Babbs