



**CIVIL SERVICE COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO**

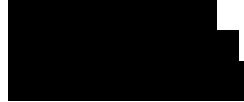
LONDON N. BREED  
MAYOR

*Sent via Electronic Mail*

October 5, 2023

**NOTICE OF CIVIL SERVICE COMMISSION MEETING**

Whitney Barca



**SUBJECT: APPEAL BY WHITNEY BARCA OF THE HUMAN RESOURCES DIRECTOR'S DETERMINATION THAT INVESTIGATIVE FINDINGS DID NOT ESTABLISH APPELLANT'S COMPLAINT OF HARASSMENT AND RETALIATION.**

Dear Whitney Barca:

The above matter will be considered by the Civil Service Commission at a hybrid meeting (in-person and virtual) in Room 400, City Hall, 1 Dr. Goodlett Place, San Francisco, California 94102 and through Cisco WebEx to be held on **October 16, 2023, at 2:00 p.m.** You will receive a separate email invite from a Civil Service Commission staff member to join and participate in the meeting.

***This item may be heard in Closed Session.*** The agenda will be posted for your review on the Civil Service Commission's website at [www.sf.gov/CivilService](http://www.sf.gov/CivilService) under "Meetings" no later than end of day on Wednesday, October 11, 2023. Please refer to the attached Notice for procedural and other information about Commission hearings. A copy of the department's staff report on your appeal is attached to this email.

In the event that you wish to submit any additional documents in support of your appeal, please submit **one hardcopy 3-hole punch, double-sided and numbered at the bottom of each page to the CSC Office at 25 Van Ness Ave., Suite 720 and email a PDF version to the Civil Service Commission's email at [civilservice@sfgov.org](mailto:civilservice@sfgov.org) by 5:00 p.m. on Tuesday, October 10, 2023**, please be sure to redact your submission for any confidential or sensitive information that is not relevant to your appeal (e.g., home addresses, home or cellular phone numbers, social security numbers, dates of birth, etc.), as it will be considered a public document.

It is important that you or an authorized representative attend the hearing on your appeal. Should you or a representative not attend, the Commission will rule on the information previously submitted and any testimony provided at its meeting. All calendared items will be heard and resolved at this time unless good reasons are presented for a continuance. As a reminder, you are to be honest and forthright during all testimony and in all documentation that you provide to the Civil Service Commission.

You may contact me at (628) 652-1100 or at [Sandra.Eng@sfgov.org](mailto:Sandra.Eng@sfgov.org) if you have any questions.

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG  
Executive Officer

Attachment

Cc: Chief Jeanine Nicholson, SF Fire Department  
Amalia Martinez, Department of Human Resources  
Carol Isen, Department of Human Resources  
Mawuli Tugbenyoh, Department of Human Resources  
Deborah Dulay, Department of Human Resources  
Jesusa Bushong, SF Fire Department  
Commission File  
Commissioners' Binder  
Chron

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Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, or to obtain a free copy of the Sunshine Ordinance, contact Victor Young, Administrator of the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102-4689 at (415) 554-7724, by fax: (415) 554-7854, by e-mail: [soff@sfgov.org](mailto:soff@sfgov.org), or on the City's website at [www.sfgov.org/bdsupvrs/sunshine](http://www.sfgov.org/bdsupvrs/sunshine).

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**LONDON N. BREED  
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Jorge Morales  
[REDACTED]

**SUBJECT: APPEAL BY WHITNEY BARCA OF THE HUMAN RESOURCES DIRECTOR'S DETERMINATION THAT INVESTIGATIVE FINDINGS DID NOT ESTABLISH APPELLANT'S COMPLAINT OF HARASSMENT AND RETALIATION.**

Dear Jorge Morales:

As you may be aware, Whitney Barca filed the above-referenced discrimination complaint with the Department of Human Resources ("DHR"). The Department of Human Resources reviewed Whitney Barca's allegations, and the Human Resources Director determined that there was insufficient evidence to establish claims of harassment and discrimination. Whitney Barca has appealed that determination to the Civil Service Commission.

In accordance with the City Charter and Civil Service Rules, the Commission may sustain, modify, or reverse the Human Resources Director's determination; and may effectuate an appropriate remedy in the event that it finds discrimination in the work environment. Any such finding is binding on City departments. The Commission may not impose discipline on an employee, but in an appropriate case may recommend that the department consider discipline.

The Equal Employment Opportunity Division of DHR will present and defend the Human Resources Director's determination on Whitney Barca's complaint at the Civil Service Commission at a hybrid meeting (in-person and virtual) in Room 400, City Hall, 1 Dr. Goodlett Place, San Francisco, California 94102 and through Cisco WebEx to be held on **October 16, 2023, at 2:00 p.m.** The Commission will have received the DHR staff report, which reviews the evidence pertaining to the complaint and supports the Human Resources Director's determination, in advance of the meeting. You will have an opportunity to address Whitney Barca's allegations at the Commission meeting, if you wish to do so, although you are not required to appear. You will be receiving a meeting invite to join the meeting through Cisco WebEx on your computer or you may listen/respond to the meeting by phone. The Commission will rule on the information previously submitted and any testimony or other evidence provided at its meeting.

This item on the October 16, 2023, meeting agenda may be heard in Closed Session and will be posted on the Civil Service Commission's website at [www.sf.gov/CivilService](http://www.sf.gov/CivilService) under "Meetings" no later than end of day on Wednesday, October 11, 2023.

You may contact me at [Sandra.Eng@sfgov.org](mailto:Sandra.Eng@sfgov.org) or (628) 652-1100 should you have any questions.

Sincerely,

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG  
Executive Officer

Attachment

cc: Chief Jeanine Nicholson, SF Fire Department  
Amalia Martinez, Department of Human Resources  
Carol Isen, Department of Human Resources  
Mawuli Tugbenyoh, Department of Human Resources  
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# CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

## CIVIL SERVICE COMMISSION REPORT TRANSMITTAL (FORM 22)

1. Civil Service Commission Register Number: 0139-23-6
  2. For Civil Service Commission Meeting of: September 18, 2023
  3. Check One:  
Ratification Agenda  
Consent Agenda  
Regular Agenda      ✓  
Human Resources Director's Report
  4. Subject: Appeal by Whitney Barca of the Human Resources Director's determination that investigative findings did not establish Appellant's complaint of harassment and retaliation.
  5. Recommendation: Adopt the report, uphold the decision of the Human Resources Director, and deny the appeal by Whitney Barca.
  6. Report prepared by: Deborah Dulay, DHR EEO  
Telephone number: (415) 557-4902
  7. Notifications: Please see attached.
  8. Reviewed and approved for Civil Service Commission Agenda:  
  
Human Resources Director: Carol Isen 
- Date: September 7, 2023
9. Submit the original time-stamped copy of this form and person(s) to be notified (see Item 7 above) along with the required copies of the report to:

**Executive Officer  
Civil Service Commission  
25 Van Ness Avenue, Suite 720  
San Francisco, CA 94102**

10. Receipt-stamp this form in the "CSC RECEIPT STAMP" box to the right using the time-stamp in the CSC Office.

Attachment

**CSC RECEIPT STAMP**

**NOTIFICATIONS**

**Whitney Barca (Appellant)**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Jorge Morales (Respondent)**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Jeanine Nicholson**

Fire Chief  
San Francisco Fire Department  
698 Second Street, Room 304  
San Francisco, CA 94107-2015  
Jeanine.Nicholson@sfgov.org

**Jesusa Bushong**

Department Personnel Officer  
San Francisco Fire Department  
698 Second Street, Room 304  
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Jesusa.Bushong@sfgov.org

**Carol Isen**

Human Resources Director  
Department of Human Resources  
1 South Van Ness Avenue, 4<sup>th</sup> Floor  
San Francisco, CA 94103  
Carol.Isen@sfgov.org

**Amalia Martinez**

Equal Employment Opportunity Director  
Department of Human Resources  
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San Francisco, CA 94103  
Amalia.Martinez1@sfgov.org

**Mawuli Tugbenyoh**

Chief of Policy  
Department of Human Resources  
1 South Van Ness Avenue, 4<sup>th</sup> Floor  
San Francisco, CA 94103  
Mawuli.Tugbenyoh@sfgov.org

**Deborah Dulay**

Acting EEO Programs Manager  
Department of Human Resources  
1 South Van Ness Avenue, 4<sup>th</sup> Floor  
San Francisco, CA 94103  
Deborah.Dulay@sfgov.org



## CIVIL SERVICE COMMISSION REPORT

### MEMORANDUM

TO: Civil Service Commission

THROUGH: Carol Isen, Human Resources Director  
Department of Human Resources

THROUGH: Amalia Martinez, EEO Director  
Department of Human Resources

FROM: Deborah Dulay, EEO Programs Senior Specialist  
Department of Human Resources

HEARING DATE: September 18, 2023

EEO FILE NO: 3311

REGISTER NO: 0139-23-6

APPELLANT: Whitney Barca

---

#### I. AUTHORITY

The San Francisco Charter, Section 10.103, and Civil Service Commission (CSC) Rule 303 provide that the Human Resources Director shall review and resolve complaints of employment discrimination. Pursuant to CSC Rule 303.3, the CSC shall review and resolve appeals of the Human Resources Director's determinations.

#### II. BACKGROUND

Since January 2016, Whitney Barca (Appellant) has worked at the San Francisco Fire Department (SFFD) as an H002 Firefighter.

##### A. Appellant's Complaint, EEO File No. 3311

On October 31, 2019, the Department of Human Resources, Equal Employment Opportunity Division (DHR EEO) received from SFFD a "Department Report of Employment Discrimination Complaint" reporting Appellant's allegations of sexual harassment and retaliation. See Exhibit (Ex.) A. On February 12, 2020, Appellant met with DHR EEO for an intake interview; between February and September 2020, DHR EEO followed-up with Appellant for additional information. See Ex. B and C. On September 23, 2020, DHR EEO sent a Charge of Discrimination to Appellant. See Ex. B. DHR EEO conducted an investigation that included interviews of the complainant, the responding party, and witnesses; a review of the written complaint and documentation submitted; and an analysis of related information. See Ex. C.

**B. Human Resources Director's Determination**

In a letter dated June 1, 2023, the Human Resources Director informed Appellant that by the preponderance of the evidence the investigation did not sustain Appellant's allegations. See Ex. D.

**III. ISSUE ON APPEAL TO THE CIVIL SERVICE COMMISSION**

On June 30, 2023, Appellant appealed the Human Resources Director's determination to the CSC. See Ex. E. The issue on appeal is whether the Human Resources Director issued the appropriate determination based on the investigative findings.

**IV. INVESTIGATIVE STANDARDS AND ANALYSIS**

**A. The Investigation Did Not Establish Appellant's Sexual Harassment Claims**

To sustain a complaint of sexual harassment in violation of the City's EEO Policy, the investigation must establish all of the following: (1) the complainant was subjected to physical, verbal, or visual conduct that was sexual in nature; and (2) the conduct was unwelcome.

**1. Evidence Did Not Establish the Allegations**

Witness testimony and documentation did not support Appellant's sexual harassment allegations. The accused respondent, Jorge Morales (Morales), H002 Firefighter, denied the allegation and recalled that Appellant invited him to a rum bar where Appellant's brother worked. [REDACTED] [REDACTED] H002 Firefighter, corroborated Morales's testimony, and Appellant confirmed that her brother worked at the rum bar. See Ex. C. Given the totality of the evidence, the investigation did not establish Appellant's sexual harassment allegation against Morales, and the Human Resources Director's determination was appropriate.

**2. Appellant's Credibility**

Inconsistencies between Appellant's initial report and her testimony throughout the proceeding, as well as the two-year delay in reporting allegations against Morales undermined Appellant's credibility. For example, documentation did not corroborate that Morales requested sex from Appellant, and witness testimony did not establish that Morales slept in a bed next to Appellant. Similarly, during the rebuttal interview with DHR EEO, when explaining why Appellant waited until October 2019 to report Morales's February 2018 conduct, Appellant said the conduct "didn't feel like work harassment." Moreover, Appellant was motivated to accuse Morales of sexual harassment only after Appellant found garbage in her locker. Thus, the inconsistent manner of Appellant's report and contradictory statements undermined Appellant's credibility.

**B. The Investigation Did Not Establish Appellant's Retaliation Claims**

To sustain a complaint of retaliation in violation of the City's EEO Policy, the complainant must sufficiently establish all of the following: (1) the complainant engaged in a protected activity; (2) the complainant suffered an adverse employment action; and (3) there was a causal link between the protected activity and the adverse employment action.

1. Timeline of Events Did Not Support a Retaliation Claim

Although the investigation established that Appellant engaged in a protected activity due to Appellant's October 3, 2019, report to Captain Charles Mc Coy (Mc Coy), H030 Captain, Fire Suppression, the established timeline of events did not support a retaliation claim. See Ex. C. Moreover, as described above in Section IV. A. 2., Appellant's inconsistent report was refuted by credible witness testimony, and the investigation did not establish Appellant engaged in a protected activity in 2018. Therefore, chronological facts show the inherent impossibility of the retaliation claim.

2. Retaliatory Harassment Allegation Was Not Corroborated

Credible witness testimony did not corroborate that the accused respondent spread rumors about Appellant. Witnesses also confirmed they never refused to assist Appellant. Importantly, during the rebuttal interview with DHR EEO, Appellant confirmed that co-workers helped Appellant with work assignments, which undermines the inference of retaliatory animus toward Appellant. Moreover, the investigation did not establish that the removal of items was a form of retaliation. Rather, other SFFD employees removed their belongings from common areas because an item was missing. See Ex. C. Thus, Appellant did not suffer an adverse employment harm, and the retaliation claim cannot be established.

C. Appellant's Issues on Appeal

On appeal, Appellant suggests that the investigation was incomplete. However, Appellant did not provide any new information that would justify the reversal of the Human Resources Director's original determination. As outlined above, Appellant's allegations were properly investigated, the adjudication process was fair to both Appellant and the accused respondent, and the analysis was sound. As described in detail below, the additional information on appeal would not change the original investigative findings.

1. Credible Witness Testimony Did Not Support Appellant's Allegations

The investigation included credible witness interviews, and their testimony did not establish Appellant's allegations. Also, contrary to Appellant's assertions on appeal, DHR EEO interviewed [REDACTED] [REDACTED] which contradicts Appellant's insinuation that the investigation excluded material information. Rather, [REDACTED] credible testimony did not yield any relevant information in support of Appellant's allegations. Regarding the alleged conduct of [REDACTED] [REDACTED] H020 Lieutenant, Fire Suppression, during the intake interview, Appellant stated that [REDACTED] addressed Morales's conduct, which directly contradicts Appellant's portrayal on appeal and further diminishes Appellant's credibility. Therefore, the newly proffered information does not challenge the integrity of the original investigative findings and presents no actionable issue on appeal. Therefore, the Human Resources Director's original determination should be upheld.

2. The Investigation was Conducted in a Procedurally Proper Manner

Appellant's newly proffered information on appeal would be prejudicial to the accused respondent and undermine the integrity of the investigatory process. DHR EEO conducted an intake interview with Appellant, reached out to Appellant on multiple occasions asking for additional information, and conducted a rebuttal interview with Appellant. Thus, Appellant had ample opportunity to provide relevant information in support of the allegations. Especially at the nascent stages of the investigatory process,

information initially gathered is the foundation upon which all subsequent fact-gathering and analysis is built. However, evidence did not support Appellant's claims, and the inclusion of additional information *ex post facto* would be unfair to the accused and undermine the neutrality of DHR EEO. Moreover, as alluded to in Section IV. C. 1., the methodology of the investigatory fact-finding process was appropriate, and DHR EEO interviewed an individual Appellant portrayed as having relevant information. However, this individual's testimony did not support Appellant's allegations. Therefore, the original investigation was conducted properly, Appellant's issues on appeal are immaterial, and the Human Resources Director's original determination should be upheld.

3. Addressing the Concerns of SFFD Employees was Appropriate

The SFFD has the legitimate business interest to address workplace concerns reported by employees, including [REDACTED] concerns regarding the location of personal belongings. Therefore, Captain Mc Coy's actions to address [REDACTED] concerns, including addressing Appellant's conduct, was reasonable and did not demonstrate retaliatory animus. Likewise, it was appropriate for Battalion Chief Frank Cercós (Cercós), H040, Battalion Chief, Fire Suppression, to address Appellant's conduct regarding the location of a colleague's personal belongings and evaluate whether Appellant properly followed instructions. Although Appellant expressed concern regarding how SFFD addressed the situation, as explained above, SFFD supervisors have the responsibility to be objective and address the concerns of all employees. Thus, Appellant presents no new information on appeal that would warrant further review, and the Human Resources Director's determination should be upheld.

**V. RECOMMENDATION**

For the reasons set forth above, the Human Resources Director's decision should be upheld, and the appeal should be denied.

**VI. ATTACHMENTS TO THE REPORT**

Attached to this report are the following:

- Exhibit A: Department Report of Employment Discrimination Complaint
- Exhibit B: Charge of Discrimination
- Exhibit C: Investigative Report with Attachments
- Exhibit D: The Human Resources Director's Determination Letter to Appellant
- Exhibit E: Notice of Appellant's CSC Appeal

# **Exhibit A**

Department Report of Employment  
Discrimination Complaint

Dated October 31, 2019



SAN FRANCISCO FIRE DEPARTMENT  
HUMAN RESOURCES DIVISION

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MEMORANDUM

TO: Linda Simon  
Deputy Director, Leave and EEO Programs  
Department of Human Resources

FROM: Jesusa Bushong *JB*

DATE: October 31, 2019

RE: Narrative Attachment to Department Report of Complaint – FF Whitney Barca

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On October 10, 2019, I received a telephone notification and a General Form Memo from Captain Charles McCoy (Exhibit A) regarding issues between two Firefighters at Station 22. The memo revealed that the Firefighters involved were Whitney Barca and Jorge Morales.

On October 11, I called FF Barca to obtain more details about her interactions with FF Morales. [REDACTED] I explained to her that the reason for my call was about her negative interactions with FF Morales as reported by Captain McCoy. FF Barca was surprised about the subject of my call, but shared that FF Morales asked her several times to have sex with him. Additionally, she found him on several occasions lying in the bed next to hers at the Station dormitory when he was not working on those shifts.

I asked FF Barca if it would make her feel safe if I requested from the Chief's Office an immediate transfer of FF Morales. She said it would really be helpful because they work six out of the nine shifts every month. At the end of our telephone conversation, I asked her to send me a detailed written account [REDACTED] Following our conversation, I also sent an email to FF Barca's sfgov Outlook account attaching the cover letter for discrimination allegations and the DHR form - How to File a Discrimination Complaint (Exhibit B).

On the same day, October 11, I reported the matter to DC Wyrsh and asked him to handle the transfer of FF Morales out of Station 22. [REDACTED]

On October 15, I received a voicemail from FF Barca stating she was locked out of her work email but would try to access it and send details of her interactions to me as soon as possible.

When I did not hear back from FF Barca, I followed up with her by email on October 25 (Exhibit C). She responded on the same day by forwarding her email dated October 11, which was supposedly sent to me, but I never received. The email did not show any addressee; thus, I could not confirm that it was sent to me originally (Exhibit D).

I acknowledged receipt of FF Barca's October 25 emails and asked her to provide me with approximate dates of when the incident she described in the email occurred. I then reviewed her work calendar and decided to detail her to my office since she was working on October 30. That way, I could conduct an initial intake interview and obtain more details in person.

Based on the chronology above, FF Barca did not report her interactions with FF Morales on her own. It was triggered I met with FF Barca beginning at 1330 hours on October 30. Ultimately, FF Barca was not able to provide specific dates in 2018 for her allegations that FF Morales asked her multiple times to have sex and he was lying in the bed next to hers multiple times at the Station dormitory when he was not on duty. However, she did recall that the incidents happened three times each. FF Barca was not able to provide any incidents with FF Morales in 2019.

FF Barca feels that most of her colleagues at Station 22 do not treat her well. She described that they barely acknowledge her when she greets them, do not make eye contact with her, do not talk to her and did not even invite her to the 2018 Station Christmas party. She alleges that these behaviors stemmed from FF Morales spreading false stories about her after she rejected his advances.

[REDACTED]

[REDACTED] FF Barca discussed this during our meeting as an example of how she is being poorly treated at her Station. She added that [REDACTED] does not like women because he has yelled at her a couple of times, but she contradicts her assertion by stating that [REDACTED] likes other female Firefighters at their Station, like [REDACTED]. Thus, I do not believe that FF Barca provided sufficient information at this time to report a discrimination complaint against [REDACTED].

DEPARTMENT REPORT OF EMPLOYMENT DISCRIMINATION COMPLAINT

\* Report Within Five Working Days of Receipt of Complaint\*

Return to: Linda Simon, Deputy Director, EEO and Leave Programs, One South Van Ness, 4th Floor, San Francisco, CA 94103

- 1. Department/Worksite: San Francisco Fire Department, Station 22
2. Complainant: FF Whitney Barca Tel. No. (Work): [Redacted]
Address: Tel. No. (Home):
3. Complaint Filing Date: October 30, 2019

- 4. Complainant's Current Employment Status (circle one): Classification: H-2 Firefighter
PCS TCS LT NCS PV PE TE PROB NOT A CITY EMPLOYEE

- 5. Basis of Discrimination (specify):
Race:
Color:
Religion:
Creed:
[X] Sex:
National Origin:
Ethnicity:
Age:
Disability/Medical Condition:
Political Affiliation:
Sexual Orientation:
Ancestry:
Marital or Domestic Partner Status:
Gender Identity:
Parental Status:
Other Non-Merit Factors:
Retaliation:

- 6. Issue complained of:
Denial of Employment
Denial of Training
Denial of Promotion
Denial of Reasonable Accommodation
Termination
Lay-off
Constructive Discharge
Disciplinary Action
[X] Harassment
Work Assignment
[X] Sexual Harassment
Compensation
Other (please specify):

7. Describe the circumstances of the alleged discrimination and include date(s) of adverse employment action(s): Please see attached narrative.



8. Has the Complainant filed a grievance or lawsuit regarding this complaint? Yes  No

If yes, please specify: \_\_\_\_\_

9. Is the Complainant represented by a Union or an Attorney? Yes  No

Name: \_\_\_\_\_ Organization/Firm: \_\_\_\_\_

Address: \_\_\_\_\_ Phone No.: \_\_\_\_\_

\*10. What steps does the department recommend be taken to address this complaint? (For instance, investigation, alternative dispute resolution, dismissal) The matter will also be referred for possible disciplinary investigation to the Chief's Office.

\_\_\_\_\_  
\_\_\_\_\_

\*10a. Name and position of staff who will implement recommended steps: Victor Wyrsh, Deputy Chief of Operations, with approval from Fire Chief Jeanine Nicholson.

11. Completed by: JESUSA BUSHONG

Date: 10-31-19

Address: 698 2ND ST., R.M. 209 SF 94107

Tel. No. (415) 558-3615

\*12. Please notify DHR/EEO in written form immediately upon resolution of this complaint.

**\*Subject to the Human Resources Director's approval**

**HUMAN RESOURCES DIRECTOR REVIEW**

Complaint is assigned EEO File Number: \_\_\_\_\_

D Approve department's recommendations for addressing complaint. Proceed and notify HR Director of actions, findings, and recommendations for resolution.

D Complaint is assigned by HR Director to: \_\_\_\_\_  
and/or the following actions are to be taken:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

for Micki Callahan, Human Resources Director

Date

\_\_\_\_\_



# San Francisco Fire Department

## General Form

EXHIBIT A

Date: 10/10/2019

---

From: **MCCOY, Charles F.** Rank: **H 30** Assignment: **E22** Tour: **22** ID: **MC3620**  
To: **Jesusa Bushong, Department Personnel Officer**  
Subject: **Accusation made by a Firefighter against another Firefighter**  
Reference: **None**  
Enclosure: **None**

---

1. On 10/03/2019, FF Barca notified me that for the last twenty month's she has been treated poorly at Station 22.
2. FF Barca has not mentioned any poor treatment until now.
3. I advised FF Barca to report incidents to an officer when they occur.
4. I asked FF Barca how she has been treated poorly and her response, "was after Pork Chop asked if she wanted to have sex."
5. Pork Chop is FF Jorge Morales.
6. The alleged accusation occurred while both firefighter's were off duty.
7. Human Resources was notified on 10/10/2019 using the main line.
8. Notification was delayed due to other circumstances involving FF Barca.

  
(Signature)

**Bushong, Jesusa (FIR)**

---

**From:** Bushong, Jesusa (FIR)  
**Sent:** Friday, October 11, 2019 11:09 AM  
**To:** Barca, Whitney (FIR)  
**Subject:** How to File a Discrimination Complaint Information  
**Attachments:** how-to-file-complaint-april2016.pdf; W Barca How to File Oct 2019.pdf

**Importance:** High

Hello FF Barca,

I am sorry to hear about your allegations concerning a colleague at Station 22. I have reported the matter to Deputy Chief Wyrsh, who will work with the Assignment Office to re-assign that colleague immediately so that you two would not work together.

Please review the attached letter and information and contact me when I return on October 21 if you wish to file a discrimination complaint.

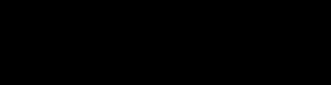
Take care,

*Jesusa Bushong*  
Pronouns: she/her/hers  
Departmental Personnel Officer  
Human Resources Division  
Voice: 415.558.3615  
Fax: 415.558.3463



October 11, 2019

Whitney Barca



Dear Firefighter Barca:

I am writing to follow up on our telephone conversation this morning. Based on Captain Charles McCoy's verbal and written report to me, and your brief account, I am providing you with the information regarding how to file a discrimination complaint. I have also outlined below the standards for claims of Disparate Treatment (or being singled-out) and Harassment (Hostile Work Environment). I am sending this information for your review in relation to your allegation of a Firefighter colleague asking if you would like to engage in sexual relations with him and, separately, your claim that your Company Officer accused you of lying and stealing and was yelling at you.

For your information, the standards for a finding of Disparate Treatment are:

- The complainant is a member of a protected category;
- The complainant has suffered an adverse employment action; and
- The complainant suffered an adverse employment action because of his or her membership in a protected category.

For your information, the standards for a finding of Harassment under discrimination laws are.

- The complainant is subject to physical, verbal or visual conduct on account of the complainant's membership in a protected category;
- The conduct is unwelcome; and
- The conduct is sufficiently severe or pervasive as to alter the condition of the complainant's employment and create an abusive working environment.

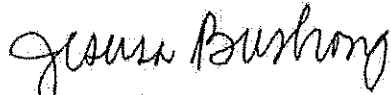
The Department takes very seriously any complaint that may be potential violation(s) under discrimination laws. Please review the enclosed "How to File a Discrimination Complaint" document and contact me at (415) 558-3615 if you wish to make such filing. I am here to facilitate the initial intake and subsequent reporting of the matter to the Department of Human Resources EEO Division.

The enclosed document outlines the bases and issues utilized to determine if your allegations of retaliation and discrimination have bases for a possible EEO violation. It also explains what your written complaint should include.

If you are not interested in filing internally, you have the option of filing with the following agencies: City & County of San Francisco Department of Human Resources-EEO Division; State of California Department of Fair Employment and Housing Department (DFEH); or the United States Equal Employment Opportunity Commission (EEOC).

Please let me know if you have any questions.

Sincerely,



Jesusa Bushong  
Departmental Personnel Officer

Enclosure

cc: Matthew Valdez, EEO Programs Manager

**Bushong, Jesusa (FIR)**

---

**From:** Whitney Barca [REDACTED]  
**Sent:** Friday, October 25, 2019 3:34 PM  
**To:** Bushong, Jesusa (FIR)  
**Cc:** Barca, Whitney (FIR)  
**Subject:** Re: FW: How to File a Discrimination Complaint Information

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Thank you for following up Jesusa and happy Friday! Thank you for emailing my personal email as well. Since that voicemail last week i updated my department email password and have access once again, although for anything timely I'm best reached via gmail.

I sent over the speedy version (given the time crunch last week) of my recollections from the event involving my colleague but it sounds like it didn't attach. I'll resend right now.

Thank you,

Whitney Barca

On Fri, Oct 25, 2019 at 11:19 AM Bushong, Jesusa (FIR) <[jesusa.bushong@sfgov.org](mailto:jesusa.bushong@sfgov.org)> wrote:

Good morning FF Barca,

I hope my message finds you well!

I am writing to follow up on your complaint regarding a colleague at Station 22. Please do know that the Department takes such allegations seriously and would like to assist you in any way possible. You had left me a voicemail message on October 15 indicating you were locked out of your Department email. Thus, I am following up with you on your personal email on file.

Please let me know if you have completed your write-up of the matter and if you will be sending it to me.

Thank you,

*Jesusa Bushong*

(She, Her, Hers)

Departmental Personnel Officer

Human Resources Division

Voice: (415) 558-3615

Fax: (415) 558-3463

---

**From:** Bushong, Jesusa (FIR)  
**Sent:** Friday, October 11, 2019 11:09 AM  
**To:** Barca, Whitney (FIR) [REDACTED]  
**Subject:** How to File a Discrimination Complaint Information  
**Importance:** High

Hello FF Barca,

I am sorry to hear about your allegations concerning a colleague at Station 22. I have reported the matter to Deputy Chief Wyrsh, who will work with the Assignment Office to re-assign that colleague immediately so that you two would not work together.

Please review the attached letter and information and contact me when I return on October 21 if you wish to file a discrimination complaint.

Take care,

*Jesusa Bushong*

*Pronouns: she/her/hers*

Departmental Personnel Officer

Human Resources Division

Voice: 415.558.3615

Fax: 415.558.3463

--  
Whitney



**Bushong, Jesusa (FIR)**

---

**From:** Whitney Barca [REDACTED]  
**Sent:** Friday, October 25, 2019 4:14 PM  
**To:** Bushong, Jesusa (FIR)  
**Subject:** Re: Morales incident

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

There's so much more, but this was the beginning.

On Fri, Oct 11, 2019 at 12:09 PM Whitney Barca [REDACTED] wrote:

Super quick recount of events involving Morales.

Toward the end of February 2018 Morales called me on my cell phone while I'm at home in SF on a Friday night and tries to convince me to come over to his house and have sex with him.

We had never spoken on the phone before this call.

I thought he was kidding at first, like an inappropriate joke, but then he kept asking.

Since I thought he was just messing with me at first I wasn't taking his requests seriously.

I told him I had plans to meet my friends in Santa Cruz for a concert and I was planning on spending the night there. I even extended an invite to join us at the concert.

He said wasn't interested in the concert.

He told me not to go the concert with my friends and to come over to his house instead. I said no.

He suggested I should come by his place first before heading over to Santa Cruz. I said no.

He asked if I could come over to his place after the concert. I kept declining. He was persistent.

Morales was new to E22 like me and I did not know him previously. I thought he was just lonely and trying to awkwardly flirt. I tried to brush it off and just pretend it didn't happen but **the fallout from this interaction nearly two years ago is the reason I've falsely been accused of "lying and stealing" today.** I was so uncomfortable around Morales after this incident and he used that against me. Before this incident I was friendly with the members of Station 22 and felt comfortable there. This incident was the catalyst for a series of events that have destroyed my friendships and reputation.

I have NEVER been romantically interested in Morales. I have never given Morales a reason to proposition me for sex as he did. I felt disrespected and was disappointed in his behavior. Only a short while after this incident there were more issues with Morales that were deeply disconcerting to me and I felt he was trying to intimidate and control me. I was tremendously uncomfortable with his actions and asked twice for help from my Lieutenants. I woke up on three separate mornings to find Morales in the bed next to mine. Not ok! I had no knowledge he was coming in early for shift. He had not done this before, only after he solicited me for sex. The first time he did this I was completely freaked out because I woke up to a dark figure walking toward me in the night. In truth it was probably 0530 but I was startled from my sleep unexpectedly. I thought he was a stranger in the station up to no good and my heart nearly leapt out of my chest. Obviously I was not able to return to sleep. My heart was pounding in my chest. After some coffee that morning I thought maybe he didn't realize I was on duty, no way he would do that again. But he did. Two more times. I felt like he was trying to bully me for rejecting his advances. I went to my LT. after the second time and a different Lt. after the third time. Only then did he stop the uber creepy behavior. Unfortunately, whatever stories he had told the crews about me had already taken hold as evidenced by Jessica (Lee) Lindsey asking me why I didn't just move beds if I was uncomfortable?! I was blown away by this question because I own the firefighter spot on E22 and Morales was VR at that time.

Morales and I are only 1 class apart. I am the 119 and he is the 120. As the newest members of the fire department I wouldn't have been comfortable staking my bed claim over a regular member. I was new to E22 and my experiences forming this opinion came from being a probie at a Division house and then VR at a Chief's house where I was on the books for cooking at both. As a member my bedding remains on my bed when I'm not there. Between that and the sleeping chart and being a regular member with house and department seniority I felt bullied at my own house.

--  
Whitney

## **Exhibit B**

Charge of Discrimination

Dated September 23, 2020

**CHARGE OF DISCRIMINATION**

(To be Completed by EEO Staff in Consultation with Complainant)

1. Complainant: Whitney Barca Email Address: [REDACTED]  
Address: [REDACTED] Work Phone: [REDACTED]  
[REDACTED] Home Phone: [REDACTED]

2. Respondent Department: San Francisco Fire Department (SFFD)  
Individual Respondent(s): Jorge Morales, H002 Firefighter  
Worksite: Station 22 Telephone No.: [REDACTED]  
Address: \_\_\_\_\_

3. Complainant's Current Employment Status (circle one): Classification: H002 Firefighter  
PCS TCS TPV PEX TEX PROB NOT A CITY EMPLOYEE

4. Basis of Discrimination (specify):  
 Race: \_\_\_\_\_  
 Color: \_\_\_\_\_  
 Religion: \_\_\_\_\_  
 Creed: \_\_\_\_\_  
 Sex: Female  
 National Origin: \_\_\_\_\_  
 Ethnicity: \_\_\_\_\_  
 Age: \_\_\_\_\_  
 Disability/Medical Condition: \_\_\_\_\_  
 Political Affiliation: \_\_\_\_\_  
 Sexual Orientation: \_\_\_\_\_  
 Ancestry: \_\_\_\_\_  
 Marital or Domestic Partner Status: \_\_\_\_\_  
 Gender Identity: \_\_\_\_\_  
 Parental Status: \_\_\_\_\_  
 Other Non-Merit Factors: \_\_\_\_\_  
 Retaliation: Harassment for Rejecting Respondent's Sexual Advance

5. Issue complained of:  
 Denial of Employment  
 Denial of Training  
 Denial of Promotion  
 Denial of Reasonable Accommodation  
 Termination  
 Lay-off  
 Constructive Discharge  
 Disciplinary Action  
 Harassment  
 Work Assignment  
 Sexual Harassment  
 Compensation  
 Other (specify): \_\_\_\_\_

6. Has the Complainant filed the complaint with any other local, state or federal agency? Yes  No   
If yes, please specify: \_\_\_\_\_

7. Has the Complainant filed a grievance or lawsuit? Yes  No   
If yes, please specify: \_\_\_\_\_

8. Is the Complainant represented by a Union or an Attorney? Yes  No   
Name: \_\_\_\_\_ Organization/Firm: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone No.: \_\_\_\_\_

9. Describe specifically and in detail the circumstances of the alleged discrimination. Please include date(s) of adverse employment action(s).

Since January 2016, I have worked for SFFD as an H002 Firefighter. From January 2018 to January 2020, I was a permanent member at Station 22. From January 2018 until October 2019, Jorge "Porkchop" Morales was my lower-ranked Vacation Relief (VR) co-worker at Station 22. Our tour schedules rarely overlapped but we often saw each other at shift change because six out of nine workdays, Morales worked the day after I worked.

On October 7, 2019, I was approached by my then-commanding officer, Captain Charles McCoy, about stealing another firefighter's bracelet, which I denied. This was one week after I reported to Captain McCoy that a lamp I owned at the station was thrown away. On October 10, 2019, when further questioned about these incidents, I told Captain McCoy that I felt this treatment was a continuation of negative treatment I had experienced for two years as a result of rejecting a sexual advance by Morales in 2018. I believe Morales spread rumors about me that led to me being bullied and disliked by Station 22 firefighters.

## **I. SEXUAL HARASSMENT**

Morales subjected me to the following unwelcome conduct based on my sex (female):

1. At the end of February 2018, Morales called my cell phone and asked me three times to come to his house and have sex with him. I thought he was kidding so I responded that I was going to a concert in Santa Cruz and invited him to join me and my friends. He repeated that I should come over after the concert. I said, "No, I'm hanging up now. I'll see you at work." I believe Morales was "butt hurt" by my rejection because one week later, he refused to take my detail and told me to "fuck off." (see Section II.1).

In March or April 2018, on three separate dates where Morales' workday followed my workday, I woke up to find Morales sleeping in the bed next to my assigned bed in the station dormitory, even though there are several empty beds in the dormitory. As a permanent member, I had an assigned bed but Morales, a VR member, did not. The first time this happened, I woke up around 5:00 am when it was dark and saw a shadow coming towards me. It was Morales getting into the bed next to mine. I was startled and then could not fall back to sleep. The second time it happened was about a week later, also between 5:00 and 5:20 am. I do not remember if I was again woken up by him coming in or if I saw him in the bed next to me after I woke up. The morning after the second incident, I reported to Lieutenant Eric Kwan that Morales had slept next to me and asked Lt. Kwan to get Morales to stop. The third time, I woke up when my alarm went off at 6:15 am and saw Morales in the bed next to me. I then reported to [REDACTED] that Morales was sleeping in the bed next to me and that it made me feel uncomfortable. [REDACTED] said, "Yeah, I get it." I believe she spoke to Morales because he stopped sleeping in the bed next to me.

## **II. RETALIATION**

1. Approximately one week after rejecting Morales' sexual advance in February 2018, I was detailed to go to another station as the lowest ranked permanent member. Per the usual practice, I asked Morales to take my detail, since he was a lower ranked member. Instead of accepting the detail, as is customary for a junior member, or simply telling me, "No thanks," Morales told me to "fuck off." I took the detail and after returning, I apologized to Morales in case I had come across as rude. Instead of accepting my apology, Morales began to yell at me. Acting Captain Gary Altenberger then stepped in and addressed us both, which I thought resolved the issue.

2. The next day, at shift change, I learned that Morales complained to [REDACTED] that I asked him to take my detail. Lt. [REDACTED] reminded me that station policy did not require junior members to take details. I stated that I agreed on the rule, and that Morales was not obligated to take my detail. Around this time, other firefighters including Jessica Lindsay, [REDACTED], [REDACTED] and [REDACTED] began to yell at me and say that I acted "entitled." I believe they were influenced by Morales' version of events.

In addition to the rumor that I was "entitled," I believe Morales spread other rumors about me to hurt my reputation. According to a classmate or co-workers whose names I cannot recall, Morales set up a rumor that I liked him and he had rejected me. Morales also spread a rumor that I refused to drive on the fire engine because I am a bad driver, because I often did not take the drive position due to being happy with my firefighter spot.

3. Due to Morales' rumors about me, most of the other Station 22 firefighters, whose names were provided above, refused to help me in the kitchen or cover the floor for me so I could work out. These members would not talk to me directly but talked about me behind my back. They refused to take my shift trade requests. This behavior lasted until December 2019, when I reassigned to a different station.
4. Around December 2018 or January 2019, I was not invited to the Station 22 Christmas party.
5. In October 2019, Captain McCoy informed me that Morales twice put a crumpled piece of trash paper in my locker. Captain McCoy also informed me that Morales was the person who threw away my lamp.

I believe Morales engaged in the above described conduct and convinced station members to ostracize me because I rejected his request to have sex.

In October 2019, after I reported Morales' phone call to Captain McCoy, Morales was transferred to another station. When I reported to work after filing the complaint, I found that there was no toilet paper, soap, shampoo, or condition in the women's bathroom and locker room, multiple times. I believe the toiletries were only removed when I worked, because I came to work on my day off, and noticed toiletries were present. I believe Jessica Lindsay, [REDACTED] and Christina Snow are responsible because they were the women who had access to those spaces. I believe these actions were in retaliation for my complaint to McCoy, because shortly after Morales was transferred to a different station, I heard a rumor that an HR claim was the reason for his transfer, and because firefighter Lindsay is close friends with Morales.

10. Has the Complainant taken any action to resolve the issue(s)? If yes, please specify.  
Around April 2018, after the second and third sleeping incidents, I reported Morales' behavior to two separate lieutenants. In April 2018, when Captain Charlie McCoy became Station 22's commanding officer, I reported to him that Morales and I had conflict stemming from him sleeping next to my assigned bed. In October 2019, following the trash in my locker and a separate disciplinary incident, I reported the February 2018 phone call for the first time, to Captain McCoy.

11. Remedy or corrective action desired by Complainant:

I would like my reputation within SFFD to be remedied, although I do not know how that would happen. I would like positive closure and for my negative experience at Station 22 to be acknowledged.

Completed by:

/s/ Dorothy Young  
EEO Staff's Name and Signature

September 23, 2020  
Date

\_\_\_\_\_  
Complainant's Name and Signature

\_\_\_\_\_  
Date



# **Exhibit C**

Investigative Report with Attachments

Dated May 12, 2023

## EEO INVESTIGATIVE REPORT

To: Carol Isen, Human Resources Director

Through: Amalia Martinez, Director, EEO and Leave Programs, DHR

From: Jennifer Burke, EEO Programs Manager, DHR

EEO File No.: 3311

Complainant: Firefighter Whitney Barca, San Francisco Fire Department (SFFD)

Respondent: SFFD  
Firefighter Jorge Morales

Issues/Bases: Sexual Harassment; Retaliation

Date Complaint Filed: October 31, 2019

Date of Report: May 12, 2023

## I. INTRODUCTION AND BACKGROUND

Since January 2016, Whitney Barca (Barca) has worked at the San Francisco Fire Department (SFFD) as an H002 Firefighter. While on probation, Barca worked at Stations 7, 32, and 31. After probation, in January 2018, Barca became a permanent firefighter at Station 22, where she worked until January 2020. Since January 11, 2020, Barca has worked at Station 33.

Firefighters are scheduled nine days out of the month, and each station has a "6 out of 9" chart posted that shows how the schedules overlap. There are some people in the station Barca has never worked with and will never cross paths with, and there are others with whom she shares nine out of nine shifts.

At Station 22, Barca's primary co-workers were Firefighters Jessica Lindsey (Lindsey), [REDACTED], Christina Snow (Snow), Tim Moyer (Moyer), Jorge "Porkchop" Morales (Morales), Joey Doughmeyer (Doughmeyer), and [REDACTED]. Snow and Moyer only worked at Station 22 in 2019, while the others worked at the station with Barca both years she was there. Firefighter Dustin Rough (Rough) was a colleague Barca never worked with but would see in passing during shift change. Barca also worked sometimes with Firefighters [REDACTED] and [REDACTED]. Barca's lieutenant in 2019 was Tony Soule (Soule). The two lieutenants she worked with in 2018 were [REDACTED] and Eric Kwan (Kwan). Barca worked six out of nine shifts with [REDACTED].

## II. COMPLAINT AND REMEDY SOUGHT

On October 31, 2019, the Department of Human Resources, Equal Employment Opportunity Division (DHR EEO) received from SFFD a "Department Report of Employment Discrimination Complaint" reporting Barca's allegations that Morales made sexual advances toward her and then retaliated against her for rejecting his advances. (Exhibit A).

On February 12, 2020, Dorothy Young (Young), then-EEO Programs Specialist at DHR EEO conducted an intake interview with Barca in which she provided additional information regarding her allegations. (Ex. B, Attachment 1). Between February and September 2020, Young followed up with Barca via telephone and email approximately 15 times to gain additional information and to have Barca review and sign the Charge of Discrimination (Ex. C), which included the following allegations:

From January 2018 to January 2019, Morales was Barca's lower-ranked Vacation Relief (VR) coworker at Station 22. Their tour schedules rarely overlapped, but they often saw each other at shift change because six out of nine work days, Morales worked the day after Barca.

On October 7, 2019, Barca's commanding officer, Captain Charles Mc Coy (Mc Coy), approached her about stealing [REDACTED] bracelet, which she denied. This was one week after Barca reported to Mc Coy that a lamp she had left at the station was thrown away. On October 10, 2019, Mc Coy further questioned Barca about these incidents, and she told him that she felt this treatment was a continuation of negative treatment she had experienced for two years as a result of rejecting a sexual advance by Morales in 2018.

**A. Sexual Harassment Allegations**

Barca alleged Morales sexually harassed her as follows:

1. At the end of February 2018, Morales called Barca's cell phone and asked her three times to come to his house and have sex with him.
2. In March or April 2018, on three separate dates when Morales's work day followed Barca's, Barca awoke to find him sleeping in the bed next to her hers in the station dormitory, even though there were several empty beds.

**B. Retaliation Allegations**

Barca alleged Morales retaliated against her because she rejected his sexual advances as follows:

1. In February 2018, approximately one week after Barca rejected Morales's sexual advances, she was detailed to go to another station. Per the usual practice, Barca asked Morales to take her detail because he was a lower-ranked member than she. Morales told Barca to "fuck off" and later yelled at her when she tried to apologize to him.

Morales complained to ██████ that Barca had asked him to take her detail. ██████ reminded Barca that station policy did not require junior members to take details. Then, other firefighters – including Lindsey, ██████ ██████ and ██████ – yelled at Barca that she acted "entitled."

2. Morales spread rumors about Barca, including that she is "entitled," she liked Morales and he rejected her, and she refused to drive the fire engine because she is a bad driver.
3. Due to Morales's rumors about Barca, most of the other Station 22 firefighters – including Lindsey, ██████ ██████ and ██████ – refused to help her in the kitchen, cover the floor for her so she could work out, or take her shift trade requests; would not speak to her directly; and talked about her behind her back. This occurred until December 2019.
4. Around December 2018 or January 2019, Barca was not invited to the Station 22 Christmas party.
5. In October 2019, Morales twice put a crumpled piece of trash paper in Barca's locker.
6. In October 2019, Morales threw away Barca's personal lamp.

In October 2019, Barca reported Morales's sexual advances to Mc Coy, and SFFD transferred Morales to

another station. Barca alleged Lindsey, [REDACTED] and Snow retaliated against her for reporting Morales as follows:

7. In October or November 2019, on multiple occasions, Lindsey, [REDACTED] and Snow removed the toilet paper, soap, shampoo, and conditioner from the women's bathroom and locker room.

### III. ALLEGATIONS REQUIRING FURTHER INVESTIGATION

The allegations included in the Charge of Discrimination were investigated and are the subject of this report. (Ex. C).

### IV. DEPARTMENTAL RESPONSE

On September 23, 2020, Young sent a "Notification of Charge of Discrimination and Request for Information" to SFFD. (Ex. D). On October 19, 2020, SFFD responded to Young's request. (Ex. E). SFFD cooperated with the investigation by providing requested documents and making witnesses available for interviews.

### V. THE INVESTIGATION

#### A. Summary of Interviews

The following witnesses were interviewed as part of the investigation:

1. Jorge Morales, H002 Firefighter, Respondent
2. [REDACTED] H020 Lieutenant
3. [REDACTED] H002 Firefighter
4. [REDACTED] H002 Firefighter
5. [REDACTED] H002 Firefighter
6. [REDACTED] H003 EMT/Paramedic/Firefighter

(Ex. F, Ats. 1-6).

#### B. Summary of Documents Reviewed

Documents provided by Barca and SFFD concerning the relevant events and issues were reviewed in the investigation. (Ex. E, Ex. G, Ex. H).

### VI. INVESTIGATIVE STANDARDS

#### A. Sexual Harassment Standard

To sustain a complaint of sexual harassment in violation of the City's EEO Policy, the investigation must establish all of the following: (1) the complainant was subjected to physical, verbal, or visual conduct that was sexual in nature; and (2) the conduct was unwelcome.

**B. Retaliation Standard**

To sustain a complaint of retaliation in violation of the City's EEO Policy, the investigation must establish all of the following: (1) the complainant engaged in a protected activity; (2) the complainant suffered an adverse employment action; (3) there was a causal connection between the protected activity and the adverse employment action.

**C. Preponderance of the Evidence Standard**

Per the City's EEO Policy, a preponderance of the evidence standard was used to analyze the allegations. Preponderance of the evidence is one type of evidentiary standard used in a burden of proof analysis. Under the preponderance standard, the burden of proof is met when the party with the burden convinces the fact finder that there is a greater than 50% chance that the claim is true. These findings do not reach conclusions whether the alleged conduct violated state or federal laws but instead address whether the City's EEO Policy was violated.

**VII. FINDINGS OF FACT**

**A. Relationship Between the Parties**

**1. Interviews with Barca**

In January 2018, Morales became a VR member at Station 22. Barca and Morales were new to Station 22 at the same time. They met as co-workers because both were firefighters in the same house. Morales was the fifth member but had the lowest rank because he did not have a permanent spot. This meant that if someone was needed at another station within Battalion 7, Morales would go to fill in at that station. VR members are "first out the door," while permanent members stay in their assigned house. Barca and Morales worked together from January 2018 until Morales was moved to another station in October 2019. Morales's tour schedule, or work schedule, followed Barca's. Their workdays overlapped minimally, but they saw each other at shift change because six out of nine workdays, Morales worked the day after Barca.

When asked to describe their working relationship, Barca said Morales would not talk to her or was rude and was blatantly unhelpful. For example, if Barca was in the kitchen prepping food, Morales would sit and watch football and not help. The nature of firefighting is to be uncharacteristically helpful, so not helping a co-worker is "pretty blatant," because at every station, firefighters go out of their way to help each other. Barca has only been a firefighter for three years but has experienced that at every station. Morales made Barca into an outcast because he would not reply to her. For example, one time, Morales had Barca's radio. Barca explained that there are radios assigned to a firefighter's position of the day on a truck. The firefighter-driver would have a specific radio so that, if something happens, dispatch will know the name of the driver based on the radio assignment, which is based on the position on the rig. It is important for everyone to have the correct radio in case of a dangerous situation. When Barca realized Morales had her radio, she asked him to switch and Morales yelled, "Calm the fuck down!" Barca did not think the radios had been switched on purpose and was not trying to engage him because she knew he did not like her. However, her job and safety are involved so she does not understand why

his response was so antagonistic. Barca and Morales are not friends. They have never socialized outside of work. They have never communicated outside of work. Barca and Morales have no personal relationship at all.

## 2. Interview with Morales

In early 2018, Morales worked at Station 22 as a VR member for six months. Since 2019, he has been a permanent member there.

Morales met Barca at Station 22 in 2018, but they were not on the same shift and did not work together, unless one of them was working overtime (OT) or some other detail. For a year and a half, they worked together “maybe two to three times a month, depending on OT.” Morales described Barca as a “horrible” firefighter because she “didn’t know her job, couldn’t be trusted, didn’t know how to drive, didn’t know how to pump, didn’t know the area.”

Morales and Barca never socialized outside of work. They were supposed to once when they first met, but it never happened. When they first met, Morales told Barca he is Puerto Rican, and Barca said her brother worked at a Puerto Rican rum bar downtown and they should go out and try some rum. However, the day they were supposed to go to the bar, Barca called Morales and asked him to help her move a dresser. Barca had Morales’s phone number because he had given it to her. Barca said she needed to move the dresser to Santa Cruz told him they should stop by a friend’s party while they were there. He replied that he did not feel comfortable, did not know her, and was not going to drink and drive. Then she said they could stay in Santa Cruz and sleep on the beach. Morales “shut it down” and said, “No, I’m not doing that at all,” because he didn’t know Barca or her friends and does not do bonfires and sleep on the beach. Barca responded by saying, “I’ll see you at work.” After that, at work, there was “just a little tension” and it was awkward. Morales did not take Barca’s invitation as romantic in nature, just “as that’s what she liked to do.” Morales did not call Barca again.

People at Station 22 – including Snow, [REDACTED] and Lindsey – complained to Morales about Barca. They did not understand why she did not know her job and did not perform well in drills, which made the whole station look bad.

## 3. Interviews with Witnesses

[REDACTED] From January 2018 to January 2019, [REDACTED] was detailed at Station 22 under Mc Coy. Though [REDACTED] met Barca previously when Barca was a probationary employee at Station 31, they never worked together until January 2018, when [REDACTED] was Barca’s officer. Barca is a “challenging” employee because she has poor driving skills, and at one point, [REDACTED] threatened to remove Barca from driving because she did not listen and improve. Barca would also screw up on drills and when [REDACTED] would give her feedback, she would reply, “We’re just drilling.” [REDACTED] verbally counseled Barca in private about performance deficiencies and attitude issues. [REDACTED] never socialized with Barca outside of work and does not know whom Barca was close to at the station. They have not spoken since Barca went on disability leave from Station 22. Though [REDACTED] did not say Barca would be untruthful, she did say that Barca “has her own story” and believes Barca may try to “manipulate” people because “a lot of people are scared of” Barca because she told them her brother works for the City Attorney’s Office.

█████ met Morales in 2018 at Station 22 and worked with him as his office for three to four months. Morales is “very competent,” a “hard worker,” moves “fast,” and is a pleasure to work with because he is a “nice guy” with “situational awareness” on the job. Morales was well-liked at Station 22 because he is a “team player.” █████ and Morales have texted each other about football but have not otherwise socialized outside of work. █████ believes it has been “maybe a couple years or more” since she last spoke with Morales. █████ had no reason to believe Morales would be untruthful.

█████ Around 2018 or 2019, █████ met Barca when Barca came to Station 22. From 2018 to 2020, they worked together three to four times a month. At first, █████ thought Barca was cool and nice. However, after █████ started working with Barca, her opinion of Barca changed. Barca did not really pull her weight. Barca is “not a great team player” and █████ was “not excited to work with” her. Barca would claim she had not been taught basic skills and say, “I was never taught this” and “I never did this before,” even six months after coming to Station 22 and doing basic tasks. █████ also thought Barca was not proficient or knowledgeable about medical tasks. █████ believes Barca was “more like a liability on the rig.” In addition, in the house, Barca was unmotivated and would not independently join in to help unless given directions like, “Please help us mop the floor.” █████ believes that over time, it gets frustrating when someone is not pulling her weight and with such a small house staff, it is noticeable. █████ does not believe Barca got along well with others at Station 22 because she is rude and plays games with her colleagues. █████ does not socialize with Barca outside of work.

Around 2018 or 2019, █████ met Morales when Morales came to Station 22. From 2018 to 2021, they worked together two to three times a month. They shared tasks as a company, including housework, cooking, responding to calls, fires, and car accidents. Morales is super competent, dependable, and knowledgeable. █████ enjoys working with Morales because she feels safe with him and is confident they can address any “intense call” they receive. Morales gets along well with his co-workers. Morales is private, but █████ knows he has two young children. █████ invited Morales to her engagement party and they both attended the Station 22 Christmas party. Otherwise, they have not socialized outside of work. █████ last communicated with Morales two weeks ago, when he texted her to tell her the house had saved enough money for a sauna and asked how her pregnancy was going.

█████ In January 2018, █████ met Barca when they started working at Station 22. From January to August 2018, they worked together three to four times a month. Barca is not a proficient firefighter and did not take the initiative to learn. Barca never grasped the basic details and tasks that go into firefighting operations. When Barca participated in drills, it appeared as though she had never done them before. █████ worked with Barca when she was assigned to drive the engine or truck and it seemed as though she “had no idea what she was supposed to do.” One day, Altenberg was with Barca, █████ and █████ Barca was driving the rig but did not know how to position it when they arrived on scene. █████ and █████ looked at each other in surprise. Later that day, for at least an hour, Altenberg went over how to position the rig in various scenarios with Barca. █████ found it “very shocking” that Barca, who had only six months less seniority than he, could not perform these tasks. █████ does not socialize outside of work with Barca. The last time they spoke was around August 2018, when he left Station 22. In January 2021, they were both assigned to Station 4, but he has not seen her there.

In January 2018, █████ met Morales when they were detailed to Station 22 as VR. From January to August 2018, they worked together approximately four times a month. Morales is proficient at his job, enthusiastic, and “wanted to invest his time and energy into the house and make it better.” Morales



worked together with other firefighters and was “very helpful” and “always involved.” [REDACTED] does not socialize outside of work with Morales. Around 2021, Morales texted [REDACTED] to ask if [REDACTED] needed to trade any shifts, but [REDACTED] did not take or trade any shifts with Morales. [REDACTED] believes Morales got along with Barca but does not know if they socialized outside of work.

[REDACTED] In January 2018, [REDACTED] met Barca when he started working at Station 22. From January to May 2018, they worked together three to four times a month. [REDACTED] could not recall working with Barca since May 2018. They got along and “didn’t have any problems.” [REDACTED] believed he, Morales, Barca, [REDACTED] and Firefighter Quincy Henry (Henry), who were all assigned to Station 22 in January 2018, were all new and still learning their jobs. [REDACTED] believes Barca struggled with driving the rig and placing it during a working fire. However, [REDACTED] believes that all the new firefighters were “struggling” with learning the job and becoming experts. [REDACTED] could not say who Barca was close with at Station 22. [REDACTED] does not socialize with Barca outside of work. The last time they spoke was in May 2018, when [REDACTED] left Station 22.

In June 2016, [REDACTED] met Morales at the SFFD academy, which they attended together for 20 weeks. From January to May 2018, three to four times a month, [REDACTED] and Morales worked VR at Station 22 together. During those watches, [REDACTED] and Morales would clean the station, do drills, shop for food, help with cooking, and answer calls. [REDACTED] believes Station 22 is “not that busy” of a fire station and does not get lots of calls. [REDACTED] could not recall if he ever worked with Morales since May 2018. [REDACTED] believes Morales is a “middle ground” firefighter in that he had “nothing really bad or great to say” about Morales. [REDACTED] could not say who Morales was close with at Station 22. [REDACTED] does not socialize with Morales outside of work.

[REDACTED] could not say if Morales and Barca got along or socialized outside of work. In 2018 or 2019, while [REDACTED] was at Station 5, he heard that “something was happening at Station 22” but could not recall what. [REDACTED] speculated that it was either about Barca not driving the engine or about detail assignments. [REDACTED] could not recall specific arguments about driving but believes there was some “tension” and “issues” about Barca not driving. [REDACTED] also believes the gossip he heard at Station 5 could have been about detail assignments because at small companies, like Station 22, unassigned or VR members were “on the charts,” or given roles like day watch and night watch. Therefore, VR members were participating in the house duties like regular members, and if they had to take an assigned or regular house member’s detail it was frustrating.

[REDACTED] met Barca at Station 22 in 2018, and they worked together once or twice. They had a basic working relationship and never socialized outside of work. [REDACTED] does not know how Barca got along with co-workers but believes most people in the house liked her.

[REDACTED] met Morales at Station 22 in 2018 or 2019, and they worked together a couple of times each month. They would go out on calls and work inside the house together. [REDACTED] believes Morales was easy to work with and they had a basic working relationship. They never socialized outside of work. [REDACTED] believes Morales got along with his co-workers because he is nice. [REDACTED] described Morales as an average, proficient worker.

[REDACTED] does not believe Barca or Morales would be untruthful and has never known either of them to lie.

**B. Sexual Harassment Allegations**

1. Allegation 1: February 2018 – Morales Asked Barca for Sex.

a) Interviews with Barca

Barca alleged that in late February 2018, on a Friday night, Morales called her on the phone out of the blue and asked her to come have sex with him. Barca could not recall the date of Morales's phone call. She went to a concert that night with two friends to see the band White Buffalo at Moe's Tavern in Santa Cruz, and she thinks the opening act was The Deltas. Barca looked this up online and could only find one reference to the show that night, but the link does not go anywhere and she cannot figure out when the show took place. Though Barca said she had a screenshot of her search result, she did not have it on her current phone.

Morales told Barca on the phone, "Come over and have sex with me." Barca initially thought Morales was kidding and maybe someone else had put him up to hit. The comment initially came across and really innocent and awkward, as if he was awkwardly trying to be friendly. However, Morales was persistent and repeated his request multiple times, and Barca kept declining. Barca said she had plans to go to a concert in Santa Cruz and would be spending the night there, and Morales said to come over after the concert. Then Barca invited Morales to go to the concert with her and her friends because they were already on the phone and she thought he was kidding and "messing around, being dumb." Morales responded, "Come over before." Barca replied, "No, that's weird, and I'm not running on time." Morales said he was not interested in the concert and to come over to his place after.

By the third time Morales asked Barca to come over, she said, "No, I'm hanging up now. I'll see you at work." Barca tried to keep it light because she did not want Morales to get "butt hurt." Initially, Barca did not see any "red flags" go up, so inviting him along was to express, "You're welcome to join me and my friends for a whole-group-friendly thing, if you're just looking for something to do." Then, when he kept saying, "No, I want you to come over," it turned and Barca thought, "Well, that's not happening.

When asked why Morales would have made this request, Barca said he is a "horny bastard" and she does not know why. Morales has multiple children by multiple women, and although Barca is not trying to judge, she thinks he might have issues. Barca said she really did not put any thought into why he would have asked her this. Barca thought this was such a rude, demeaning, and disrespectful thing to do.

At the time of the call, Morales had only been at Station 22 for about a month, and Barca and Morales had only worked together once or twice. Barca never had the impression that Barca was flirting with her when she saw him in person. They had never hung out, communicated socially, or talked on the phone. Morales had Barca's phone number because everyone in the station has everyone else's number. There is a station roster that lists the members' phone numbers, and everyone is on a group text. It is possible that Barca and Morales had exchanged work-related messages in a group text regarding trading shifts, though she cannot recall. Barca cannot check her records because she has a different phone now.

After the phone call with Morales, Barca told her friends with whom she attended the concert in Santa

Cruz, [REDACTED], about the phone call, “The weirdest thing happened.” Barca did not report the phone call to anyone at SFFD at the time.

In October 2019, after Morales threw out her personal lamp and put trash in Barca’s locker, she reported his phone call to Mc Coy. Barca told Mc Coy the behavior needed to stop, and Mc Coy said to “deal with it on your own.” Mc Coy also stated, “No. Why? This is nothing. Why are you even complaining?” Barca said she had been harassed and picked on ever since February 2018, when Morales called her requesting sex. This was the first time Barca reported the issue because she did not realize it was sexual harassment.

During her rebuttal interview, Barca confirmed that she did not have phone records from this time, she had changed phone carriers, and she had not contacted her previous carrier to get the records. Barca denied having spoken to Morales about personal interests. Barca stated that Morales could be Hispanic but denied knowing his ethnicity or ancestry. Barca confirmed that she has a brother who has worked at a rum bar and acknowledged speaking to Morales about that. Barca denied that she and Morales had discussed going to her brother’s rum bar, denied calling Morales to change the plan and asking him to help her move furniture to Santa Cruz, and denied inviting him to stop by a party with her friends and sleep on a beach.

During the rebuttal interview, Barca stated that she waited until October 2019 to report Morales’s conduct because she “didn’t realize it fell under work harassment” and it “didn’t feel like work harassment.” Barca stated that she reported Morales’s conduct to Mc Coy on October 3, 2019, and the incident with [REDACTED] bracelet, discussed below, occurred on October 6, 2019. [REDACTED] was motivated to report Morales at that time because she had found “garbage” in her locker on two consecutive shifts.

b) Interview with Morales

Morales denied calling Barca from his cell phone for personal reasons. Morales acknowledged that Barca called his personal cell phone regarding furniture moving and going to a party in Santa Cruz, as described above. Morales does not have his cell phone records and is not able to retrieve the records because he switched carriers.

c) Interviews with Witnesses

[REDACTED] never saw Morales and Barca flirt with each other and “never got that vibe from either of them that there was any flirtation going on.” On a date she could not recall, Morales told [REDACTED] that Barca accused him of sexual harassment. Morales said it was not true and that Barca had asked him out. Morales told [REDACTED] that once, Barca told him that her brother works at a tiki bar and suggested they get a drink. [REDACTED] does not know if Morales went. Morales also told [REDACTED] that Barca had called or texted him on his day off and asked him to help her move a piece of furniture. Morales has a truck and agreed to help Barca. Barca told him that the furniture was in Santa Cruz and they could go to the beach, make a bonfire, and sleep on the beach. Morales then declined. Sometime later, Barca accused Morales of sexual harassment, and Morales had to move stations. Around a year later, the case was dropped and Morales was allowed to return to Station 22. When Morales told [REDACTED] about this, she was surprised and thought it was “so random.” [REDACTED] stated it is common for firefighters to help each other move and do household projects off-duty. [REDACTED] did not believe the request to move furniture was strange, but the

sleepover on the beach request was strange.

██████████ never heard rumors about Barca and Morales, never heard Morales talk about Barca, and never heard that Barca liked Morales.

██████████ could not recall any romantic rumors about Barca. ██████████ could not recall ever hearing Morales talk about Barca, and never heard a rumor that Barca liked Morales.

██████████ does not recall seeing Barca and Morales interact, does not know if they get along or socialize outside of work, and has never heard them complain about each other.

d) Documents Reviewed

SFFD General Form: In an SFFD General Form dated October 10, 2019, Mc Coy wrote that on October 3, 2019, Barca notified him that Morales asked her while they were off-duty if she wanted to have sex and then for the next 20 months, other Station 22 firefighters treated her poorly. (Ex. A). The same day, Mc Coy reported the matter to SFFD HR.

Memorandum from Bushong re: Narrative Attachment to Department Report of Complaint: In a memorandum dated October 31, 2019, Bushong wrote that on October 11, 2019, she spoke to Barca on the phone to get more details about her interactions with Morales. (Ex. A). Barca “initially referred to accusations of lying and stealing against her.” When Bushong explained that she was calling regarding Morales, Barca was “surprised” and “shared that FF Morales asked her several times to have sex with him.” Bushong noted that “FF Barca did not report her interactions with FF Morales on her own,” “FF Barca was not able to provide specific dates in 2018 for her allegations that FF Morales asked her multiple times to have sex and he was lying in the bed next to hers multiple times at the Station dormitory when he was not on duty. However, she did recall that the incidents happened three times each.”

Email from Barca to Bushong Re: Morales Incident: In an October 25, 2019 email to Bushong, Barca reported, in part:

Toward the end of February 2018 Morales called me on my cell phone while I’m at home in SF on a Friday night and tries to convince me to come over to his house and have sex with him. We had never spoken on the phone before this call. I thought he was kidding at first, like an inappropriate joke, but he kept asking. Since I thought he was just messing with me at first I wasn’t taking his requests seriously. I told him I had plans to meet my friends in Santa Cruz for a concert and I was planning on spending the night there. I even extended an invite to join us at the concert. He said he wasn’t interested in the concert. He told me not to go to the concert with my friends and to come over to his house instead. I said no. He suggested I should come by his place first before heading over to Santa Cruz. I said no. He asked if I could come over to his place after the concert. I kept declining. He was persistent.

(Ex. A).

Barca's Written Complaint: In an undated written complaint, Barca included a verbatim account of the incident that she emailed Bushong. (Ex. G, At. 1).

SFFD Response to DHR EEO Request for Information: [REDACTED]

SFFD General Form Re: [REDACTED]

2. Allegation 2: March/April 2018 – Morales Slept in the Bed Next to Barca's.

a) Interviews with Barca

Barca alleged that in March or April 2018, on three occasions when Morales's tour followed hers, he slept in the bed next to her assigned bed in the station dormitory.

Barca explained that regular station members like her have assigned beds in the dormitory, while VR members like Morales do not. Station 22 has twelve beds, which are located in partitions or cubicles, each of which contains two beds. At the time, six of the beds were assigned, and the other six were unassigned. A chart is posted on the wall that shows a bird's eye view with everyone's bed assignments.

Barca's assigned bed was in the cubicle near the door at the top of the stairwell where people come in and out. Barca's sleeping area had the most light and traffic. Usually, no one slept in the bed next to hers because Station 22 is a single company with only four people on duty at a time: two firefighters who sleep in the dorm, one firefighter who sleeps downstairs, and an officer who sleeps in a private room.

If someone comes in early, it is their responsibility to know who is working so they do not sleep next to someone working and wake them up, which is rude. People who come in early can sleep in their car or in the room downstairs with a sofa, or they can shower or work out. Normally, if someone comes in early and comes to the dormitory, they go to the furthest bed from someone who is sleeping to avoid disturbing them. The common practice when coming in early is to text or otherwise let people at the station know, unless someone is in the habit of always coming in early. However, it is actually against the rules to come in early.

First Incident: One morning, at 5 am when it was dark, Barca saw a shadow coming towards her and "freaked out." She saw Morales come into her cubicle and crawl into the other bed. She could not fall back asleep and was upset because she needed the rest to be ready to respond to calls. Barca initially gave Morales the benefit of the doubt that this happened by accident because it was early and Morales did not see her or did not care. Barca did not take it personally or as Morales was doing something to

her.

Second Incident: Maybe a week later, between 5 am and 5:20 am, Morales again laid in the bed next to Barca's. She does not remember if she was woken up by him coming in or if he was already asleep when she noticed him. Barca thought maybe Morales was coming in early to avoid traffic from Hayward or Fremont, though it did not make sense for him to come in early because he was not coming from that far away. After this incident, Barca reported Morales's conduct to Kwan to get Morales to stop sleeping next to her. Kwan just smiled but nothing happened. Barca described Kwan as a "really nice guy who is not confrontational."

Third Incident: The third time, Barca's alarm went off at 6:15 am, and when she woke up, Morales was asleep in the bed next to hers. At the time, there were nine other choices of beds, so there was no reason for Morales to sleep right next to Barca. She believes that if she were a man, it might not be an issue, but this seemed like intentional behavior targeting her after the "weirdness" of Morales's phone call. After this incident, Barca reported Morales's conduct to [REDACTED] who responded, "Yeah, I get it." Barca believes [REDACTED] had a conversation with Morales and told him not to sleep next to her. Barca never spoke to Morales about the situation because his behavior toward her had been so aggressive.

At any given time, there are only two people sleeping in the dormitory, so Morales could have chosen from any of the other beds that were open and there was no reason for him to have slept next to Barca. She believes the bed next to hers was not assigned and was open; however, you usually do not sleep next to someone and Morales sleeping next to Barca was weird. Barca believes Morales slept in the bed next to hers in an attempt to intimidate her because he was "butt hurt" from her rejection. Barca believes Morales knew she was uncomfortable around him after their phone call and was "throwing his weight around and trying to intimidate" her, as if he were "top dog." Barca believes she hurt Morales's ego by rejecting his advances, and he was trying to make her pay for it because he has a lot of machismo.

During her rebuttal interview, Barca stated that Morales's claim that he never slept in the bed adjacent to hers is a lie and that she had photos of his gear next to hers to prove this. Barca also stated that Morales was not assigned a bed until March 31, 2018 and he was assigned a bed due to her complaint. Barca stated that there would not be a witness because it "would be awkward if there was a third person in the dorms." Barca stated that only two firefighters sleep in the dorms, one sleeps downstairs, and the officer has a private room. Barca also stated that when she reported Morales to [REDACTED] "she blew it off" and "said that's kind of weird, what do you want me to do about it?" and laughed. Barca stated that she reported Morales to [REDACTED] three times before [REDACTED] finally told Morales to stop sleeping next to Barca. Barca stated that Morales was coming in early because he lived in Hayward and did not want to sit in traffic, "which makes perfect sense"; however, firefighters are not allowed to come in the dorms before 7 am.

b) Interview with Morales

In 2018, Morales lived in Hayward and his shift started at 8 am. Morales would drive to Station 22 early to avoid traffic and would arrive around 6 am. When he arrived, he would work out or go to his bed "for a little bit." Morales's bed was on the right side of the dorm, bed three. Barca's bed was on the left side of the dorm, bed one. Morales had to walk by Barca's bed to get to his.

Sometime after Barca invited Morales to go to a party in Santa Cruz and he declined, which was the first or second week that they met, ██████ told Morales that Barca complained that he had been going to his bed or making noise while he was up there. After this, Morales did not go up to the dormitory anymore. He stated, "She's working and she has every right and I have to respect that. So that's what I did."

c) Interviews with Witnesses

██████ denied that Barca ever told her that Morales slept in the same cubicle in the bed next to Barca's. ██████ could not say why Barca would say so. ██████ believes that if Barca had told her this, she would have told Morales to be mindful about where he slept and find another bed. ██████ never observed Morales come to Station 22 early, like 4 am or 5 am, to sleep before his shift. ██████ never heard Morales or any other employee say he did so. ██████ denied that Barca ever told her that she thought Morales was sexually harassing her by sleeping in the bed next to hers.

██████ The beds in Station 22 are in the upstairs dormitory. ██████ believes there are 10-14 twin beds, with 2 beds per area, divided off with a pony wall partition at chest height. ██████ believes two firefighters sleep upstairs, one firefighter on watch sleeps downstairs, and the officer sleeps in a private bedroom. Firefighters take beds far apart from each other. ██████ is not sure if bed assignments are documented anywhere other than identified with a piece of tape and the firefighter's name on the foot of the bed. Firefighters pick their beds and are not assigned. On the second-floor dormitory, there was the pole hole, an open bed, and then Barca's bed. Barca's bed was catty corner from ██████ could not recall where Morales slept at the time, but believes his bed was at the very end of the dormitory. ██████ never observed or heard about Morales sleeping next to Barca. ██████ does not believe Morales would do so because people do not sleep in beds they are not assigned to.

██████ never observed Morales sleep in a bed next to Barca and no one ever told ██████ that Morales did so.

d) Documents Reviewed

Screenshots of Text Messages Provided by Barca: On March 5, 2018, Barca texted Steve, whom she was dating at the time, "Such drama at work tho," and "At least I got the weirdo to move his bed away from mine[.] That was just strange[.]" (Ex. G, At. 2).

Email from Barca to Bushong Re: Morales Incident: In an October 11, 2019 email, Barca reported, in part:

Only a short while after this incident [when Morales called Barca and asked her to have sex] there were more issues with Morales that were deeply disconcerting to me and I felt he was trying to intimidate and control me. ... I woke up on three separate mornings to find Morales in the bed next to mine. Not ok! I had no knowledge he was coming in early for shift. He had not done this before, only after he solicited me for sex. The first time he did this I was completely freaked out because I woke up to a dark figure walking toward me in the night. In truth it was probably 0530 but I was startled from my sleep unexpectedly. I thought he was a stranger in the station up to no good and my heard

nearly leapt out of my chest. Obviously I was not able to return to sleep. My heart was pounding in my chest. After some coffee that morning I thought maybe he didn't realize I was on duty, no way he would do that again. But then he did. Two more times. I felt like he was trying to bully me for rejecting his advances.

(Ex. A).

Barca's Written Complaint: In an undated written complaint, Barca included a verbatim account of the incident that she emailed Bushong. (Ex. G, At. 1).

SFFD Response to DHR EEO Request for Information:

[REDACTED] (Ex. E).

SFFD General Form Re:

### C. Retaliation Allegations

1. Allegation 1: February/March 2018 – Morales Told Barca to “Fuck Off” When She Asked Him to Take Her Detail, [REDACTED] Reminded Barca of the Station Policy on Details and Other Firefighters Called Barca “Entitled.”

#### a) Interviews with Barca

Barca alleged that about one week after Morales called her and asked her to have sex, he refused to take her detail and told her to “fuck off.” Barca was detailed to another station and because she had seniority over Morales, she asked him to take her detail. In firehouse culture, when asking someone to take a detail, the firefighter will give the person \$20 cash to pay for lunch. Barca had the money in her hand and asked Morales the same way she always asks people, which was normal and above board. Morales refused to go to the other station and told Barca to “fuck off.” Barca believes Morales should have taken the detail even though he was not required to do so because he was junior to her and it was common practice for junior members to take senior members' details when asked. Barca believes Morales was a jerk to her because she would not go to his house and have sex with him. Morales took details for other people.

Barca took the detail to the other station, and while she was there, she talked to an officer about the situation. The officer said, “Maybe the problem was how you asked.” When Barca returned to Station 22, she asked Morales to talk, apologized to him, said she did not mean to come off as rude, and promised to check that in the future. Instead of accepting her apology, Morales yelled at her to the point where Altenberg had to step in. Altenberg told both of them that they “have a point and are



correct,” but they “are not going to see eye to eye.” They both said, “Yes, sir,” and Barca thought the situation was resolved.

Barca alleged that after Altenberg spoke to her and Morales, Morales went to [REDACTED] and “made up some big story.” [REDACTED] then took it upon herself to “explode the whole thing.” [REDACTED] held a meeting about house rules that Barca did not know about or attend. Then the next day at shift change, [REDACTED] spoke to Barca in front of others about station policy. [REDACTED] gave Barca the policy about not being required to take other people’s details, had her read it aloud, and asked, “Okay, are you clear? Do you understand?” Barca felt it was unprofessional and inappropriate for [REDACTED] to approach her in front of everyone else. Barca replied to [REDACTED] “[REDACTED] if you’re having me read this and say I understand the policy regarding the situation with Morales, this does not apply. I am not confused. We agree on the rule that he is not obligated to take my detail.” [REDACTED] Lindsey, [REDACTED] [REDACTED] and Morales all began yelling at Barca because they now thought she was someone who would not take a detail. An unidentified member told Barca, “You really should take your own details.” During her rebuttal interview, Barca further stated that [REDACTED] “screamed” at her. She described, “He was red in the face, hunched over, and pointing.” Barca did not know where the anger and aggression was coming from.

During Barca’s rebuttal interview, she stated that she had written on March 1, 2018 that “Morales didn’t take the detail because I’m not senior enough.” Barca acknowledged that “it is never a requirement” for a VR member to take a permanent member’s detail, but it is the “social norm.” Barca stated that on February 8, 2018, Morales took a detail from her but gave her “a lot of attitude.” On February 20 or 22, 2018, Barca asked Morales to take another detail, saying, “Hey, can you take the detail please?” and Morales said, “I’m not doing it.” Barca stated that she “offered with cash in hand and he was very upset.” Barca stated that she went to go hand him the \$20 and “he wouldn’t receive it.” Barca denied waving the money in front of Morales. Barca stated that Morales refused to take the detail not because of how she made her request but because “he felt rejected and dumb,” “didn’t like a woman in a position to ask him anything,” and is a “super alpha, macho, big-truck-driving kind of man.”

Firefighters Jessica Lee (Lee) and Camille Rutherford (Rutherford) both later told Barca that Morales did not like the way she asked him to take her detail. The following morning, Barca told Morales, “Listen, we’ve gotten off on the wrong foot,” and, “We’ve had a miscommunication, sorry if I’ve offended you.” Morales “stood up and used a lot more swear words,” and then Barca did the same. Barca identified [REDACTED] Lee, and Altenberg as witnesses.

Barca did not recall whether she complained to another firefighter two weeks later that Morales would not take her detail or whether she continued to talk about this with others at Station 22.

#### b) Interview with Morales

One morning around 7:45 am on Morales’s scheduled work day, a detail came in for a Station 22 member to go to Station 14. Morales was sitting into the station next to Lindsey, and [REDACTED] said to Barca, “Whitney, you’re due for the detail.” Morales was checking to see who was working at Station 14 that day to see if he wanted to offer to take the detail. Barca rubbed a \$20 bill, dangled it in front of Morales, and then dropped it in front of him. Morales stood up and said, “That’s rude and disrespectful,” and then walked out.

When informed of Barca's allegation that Morales refused to take the detail and told Barca to "fuck off" because she refused to have sex with him, Morales replied, "One hundred percent bullshit, not that I didn't want to have to take her detail, about sex." Morales believes Barca "felt some type of way" about him not wanting to go out with her and felt like, "Oh, I'm better than you, and you should bow down to me." Morales did not take the detail because of the way Barca rubbed the money and dangled it in front of him in a "you're gonna do what I say" manner.

Morales did not recall whether he had previously taken Barca's detail. He explained, "We didn't work together a ton. I don't think she had a detail. We've always been understaffed, a hole to be filled, just stay here." Morales told ██████ about how Barca asked him to take her detail, and "██████ told everyone that taking a detail, VR taking a detail is a privilege, but I deserve respect."

c) Interviews with Witnesses

██████ On an unknown date, Morales and Barca had a disagreement about taking a detail. Barca asked Morales in a rude and demeaning way to take her detail at another station. Barca came into the room where Morales was sitting at a table, threw money at him, and said, "You're gonna take my detail, riiiiiiight?" Barca drew out and emphasized the word "right" in a way that made it sound to ██████ that Barca was not asking, but telling Morales. Though the unwritten rule is that VR members like Morales will take the details of permanent members like Barca as a courtesy, it is not required for VR members at Station 22 to do so.

Morales declined Barca's request, and Barca "blew up" and said, "You're supposed to take my detail!" ██████ intervened and said that Morales was not obligated and if Barca had thrown money in ██████ face, she would not have taken Barca's detail either. Barca told ██████ that the policy was that VR members take permanent members' details. ██████ told Barca that per the Station 22 house rules, that policy is not required. ██████ reminded Barca that when she signed up for Station 22, she was required to read the house rules and sign an acknowledgment that she had read and understood them.

Over two weeks later, ██████ overheard Barca complaining about the incident with Morales to another firefighter. ██████ said, "You're still on this?" ██████ was surprised Barca had not "moved on" and was still talking about it.

██████ believes Morales and Barca were friendly at first, but after Barca was rude to Morales, their relationship became strained. On a date ██████ could not recall, Barca had signed up for a working day off /overtime on Morales's regularly scheduled work day. Barca was detailed to another station. There is a custom in firehouses that permanent members have higher house seniority. Higher house seniority firefighters can ask lower seniority firefighters to take their duty assignments, and the custom is to give the lower house seniority members \$20 to compensate them for their food. That morning, Morales was sitting at the table eating breakfast and Barca waved a \$20 bill in front of Morales's face, dropped it on the table, and told Morales, "You're taking my detail." Morales declined, and Barca "got super angry and raised her voice." ██████ addressed the issue with Barca and the rest of the house, informing them that it is courteous for VR members to take details; however, it is not required, and you have to ask and not tell VR members if they will take your detail.

d) Documents Reviewed

Screenshots of Text Messages Provided by Barca: On March 3, 2018, Barca texted her friend, [REDACTED], "The drama at work has been insane." (Ex. G, At 2). When [REDACTED] asked what happened, Barca replied, "At first just a miscommunication between me and this guy called pork chop[.] But when I learned what the issue was I tried to correct it immediately by apologizing[.] PC not only did not accept my apology but became upset with me and was barking at me[.] So a boss stepped in and cleared the air and I thought it was over[.] But it wasn't." Barca continued, "I have a boss that doesn't like me who seems to have sided with PC. She tried to lay down the law with me in front of all the members but has failed to talk to ME about what's actually wrong[.] So basically I'm getting vilified at work and no one has thought to talk to me...the only other person involved." Barca also wrote, "The guy is super pissed off at me and told me to never talk to him again so I'm just gonna have to let that go."

SFFD Response to DHR EEO Request for Information: "There are no written policies or procedures at Station 22 regarding issuing details to lower ranked members. The Department's Administrative Policy for Stations template, page 2 states that '*All members (regular or unassigned) shall have the same status in regard to watches and details.*' Therefore, absent a Station Policy for a particular fire house, the Department template would prevail." (Ex. E, emphasis in original).

SFFD General Form Re: [REDACTED] :

2. Allegation 2: February 2018 to December 2019 – Morales Spread Rumors About Barca to Other Firefighters.
  - a) Interviews with Barca

Barca alleged that Morales had changed the story about her not taking his detail so the entire crew believed Barca was acting in an entitled way. Barca said Morales was lying and spreading rumors to the point that she could not combat the lies.

Barca alleged that Morales tried to set up a rumor that she liked him, he rejected her, and she complained because she got "butt hurt." Barca heard this from people who came in when she was not there or from a classmate. Barca said that with firefighters, there are no secrets, like the saying, "Tell a phone, tell a friend, tell a firefighter." Barca does not believe Morales told anyone about calling her to have sex. Barca told Lindsey a few months after it happened and it seemed like Morales might like her but it was inappropriate.

Barca alleged that Morales spread another rumor that she refuses to drive the fire engine because she is a bad driver. Barca explained that she owns the firefighter spot on the engine and there are two other spots, driver and EMT, which earn a premium. Barca stated that she is happy to be a firefighter, even though the driver and EMT make more money. Barca said there were times when she was asked to drive

and did not want to, and she did not have to because she owns the firefighter spot. During her rebuttal interview, Barca acknowledged having problems with driving because she was a "new driver." When informed that a witness said they heard she was a bad driver when she worked VR at Station 31 but did not hear that from Morales, Barca laughed and stated, "Okay. I don't have any opinion on that."

Barca believes Morales spread rumors about her because he has a large ego and she bruised his ego when she rejected his advances.

b) Interview with Morales

Morales denied Barca's allegation that he spread rumors that she liked him in retaliation for rejecting his requests for sex. He stated, "There is no rumor. I don't think she likes me. I don't think she likes me." Morales explained that he took Barca's offer to go to Santa Cruz as Barca being "weird."

Morales denied Barca's allegation that he spread rumors that she is a bad driver of the fire engine in retaliation for rejecting his requests for sex. He stated, "No I didn't spread a rumor that she is a bad driver, the things I need to work on is not because we didn't have sex at all, we need to know our job ...."

c) Interviews with Witnesses

██████████ never saw Morales and Barca flirt, never heard Morales talk about Barca, and never heard any rumors that Barca liked Morales. ██████████ acknowledged that as an officer, she does not hear as much gossip as firefighters. In late 2018, ██████████ heard that Barca filed sexual harassment charges on Morales, and Morales was moved from Station 22. ██████████ believes she heard this from other firefighters at Station 22 after Morales had been moved. ██████████ stated that Barca has poor driving skills and she once threatened to remove Barca from driving.

██████████ "never got that vibe from either [Morales or Barca] that there was any flirtation going on." Morales told ██████████ that Barca had accused him of sexual harassment, it was not true, and Barca had asked him out. Barca has told white lies about not knowing how to perform certain tasks, like driving the rig.

██████████ has never heard any rumors about Barca and Morales. ██████████ has never heard that Morales spread rumors that Barca liked him. ██████████ does not recall any other specific rumors. ██████████ did not work with Barca enough to be able to comment on her skills as a firefighter and did not recall any deficiencies in her driving. He never heard Morales say Barca was a bad driver.

██████████ never heard rumors about Barca and Morales, never heard Morales talk about Barca, and never heard that Barca liked Morales. ██████████ never heard any romantic or sexual rumors about Barca. The only rumor he heard about Barca was that around 2016 to 2017, when Barca was on probation at Station 31, the other members did not want her to drive because she "didn't know what she was doing." ██████████ did not recall who told him this. ██████████ observed that Barca seemed like she did not know what she was supposed to do when she was assigned to drive, and once when she was driving, she did not know how to position the rig on the scene.

██████████ could not recall any rumors about Barca, ever hearing Morales talk about Barca, or any rumor that Barca liked Morales. ██████████ noted that Barca struggled with driving and positioning the rig during a fire. ██████████ believes there were some issues and tension about Barca not driving the engine.

3. Allegation 3: February 2018 to December 2019 – Other Firefighters Refused to Help Barca.

a) Interviews with Barca

Barca alleged that other firefighters at Station 22 refused to take her trades, which is when members request to swap work days. Usually members will casually trade with each other, but no one would trade with Barca. Barca would write on the board to ask for a trade and have her request erased. When this happened, she would lose money because she would have to call in sick on those days she could not work.

Barca also alleged that no one would take her details until March/April 2018 or thereafter, when Mc Coy came to the station and made it a rule that VR members have to take a detail when requested. However, Barca acknowledged that since the time when she asked Morales to take her detail, discussed above, she has only ever asked one person, whom she did not identify, to take her detail.

Barca also alleged that no one would shop for groceries with her or help her in the kitchen, even though it was common practice for firefighters to help each other. For instance, on one occasion, she was at the grocery store with ██████████ and asked him to grab some mushrooms for her because he was standing next to them. ██████████ looked at the mushrooms, looked at Barca, and then turned away to keep talking to his friend. In another example, when Barca was in the kitchen preparing food, Morales would sit and watch football instead of helping.

Barca further alleged that no one would cover the floor for her. On one occasion, the crew set up a workout circuit on the floor, and when Barca asked to jump in, they said no, excluding her from a house workout.

Barca alleged that Lindsey, ██████████ and Snow treated her badly. They ignored her and looked away and did not answer when she said, "Good morning," stopped their conversation as soon as she entered a room, and dispersed from an area when she arrived. Morales also would not talk to her or would be rude to her.

During her rebuttal interview, Barca stated that everything started with Morales's phone call and got worse with the issue over the detail and ██████████ meeting. On March 3, 2018, Mc Coy would not let her get past him in the kitchen. Then Lindsey and ██████████ refused to let Barca work out with them in an exercise circuit. On October 6, 2019, Morales refused to help in the kitchen unless an officer was there. Barca acknowledged that other firefighters did help her cook. However, she explained, "When other people cooked, there was always help. For me, specifically, people chose not to participate. If someone else was cooking, everyone was always in the kitchen." Barca acknowledged that other firefighters helped her with night duties at times, but ██████████ Lee, and Morales never helped her.

b) Interview with Morales

Morales stated that fire station “housework is not assigned, you just do it. You gotta clean all bathrooms, sweep, mop.” He also explained, “There’s a watch chart, meaning that someone is responsible for watch for 24 hours.” This entails answering the phones, reading emails, going to the store, and cooking lunch and dinner. Everyone is supposed to pitch in. Barca did not clean. “She sat there and whatever she was doing, drawing or arts and crafts, she did. You cleaned around her. She would sit at the table and not move. We mopped around her.”

Morales denied Barca’s allegation that other firefighters refused to help her with household tasks or cover the floor for her because he spread rumors about her in retaliation for her rejecting his requests for sex. Morales and others helped Barca, who would ask for help. Morales has never seen anyone not help her. He stated, “We offer, and she said, ‘I got it, or I don’t need your help.’”

c) Interviews with Witnesses

██████████ has not heard that others were not helping Barca with kitchen duties or covering the floor. ██████████ believes other VRs took Barca’s details but could not recall who. ██████████ speculated that ██████████ did so. ██████████ believes Barca is a “bad trader,” or someone who asks for others to trade shifts but then does not pay them back because she is out on leave or cannot work the requested shifts. ██████████ could not say who told her this but speculated that it was ██████████ or Firefighter Camille Walker.

██████████ All the firefighters in the house take turns watching the floor, which includes shopping and leading the cooking, answering the phone, and being responsible for the floor. The watch person “can’t leave the floor and go work out,” sleeps on the bottom floor, and makes coffee in the morning.

██████████ helped Barca prepare meals, including making salads and helping with the barbecue. In addition to “help[ing] her so much in the kitchen,” ██████████ also prompted Barca to start meals. For instance, if Barca had not started preparing lunch by 11:30 am, ██████████ would ask Barca if she wanted to start lunch and ██████████ would assist. Barca would not assist other Station 22 members with meals, and at some point, ██████████ stopped asking Barca to do so. No one ever told ██████████ to not help Barca with kitchen duties.

██████████ never heard of an issue with trades or that Barca could not trade her shifts. No one ever told ██████████ not to trade shifts with Barca. There are things known as “bad trades,” which is when someone asks you to take their shift and they can’t take any of your scheduled shifts, so a trade is promised at a later date, but is never fulfilled. ██████████ never heard that Barca was a bad trader.

██████████ Night watch includes answering the phone and door, listening for the radio, and sleeping downstairs. This is assigned, unless a firefighter requests it, which some do because they stay up late, snore, or like to work out at night. ██████████ was assigned night watch duties about twice per month. ██████████ never observed Barca or Morales request the night watch.

██████████ believes firefighters are “not required” to assist the cook with kitchen duties, but most do so as a “courtesy.” ██████████ observed Morales and Barca help others cook, and ██████████ observed others offer to help Morales and Barca. ██████████ could not recall anyone in Station 22 not assist in the kitchen, which ██████████ believes can sometimes be a problem for some firefighters. Morales could not recall specifically whether Morales helped Barca with kitchen duties. ██████████ was “bummed” to leave Station 22 and

“never experienced any interactions where people weren’t helpful.” [REDACTED] and the other Station 22 firefighters would go to the grocery store “as a crew.” [REDACTED] never had any difficulty with Barca while grocery shopping and could not recall her ever asking him to get mushrooms. [REDACTED] denied he ever ignored Barca’s request for help and could not say why she would make the allegation. [REDACTED] denied that anyone ever told him not to help Barca. If someone were to do so, [REDACTED] would ignore it and help his fellow teammate and continue on how he operates.

As a VR member of Station 22, [REDACTED] had lower house seniority than regular members, so when regular or permanent members of Station 22 were detailed to another station, they could request [REDACTED] take their spot. Some stations make it a house rule that firefighters are required to do so, but Station 22 did not have that formal rule. VR members taking permanent members’ duty assignments was a “courtesy” and VR members had discretion to do so. However, [REDACTED] believes it is “considered the right thing to do” and could not recall turning down a detail at Station 22. [REDACTED] believes the other VR members at Station 22 were Morales, [REDACTED] Quincy and Henry. [REDACTED] believes details are documented in the station journal, but are not kept after the year. [REDACTED] believes timesheets will show trade shifts as well. [REDACTED] never heard that others were not taking Barca’s details.

[REDACTED] Covering the floor refers to helping the day watch person perform their duties while they work out or shower. [REDACTED] believes that he helped Barca with her duties but could not recall specific instances. [REDACTED] never observed anyone at Station 22 have an exercise circuit and not allow Barca to participate. [REDACTED] never observed anyone at Station 22 not help or offer to help with kitchen duties. [REDACTED] believes he helped Barca but could not recall specific instances.

[REDACTED] could not recall ever turning down a detail at Station 22. [REDACTED] believes Barca, [REDACTED] Lee, Rutherford, Ruff, and Rock Plichcik were regular members at Station 22 and [REDACTED] took their details. [REDACTED] always “took every single detail” because he was “paying [his] dues” and “doing [his] time” before he became a regular member at a station. Other than Ruff and Plichcik, everyone else at Station 22 was new. [REDACTED] could not recall Station 22’s policy on details and permanent house members and [REDACTED] believes the house rules book would specify if unassigned members were required to take assigned members’ details. [REDACTED] could not recall specifically taking Barca’s detail and could not say who he knew for sure took Barca’s detail. [REDACTED] believes schedules are documented in the HR management system and will show the details at Engine 22. [REDACTED] could not recall if Barca ever told Morales that he was taking Barca’s detail and never heard about anything like that happening.

[REDACTED] Fire station duties include cleaning, cooking, shopping, inventory, drills, and watch duties. At Station 22, there was a chart, and firefighters and paramedics took turns. Each day, someone is assigned to cook, and they make a list of what they need and go shopping. During free time, the person will start to cook and can ask for help, and others in the house can help them. Though it is not technically required to help, there is an expectation that someone is going to help if they are asked unless the person assigned to cook explicitly says they do not want help. [REDACTED] does not recall seeing Barca or Morales cooking. [REDACTED] was never told to not help Barca cook. [REDACTED] never heard of anyone at Station 22 refusing to help cook.

Covering the floor is also referred to day watch, and while everyone helps watch during the day, there is someone specifically assigned to answer the phone, check emails, and print the roster. [REDACTED] does not recall ever seeing Morales or anyone cover the floor for Barca. It is not unusual for people to cover

for each other. If someone assigned to watch duty wanted to go work out, then they could ask someone to cover and it is not a problem. [REDACTED] has never been told not to cover the floor for Barca. [REDACTED] never heard of anyone refusing to cover the floor for Barca or help with tasks.

When a firefighter wants to trade a shift, they will ask someone to trade, and the process is informal. [REDACTED] never traded shifts with Barca because he is an EMT/Paramedic/Firefighter and can only trade with others in the same job classification. [REDACTED] never heard that Barca had problems getting a shift trade. No one ever told him not to trade with Barca or heard Barca or Morales say not to trade with each other.

d) Documents Reviewed

Memorandum from Bushong re: Narrative Attachment to Department Report of Complaint: Bushong wrote, "FF Barca feels that most of her colleagues at Station 22 do not treat her well. She described that they barely acknowledge her when she greets them, do not make eye contact with her, do not talk to her and did not even invite her to the 2018 Station Christmas party. She alleges that these behaviors stemmed from Morales spreading false stories about her after she rejected his advances." (Ex. A).

Screenshots of Text Messages Provided by Barca: On March 7, 2018, Barca texted Steve, whom she was dating at the time, "Today has been a little rough," and, "I'm being ignored and treated like an outcast since that douchebag has been talking mad shit about me. So lame. No need for the drama[.]" (Ex. G, At. 2).

SFFD General Form Re: [REDACTED] :

SFFD Report Re: [REDACTED] :

4. Allegation 4: December 2018 or January 2019 – Other Firefighters Did Not Invite Barca to the Station 22 Holiday Party.

a) Interviews with Barca

Barca alleged that at the end of 2018 or beginning of 2019, Station 22 had a Christmas party and she was not invited. During her rebuttal interview, Barca stated that at the time, she was on light duty at headquarters and when she got back to Station 22, Snow told her, "We didn't invite you because you



were on light duty.” Barca stated that another firefighter who had bid on Station 22 but was not assigned there until January 2019 because he was also on light duty was invited to the holiday party. Barca believes Morales attended the holiday party. Barca believes she was not invited because people do not like her due to the rumors Morales started. Barca stated that she was invited to the December 2019/January 2020 holiday party but did not attend.

b) Interview with Morales

Morales denied Barca’s allegation that she was not invited to the December 2018/January 2019 Christmas party because she rejected his requests for sex. He stated, “It was equal for everyone. If she wanted to go, she could have. I wasn’t there. I was working on Truck 13 that night.” Morales denied asking or telling anyone at Station 22 to not invite Barca. He stated that the party announcement and sign-in sheet were posted on the wall, on the “union peg board” where all the station business is posted. In addition, Lindsey sent him a picture of the announcement, which he described as, “Holiday Party, Station 22, Union Square,” with numbers 1 through 15 where people could sign their names. In the picture Lindsey sent, the sign-up sheet was blank. Morales does not know if Barca attended the party.

c) Documents Reviewed

SFFD Response to DHR EEO Request for Information: “The typical firehouse communication regarding Station 22’s holiday party involves internal discussions among its members, followed by a sign-up sheet with the details about the party. The sign-up sheet is generally posted at common visible areas, such as on the door leading to the apparatus floor and on the cork board in the station day room.” (Ex. E). “At Station 22, the house collector plans the holiday party. The house collector collaborates with members through firehouse discussions to consider date, time, venue and cost. In 2018, Station 22 collectively decided on John’s Grill. ... There were no formal or individual invitations sent. Information regarding the party would have been posted on the door leading to the apparatus floor and on the cork board in the station day room where Department information is posted.”

5. Allegation 5: Before October 3, 2019 – Morales Put a Crumpled Piece of Trash Paper in Her Locker Two Times.

a) Interviews with Barca

Barca alleged that in October 2019, Morales put trash in her locker because Mc Coy told him to. Morales took a piece of trash paper, crumpled it up, and threw it in Barca’s locker. Barca said you are not supposed to go into people’s lockers. The lockers do not have keys because the lockers only exist to hold gear and do not contain valuables, so no one ever locks them. After Barca found the piece of trash, she set up a “booby trap” over her locker, with a cup of water on a string attached to the locker so that if someone opened it, they would get wet. The next time she came to work, she noticed that the water in the cup was no longer at the halfway mark but was now full. Barca found that the same piece of paper trash was folded and inside her locker and had not been thrown away. Barca knows that Morales put trash in her locker because Mc Coy told her. Mc Coy was there when it happened, and he said about the booby trap, “That was a pretty good trick,” because he had seen Morales get wet when he went inside Barca’s locker.

b) Interview with Morales

Morales denied putting trash in Barca's locker in retaliation for declining his requests for sex. Morales acknowledged opening Barca's locker, which did not have a lock, to put a homemade American flag that she had made with a paper bag inside the locker. While the station was preparing for the tri-annual cleaning, Mc Coy instructed Morales to take down Barca's flag, which had been covering the glass inset on the door to the TV room. Morales stated that this occurred after he returned to Station 22 in 2019. Barca "thought someone was messing with her" and she removed the flag from her locker and put it back up. Then Mc Coy was like, "Who is fucking with me?" Mc Coy said, "Take it down, put it in her locker, to have a conversation and take it down and keep it down." Morales denied opening Barca's locker for any other reason and denied that anyone else ever opened her locker.

c) Interviews with Witnesses

██████████ observed Barca set traps in her locker, such as placing a glass of water with a piece of string attached to it inside the locker.

d) Documents Reviewed

SFFD Report Re: ██████████ : ██████████  
██████████  
██████████  
██████████  
██████████  
██████████

6. Allegation 6: Late September 2019 – Morales Threw Away Barca's Lamp.

a) Interviews with Barca

Barca initially alleged that around October 2019, Barca had brought a lamp, which was valued at \$150, from home to the station because the station needed an extra. Barca planned to take the lamp back home if it turned out that the station did not need it anymore. While she was transporting the lamp, a part of it snapped and broke. She bought a replacement part to repair the lamp. However, after the second time she found trash in her locker, discussed above, Barca discovered that someone had thrown out the lamp. Barca went to Mc Coy and said, "People are messing with me, and it's not okay." Mc Coy told Barca that Morales was the person who threw out the lamp. Barca believes Morales threw out her lamp because he believed it had value to her.

During her rebuttal interview, Barca stated that her lamp was stolen at the end of September 2019 because she brought it up on September 29, 2019.

b) Interviews with Witnesses

██████████ On an unknown date, Barca came by Station 22 on her day off while ██████████ was working outside.

Barca said she had an old lamp that needed repair and asked [REDACTED] if the firehouse wanted it. [REDACTED] told Barca to put it in the back room, known as the morgue. On October 3, 2019, at 9:10 a.m., Barca texted [REDACTED] about the lamp. (Ex. H). Barca asked [REDACTED] if she knew where the lamp was. [REDACTED] said she last saw it in the morgue and that it was possible it was tossed during the Station's tri-annual cleaning. [REDACTED] also told Barca to ask Mc Coy. At 1:06 p.m., Barca responded: "That would be lame since I said I would fix it and that I'd take it back if the house didn't end up using it. [Mc Coy] claims no knowledge of the lamp. So someone acted independently without knowledge of whose it was OR having Captain approval. Who would do that? I'm sorry to put you on the spot. I really don't want to message the entire house. I can't imagine it's a secret. [Mc Coy] did offer to compensate me for the cost of the lamp which was super generous." At 2:49 p.m., [REDACTED] texted Barca back, "Sorry for the delay I was in a meeting. Like [Mc Coy], I really do not know what happened to the lamp. When you guys decide on a number that you'd like to be reimbursed I, you guys can let me know and I will go to the credit union and get you cash." Barca gave a "thumbs up" emoji to [REDACTED] last message. As the house collector responsible for the house funds, [REDACTED] later gave \$100 to reimburse Barca for the lamp. [REDACTED] believes the broken lamp was a "cheap, broken Ikea lamp" and not worth \$100.

c) Documents Reviewed

Text Messages Between Barca and [REDACTED] described in the previous section. (Ex. H).

SFFD Report [REDACTED]

7. Allegation 7: October 2019 to January 2020 – Other Firefighters Removed the Toilet Paper and Toiletries from the Bathroom and Locker Room.

a) Interviews with Barca

Barca alleged that people found out that she had filed a complaint against Morales after he was moved to another station in October 2019. Barca alleged that from October 2019 to January 2020, her female colleagues Lindsey, [REDACTED] and Snow removed toilet paper, soap, shampoo, and conditioner from the bathroom and locker room. Barca stated that these colleagues do not treat her well, Lindsey and Morales are "work best friends," and [REDACTED] and Lindsey are also close.

During her rebuttal interview, Barca stated that the first time she noticed there was no soap and toilet paper, she went into the cabinet and restocked them. She was the only female firefighter on duty then. After her shift, [REDACTED] started her shift and Barca saw [REDACTED] restocking stuff for herself. Barca also stated that the female firefighters "brought in specific items that would be cleared out and include house-purchased items" that Barca "was using up." Barca stated that her colleagues were putting their personal items in the locker where t-shirts are kept and removing house items when Barca was the only female firefighter on a shift. Barca believes her colleagues wanted to make things difficult for her "in retaliation to getting Porkchop in trouble."

During her rebuttal interview, Barca acknowledged that it might be a house duty to stock bathrooms daily. She stated that the men do not go into the women's bathroom, so the women firefighters would

have to stock their toiletries.

b) Interview with Morales

Morales acknowledged that he told firefighters at Station 22 – including Lindsey, Charlie (last name unknown), Snow, and the “regular members” – that Barca had accused him of sexual harassment. They “can’t believe this is going on.”

Morales denied that female firefighters removed the toilet paper and toiletries from the women’s locker room in retaliation for her reporting that he sexually harassed her. Morales stated, “That’s a lie because everyone brings their own shampoo and soap. The only thing we share is toilet paper, and you can’t hide 100 rolls of toilet paper for 34 hours. I don’t believe that at all.” Morales is not aware of any female firefighters hiding toiletries from Barca.

Morales was informed that a female witness stated that she locked up her personal items after Barca took another firefighter’s bracelet and did not give it back for a few days, and the women’s locker room was never out of toilet paper or soap. Morales responded, “I was actually there for the bracelet thing.” Morales could see Barca “pacing back and forth, and [REDACTED] [REDACTED] had a bracelet in her mailbox, and I saw her grab it and leave and walk out and I don’t know what happened.” Morales further stated, “A member asked me to grab my wallet, it is in the mailbox. I saw her grab it and walk out, and then the next day the bracelet is missing, stuff happened.”

c) Interviews with Witnesses

[REDACTED] SFFD pays for basic paper and cleaning products, including toilet paper, paper towels, and trash bags. There are “lots” of communal toiletries and “you can always get clean.” Bathroom supplies are stocked in the bathroom and closet. Firefighters have little kits in their lockers for their personal toiletries. However, [REDACTED] keeps her personal face wash in the shower stall and does not know if other people use it. [REDACTED] has never seen the women’s locker room without any toiletries. [REDACTED] has never removed any toiletries from the women’s locker, and no one ever asked [REDACTED] to do so. [REDACTED] replied, “Never, this is so wild to me. All of this stuff is bananas. Missing toilet paper would come up with morning duties. If it wasn’t on the roll, maybe there is a roll stacked on the ledge behind the toilet. If not there, it is in the closet...I’ve never been in a firehouse and there not been toilet paper, shampoo, and soap.”

October 10, 2019 was the last time [REDACTED] spoke with Barca. [REDACTED] remembers the date because she had an incident with Barca about Barca claiming that she found [REDACTED] bracelet and there was some friction in getting it back. [REDACTED] wears a brass bracelet, which she takes off before work and leaves in the locker room or her downstairs mailbox. Around October 10, 2019, Barca sent a text message that she found a bracelet: “Found this bracelet in the women’s room. Left it on the counter. I was going to throw it away since I don’t know whose it is but thought I’d ask first. Kidding. Obviously. But does anyone know who threw out the lamp that was in the morgue?” (Ex. H). The next day, [REDACTED] replied: “Where is the bracelet you left on the counter?” The following day, Barca replied, “Hey [REDACTED] is the bracelet yours? I had some confusing communication with Mc Coy yesterday. If the bracelet is yours please let me know. It’s currently safe with me and I’ll bring it to work tomorrow.” [REDACTED] replied, “Yes, it’s my bracelet.” And Barca replied, “You’re welcome.”

█ did not lose the bracelet. She believes Barca took it and alleged she found it under the lockers because of Barca's lamp going missing. █ further alleged that when she came into work the next day to locate her bracelet, it was not on the counter as Barca had promised. █ went to Mc Coy and when Mc Coy spoke with Barca, she first claimed she threw it away. █ asked Mc Coy to ask Barca where she threw it out and █ would go look through the trash. Mc Coy asked Barca where she threw it out at and they "went back and forth and back and forth," before Barca finally admitted that she did not throw it out and still had it. Mc Coy told Barca to bring the bracelet back the following day, which she did. Barca brought the bracelet to Mc Coy, Mc Coy told Barca to apologize to █ and Barca "blew up" at Mc Coy. █ never accused Barca of stealing, but she was disturbed that Barca played this game with the bracelet. █ wore the bracelet every day and believes Barca knew it was hers. █ also believes that if she had accused Barca of stealing, it could be job-ending for Barca. █ was upset that Barca betrayed the trust of leaving personal items at the firehouse without any worry. After this incident, █ began locking her mailbox and locker until Barca left Station 22.

a) Documents Reviewed

Text Messages Between Barca and █ described in the previous section. (Ex. H).

SFFD Report █ :

**VIII. ANALYSIS**

**A. Credibility Analysis**

**1. Barca's Credibility**

The investigation established concerns with Barca's credibility because witness testimony and documentary evidence refuted her statements, and she made contradictory statements regarding her allegations. In addition, Barca could not state when Morales allegedly made the call asking her to have sex or provide any documentation showing that he called her, and she delayed reporting these allegations for nearly two years.

Witnesses and documents refuted Barca's claims. For instance, she alleged that female firefighters removed toiletries from the women's locker room; however, no witness corroborated this allegation, and █ refuted it. (Ex. B; Ex. F, At. 3). Also, Barca alleged that other firefighters refused to help her with shopping, cooking, and watch duties, but three witnesses – █, █ and █ – stated this was untrue. (Ex. B; Ex. F, Ats. 3, 4, 5). Similarly, Barca claimed that she was not invited to the Station 22 holiday party; however, the investigation established that no formal or individual invitations were sent to anyone, and information regarding the party was posted inside the station. (Ex. B; Ex. E).

Barca made contradictory statements regarding her sexual harassment allegations. Barca alleged during this investigation that in February or March 2018, she reported to Kwan and [REDACTED] that Morales was sleeping in the bed next to hers; however, on November 10, 2019, she told Rabbitt that she “did not report any mistreatment to any supervisor prior to notifying Captain Mc Coy on October 3, 2019.” (Ex. B; Ex. E, At. 2). In addition, Barca did not report to Rabbitt that she had complained to Kwan and [REDACTED] about Morales sleeping next to her. (*See id.*). Barca also made contradictory statements during her interview with DHR EEO. She alleged that after she complained Morales sexually harassed her and he was removed from Station 22, her situation improved; however, she also claimed that her coworkers harassed her in retaliation for reporting Morales after he left Station 22. (Ex. B).

Barca also made contradictory statements regarding her retaliation allegations. For instance, during her interviews, she claimed that Mc Coy told her Morales threw out her lamp. However, she told Cercós that when she asked Mc Coy where her lamp was, he replied, “Find out about the lamp on your own.” (Ex. E, At. 2). In addition, in her text message to [REDACTED] she wrote that Mc Coy “claims no knowledge of the lamp.” (Ex. H). In addition, during her initial interview, Barca alleged that no one would ever cover the floor for her; however, in her rebuttal interview, she acknowledged that other firefighters did assist her with these duties. (Ex. B, At. 2).

Though Barca claimed that Morales called her out of the blue to ask her to have sex with him, which she found rude, demeaning, and disrespectful, she could not say when this occurred or provide any documentation of the call. (Ex. B). Barca stated that the call occurred the same night she went to see the band White Buffalo at Moe’s Tavern in Santa Cruz, but she could not find any reference to that show online, she could not produce the screenshot of the internet search result she claimed she had regarding the show, and she did not provide any other documentation of that show, such as a ticket receipt. (*Id.*). In addition, Barca stated that she could not access phone records from that time period; however, she was able to produce screen shots of text messages from that period, including messages from her then-boyfriend. (*Id.*; Ex. G, At. 2). Finally, the 20-month delay in reporting Morales’s alleged request for sex makes this allegation suspect and further undermines Barca’s credibility.

## 2. Morales’s Credibility

The investigation did not reveal any significant issues with Morales’s credibility that impacted the analysis made in Sections VIII.B. and C., below. Witnesses and documentary evidence generally corroborated his statements. For instance, [REDACTED] corroborated Morales’s claim that Barca had invited him out for a drink at a rum bar and asked him to move furniture to Santa Cruz and then have a bonfire and sleep on the beach. (Ex. F, Ats. 1, 3). Both [REDACTED] and [REDACTED] corroborated Morales’s account of the way in which Barca asked him to take her detail and waved a \$20 bill in front of him. (Ex. F, Ats. 1, 2, 3). [REDACTED] and [REDACTED] also stated consistently that after Morales declined her request, Barca became angry and raised her voice at him. (Ex. F, Ats. 2, 3). Barca’s own acknowledgment that she later tried to apologize to Morales supports these accounts that she acted inappropriately. (Ex. B). Documentation provided by SFFD corroborated Morales’s statement that the holiday party was announced via a posting on the board inside the station where all of the station information is posted. (Ex. E).

## 3. Witnesses’ Credibility

The investigation did not reveal any significant issues with any of the witnesses' credibility that impacted the analysis made in Section VIII.B. and C., below. The witnesses provided statements that were generally consistent with each other and with documentation reviewed in the investigation, and none of the witnesses had an apparent motive to lie. (See Ex. F, Ats. 2-6).

**B. Sexual Harassment Allegations**

1. Allegation 1: The investigation did not substantiate Barca's claim that Morales sexually harassed her by asking her to have sex.

The investigation did not substantiate Barca's allegation that in February 2018, Morales sexually harassed her by calling her on the phone and asking her to come have sex with him. Morales denied the allegation, and witness testimony and documentary evidence did not corroborate it. Morales stated that Barca invited him to go to the rum bar where her brother worked and then called to ask him help her move a dresser to Santa Cruz and stop by a friend's party instead. (Ex. F, At. 1). Barca acknowledged that her brother worked at a rum bar at the time, and █████ corroborated Morales's claims. (Ex. B; Ex. F, At. 3). Though Barca provided text messages between her and her friends in support of her allegations, the messages make no reference to Morales requesting sex from her. (Ex. G, At. 2). In addition, Barca stated that Morales's alleged conduct "didn't feel like work harassment" and acknowledged that she did not report these allegations until 20 months after the alleged conduct occurred. (Ex. B, At. 2). Barca stated that she was only motivated to report Morales after she found "garbage" in her locker. (*Id.*). Accordingly, the investigation did not establish that Morales sexually harassed Barca in violation of the City's EEO Policy.

2. Allegation 2: March/April 2018 – The investigation did not substantiate Barca's claim that Morales sexually harassed her by sleeping in the bed next to hers.

The investigation did not substantiate Barca's allegations that in March or April 2018, Morales sexually harassed her by sleeping in the bed next to hers in the dormitory. Morales acknowledged that he did arrive early to the station and sleep in the dormitory while Barca was on duty; however, Morales denied sleeping in the bed next to Barca's. (Ex. F, At. 1). In addition, witnesses never observed or heard about Morales doing so. (Ex. F, Ats. 2, 3, 4). Furthermore, although Barca provided text messages between her and her friends in which she wrote that she "got the weirdo to move his bed away" from hers, she made multiple references in the same message thread that Morales told her to "never talk to him again," undermining her claim that Morales was pursuing her sexually. (Ex. G, At. 2) Finally, Barca herself admitted that Morales never demonstrated a romantic or sexual interest in her, and witnesses corroborated this. (Ex. B; see Ex. F, Ats. 2-6). Accordingly, the investigation did not establish that Morales sexually harassed Barca in violation of the City's EEO Policy.

**C. Retaliation Allegations**

1. The Investigation Established That Barca Did Not Engage in a Protected Activity Until October 3, 2019, and Thus, the Investigation Did Not Substantiate Allegations 1, 4, 5, or 6.

The investigation did not reveal any evidence that Barca engaged in a protected activity prior to October

2019.

Barca alleged that around February 2018, she objected to a request by Morales to come to his house and have sex with him; however, as explained above in Section VII.B.1, the investigation did not substantiate this allegation. Thus, the investigation did not establish that Barca engaged in a protected activity in February 2018.

Barca further alleged that around March or April 2018 she reported to Kwan and [REDACTED] that Morales had slept in the bed next to hers; however, the investigation did not establish that Barca had made a sexual harassment claim. [REDACTED] denied that Barca ever told her that Morales slept in the same cubicle in the bed next to hers and denied that Barca ever told her that she thought Morales was sexually harassing her by sleeping in the bed next to hers. (Ex. F, At. 2). Thus, the investigation did not establish that Barca engaged in a protected activity in March/April 2018.

The investigation did establish that on October 3, 2019, Barca engaged in a protected activity when she reported to Mc Coy that Morales once asked her for sex when they were both off-duty. Accordingly, the investigation established that Morales did not retaliate against Barca as alleged in allegation 1 (Morales refused to take Barca's detail in February/March 2018), allegation 4 (others did not invite Barca to the holiday party in December 2018/January 2019), allegation 5 (Morales put trash in Barca's locker twice before October 3, 2019), or allegation 6 (Morales threw away Barca's lamp in late September 2019). The investigation also established that Morales did not retaliate against Barca any time before October 3, 2019, as claimed in allegation 2 (Morales spread rumors about Barca from February 2018 to December 2019) and allegation 3 (others refused to help Barca from February 2018 to December 2019).

2. Allegation 2: The Investigation Did Not Substantiate Barca's Claim That Morales Spread Rumors About Her.

The investigation did not substantiate Barca's allegation that Morales retaliated against her for rejecting his sexual advances by spreading rumors about her to other firefighters, including that he had rejected her advances and she refuses to drive the engine because she is a bad driver. Morales denied the allegations, and no witness corroborated them. (Ex. F, Ats. 1-6). None of the witnesses ever heard any rumors about Barca and Morales liking each other. (Ex. F, Ats. 2-6). The only witness who ever heard Morales talk about Barca was [REDACTED] who had heard from Morales that Barca had invited him to a bar and then asked him to help her move furniture to Santa Cruz. (Ex. F, At. 3). None of the witnesses ever heard any rumors that Barca refused to drive the engine because she is a bad driver; however, multiple witnesses stated that Barca is not a good driver. (Ex. F, Ats. 2-6). [REDACTED] stated that Barca's driving skills were so poor that she once threatened to remove her from driving. (Ex. F, At. 2). [REDACTED] stated that Barca has lied about knowing how to drive the rig. (Ex. F, At. 3). [REDACTED] and [REDACTED] also stated that Barca struggled with positioning the rig on the scene of a fire. (Ex. F, Ats. 4, 5). Thus, Barca did not suffer an adverse employment action and the investigation did not sustain her allegation that Morales retaliated against her in violation of the City's EEO Policy.

3. Allegation 3: The Investigation Did Not Substantiate Barca's Claim That Others Refused to Help Her.

The investigation did not substantiate Barca's allegation that other firefighters refused to help her with



household tasks, cover the floor for her, or take her trades because Morales had spread rumors about her in retaliation for rejecting his sexual advances. Morales denied the allegation, and no witness corroborated it. (Ex. F, Ats. 1-6). To the contrary, all of the witnesses interviewed stated consistently that they never refused to help Barca, never heard or observed that others were refusing to help Barca, and never received instructions from anyone to not help Barca. (Ex. F, Ats. 2-6). Thus, Barca did not suffer an adverse employment action and the investigation did not sustain her allegation that Morales retaliated against her in violation of the City's EEO Policy.

4. Allegation 7: The Investigation Did Not Substantiate Barca's Claim That Others Removed the Toilet Paper and Toiletries from the Bathroom and Locker Room.

The investigation did not substantiate Barca's allegation that from October 2019 to January 2020, other female firefighters retaliated against her for her October 3, 2019 complaint against Morales by removing toilet paper and toiletries from the women's bathroom and locker room. No witness corroborated Barca's allegation; rather, both Morales and █████ stated that in October 2019, some women firefighters began removing their personal items from common areas in the bathroom and locker room because █████ bracelet had gone missing that month. (Ex. F, Ats. 1, 3; see Ex. E, at. 2). █████ further explained that SFFD provides toilet paper and there are lots of communal toiletries for firefighters to use, and Barca acknowledged that there were SFFD-provided toiletries available in the cabinet for her to restock. (Ex. F, At. 3; Ex. B). Barca also acknowledged having observing █████ restocking items for herself, as Barca had had to do. (Ex. B). Barca further acknowledged that it is a house duty to stock bathrooms daily. (Ex. B, At. 2). Thus, Barca did not suffer an adverse employment action and the investigation did not sustain her allegation that Morales retaliated against her in violation of the City's EEO Policy.

**IX. CONCLUSION AND RECOMMENDED RESOLUTION**

Based on the foregoing, the investigation did not establish by a preponderance of the evidence that Morales sexually harassed or retaliated against Barca in violation of the City's EEO Policy, as she alleged. SFFD should notify Morales of this determination.

**X. ATTACHMENTS TO THE REPORT**

Attached to the report are the following exhibits:

Exhibit A: "Department Report of Employment Discrimination Complaint" with Supporting Documents

Exhibit B: Complainant Interview Notes

Attachment 1: Intake Interview

Attachment 2: Rebuttal Interview

Exhibit C: Charge of Discrimination

Exhibit D: Notice of Charge and Request for Information

Exhibit E: SFFD Response to RFI  
Attachment 1: SFFD General Form [REDACTED]  
Attachment 2: SFFD Report [REDACTED]

Exhibit F: Investigative Interview Notes  
Attachment 1: Jorge Morales, H002 Firefighter, Respondent  
Attachment 2: [REDACTED] H020 Lieutenant  
Attachment 3: [REDACTED] H002 Firefighter  
Attachment 4: [REDACTED] H002 Firefighter  
Attachment 5: [REDACTED] H002 Firefighter  
Attachment 6: [REDACTED] H003 EMT/Paramedic/Firefighter

Exhibit G: Documents Provided by Barca  
Attachment 1: Barca's Written Complaint  
Attachment 2: Barca's Text Messages

Exhibit H: Text Messages Between Barca and [REDACTED]

Exhibit A:

“Department Report of Employment Discrimination Complaint” with Supporting Documents



SAN FRANCISCO FIRE DEPARTMENT  
HUMAN RESOURCES DIVISION

---

MEMORANDUM

TO: Linda Simon  
Deputy Director, Leave and EEO Programs  
Department of Human Resources

FROM: Jesusa Bushong *JB*

DATE: October 31, 2019

RE: Narrative Attachment to Department Report of Complaint – FF Whitney Barca

---

On October 10, 2019, I received a telephone notification and a General Form Memo from Captain Charles McCoy (Exhibit A) regarding issues between two Firefighters at Station 22. The memo revealed that the Firefighters involved were Whitney Barca and Jorge Morales.

On October 11, I called FF Barca to obtain more details about her interactions with FF Morales. [REDACTED] I explained to her that the reason for my call was about her negative interactions with FF Morales as reported by Captain McCoy. FF Barca was surprised about the subject of my call, but shared that FF Morales asked her several times to have sex with him. Additionally, she found him on several occasions lying in the bed next to hers at the Station dormitory when he was not working on those shifts.

I asked FF Barca if it would make her feel safe if I requested from the Chief's Office an immediate transfer of FF Morales. She said it would really be helpful because they work six out of the nine shifts every month. At the end of our telephone conversation, I asked her to send me a detailed written account [REDACTED] Following our conversation, I also sent an email to FF Barca's sfgov Outlook account attaching the cover letter for discrimination allegations and the DHR form - How to File a Discrimination Complaint (Exhibit B).

On the same day, October 11, I reported the matter to DC Wyrsh and asked him to handle the transfer of FF Morales out of Station 22. [REDACTED]

On October 15, I received a voicemail from FF Barca stating she was locked out of her work email but would try to access it and send details of her interactions to me as soon as possible.

When I did not hear back from FF Barca, I followed up with her by email on October 25 (Exhibit C). She responded on the same day by forwarding her email dated October 11, which was supposedly sent to me, but I never received. The email did not show any addressee; thus, I could not confirm that it was sent to me originally (Exhibit D).

I acknowledged receipt of FF Barca's October 25 emails and asked her to provide me with approximate dates of when the incident she described in the email occurred. I then reviewed her work calendar and decided to detail her to my office since she was working on October 30. That way, I could conduct an initial intake interview and obtain more details in person.

Based on the chronology above, FF Barca did not report her interactions with FF Morales on her own. It was triggered I met with FF Barca beginning at 1330 hours on October 30. Ultimately, FF Barca was not able to provide specific dates in 2018 for her allegations that FF Morales asked her multiple times to have sex and he was lying in the bed next to hers multiple times at the Station dormitory when he was not on duty. However, she did recall that the incidents happened three times each. FF Barca was not able to provide any incidents with FF Morales in 2019.

FF Barca feels that most of her colleagues at Station 22 do not treat her well. She described that they barely acknowledge her when she greets them, do not make eye contact with her, do not talk to her and did not even invite her to the 2018 Station Christmas party. She alleges that these behaviors stemmed from FF Morales spreading false stories about her after she rejected his advances.

[REDACTED]

[REDACTED] FF Barca discussed this during our meeting as an example of how she is being poorly treated at her Station. She added that [REDACTED] does not like women because he has yelled at her a couple of times, but she contradicts her assertion by stating that [REDACTED] likes other female Firefighters at their Station, like [REDACTED]. Thus, I do not believe that FF Barca provided sufficient information at this time to report a discrimination complaint against [REDACTED].

DEPARTMENT REPORT OF EMPLOYMENT DISCRIMINATION COMPLAINT

\* Report Within Five Working Days of Receipt of Complaint\*

Return to: Linda Simon, Deputy Director, EEO and Leave Programs, One South Van Ness, 4th Floor, San Francisco, CA 94103

- 1. Department/Worksite: San Francisco Fire Department, Station 22
2. Complainant: FF Whitney Barca Tel. No. (Work): [Redacted]
Address: Tel. No. (Home):
3. Complaint Filing Date: October 30, 2019

4. Complainant's Current Employment Status (circle one): Classification: H-2 Firefighter
PCS TCS LT NCS PV PE TE PROB NOT A CITY EMPLOYEE

- 5. Basis of Discrimination (specify):
Race:
Color:
Religion:
Creed:
[X] Sex:
National Origin:
Ethnicity:
Age:
Disability/Medical Condition:
Political Affiliation:
Sexual Orientation:
Ancestry:
Marital or Domestic Partner Status:
Gender Identity:
Parental Status:
Other Non-Merit Factors:
Retaliation:

- 6. Issue complained of:
Denial of Employment
Denial of Training
Denial of Promotion
Denial of Reasonable Accommodation
Termination
Lay-off
Constructive Discharge
Disciplinary Action
[X] Harassment
Work Assignment
[X] Sexual Harassment
Compensation
Other (please specify):

7. Describe the circumstances of the alleged discrimination and include date(s) of adverse employment action(s): Please see attached narrative.

8. Has the Complainant filed a grievance or lawsuit regarding this complaint? Yes  No

If yes, please specify: \_\_\_\_\_

9. Is the Complainant represented by a Union or an Attorney? Yes  No

Name: \_\_\_\_\_ Organization/Firm: \_\_\_\_\_

Address: \_\_\_\_\_ Phone No.: \_\_\_\_\_

\*10. What steps does the department recommend be taken to address this complaint? (For instance, investigation, alternative dispute resolution, dismissal) The matter will also be referred for possible disciplinary investigation to the Chief's Office.

\_\_\_\_\_  
\_\_\_\_\_

\*10a. Name and position of staff who will implement recommended steps: Victor Wyrsh, Deputy Chief of Operations, with approval from Fire Chief Jeanine Nicholson.

11. Completed by: JESUSA BUSHONG

Date: 10-31-19

Address: 698 2ND ST., R.M. 209 SF 94107

Tel. No. (415) 558-3615

\*12. Please notify DHR/EEO in written form immediately upon resolution of this complaint.

**\*Subject to the Human Resources Director's approval**

**HUMAN RESOURCES DIRECTOR REVIEW**

Complaint is assigned EEO File Number: \_\_\_\_\_

D Approve department's recommendations for addressing complaint. Proceed and notify HR Director of actions, findings, and recommendations for resolution.

D Complaint is assigned by HR Director to: \_\_\_\_\_  
and/or the following actions are to be taken:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

for Micki Callahan, Human Resources Director

Date

\_\_\_\_\_



# San Francisco Fire Department

## General Form

EXHIBIT A

Date: 10/10/2019

---

From: **MCCOY, Charles F.** Rank: **H 30** Assignment: **E22** Tour: **22** ID: **MC3620**  
To: **Jesusa Bushong, Department Personnel Officer**  
Subject: **Accusation made by a Firefighter against another Firefighter**  
Reference: **None**  
Enclosure: **None**

---

1. On 10/03/2019, FF Barca notified me that for the last twenty month's she has been treated poorly at Station 22.
2. FF Barca has not mentioned any poor treatment until now.
3. I advised FF Barca to report incidents to an officer when they occur.
4. I asked FF Barca how she has been treated poorly and her response, "was after Pork Chop asked if she wanted to have sex."
5. Pork Chop is FF Jorge Morales.
6. The alleged accusation occurred while both firefighter's were off duty.
7. Human Resources was notified on 10/10/2019 using the main line.
8. Notification was delayed due to other circumstances involving FF Barca.

  
(Signature)



**Bushong, Jesusa (FIR)**

---

**From:** Bushong, Jesusa (FIR)  
**Sent:** Friday, October 11, 2019 11:09 AM  
**To:** Barca, Whitney (FIR)  
**Subject:** How to File a Discrimination Complaint Information  
**Attachments:** how-to-file-complaint-april2016.pdf; W Barca How to File Oct 2019.pdf

**Importance:** High

Hello FF Barca,

I am sorry to hear about your allegations concerning a colleague at Station 22. I have reported the matter to Deputy Chief Wyrsh, who will work with the Assignment Office to re-assign that colleague immediately so that you two would not work together.

Please review the attached letter and information and contact me when I return on October 21 if you wish to file a discrimination complaint.

Take care,

*Jesusa Bushong*  
Pronouns: she/her/hers  
Departmental Personnel Officer  
Human Resources Division  
Voice: 415.558.3615  
Fax: 415.558.3463



October 11, 2019

Whitney Barca  
[REDACTED]

Dear Firefighter Barca:

I am writing to follow up on our telephone conversation this morning. Based on Captain Charles McCoy's verbal and written report to me, and your brief account, I am providing you with the information regarding how to file a discrimination complaint. I have also outlined below the standards for claims of Disparate Treatment (or being singled-out) and Harassment (Hostile Work Environment). I am sending this information for your review in relation to your allegation of a Firefighter colleague asking if you would like to engage in sexual relations with him and, separately, your claim that your Company Officer accused you of lying and stealing and was yelling at you.

For your information, the standards for a finding of Disparate Treatment are:

- The complainant is a member of a protected category;
- The complainant has suffered an adverse employment action; and
- The complainant suffered an adverse employment action because of his or her membership in a protected category.

For your information, the standards for a finding of Harassment under discrimination laws are.

- The complainant is subject to physical, verbal or visual conduct on account of the complainant's membership in a protected category;
- The conduct is unwelcome; and
- The conduct is sufficiently severe or pervasive as to alter the condition of the complainant's employment and create an abusive working environment.

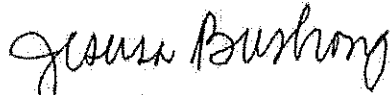
The Department takes very seriously any complaint that may be potential violation(s) under discrimination laws. Please review the enclosed "How to File a Discrimination Complaint" document and contact me at (415) 558-3615 if you wish to make such filing. I am here to facilitate the initial intake and subsequent reporting of the matter to the Department of Human Resources EEO Division.

The enclosed document outlines the bases and issues utilized to determine if your allegations of retaliation and discrimination have bases for a possible EEO violation. It also explains what your written complaint should include.

If you are not interested in filing internally, you have the option of filing with the following agencies: City & County of San Francisco Department of Human Resources-EEO Division; State of California Department of Fair Employment and Housing Department (DFEH); or the United States Equal Employment Opportunity Commission (EEOC).

Please let me know if you have any questions.

Sincerely,



Jesusa Bushong  
Departmental Personnel Officer

Enclosure

cc: Matthew Valdez, EEO Programs Manager

**Bushong, Jesusa (FIR)**

---

**From:** Whitney Barca [REDACTED]  
**Sent:** Friday, October 25, 2019 3:34 PM  
**To:** Bushong, Jesusa (FIR)  
**Cc:** Barca, Whitney (FIR)  
**Subject:** Re: FW: How to File a Discrimination Complaint Information

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Thank you for following up Jesusa and happy Friday! Thank you for emailing my personal email as well. Since that voicemail last week i updated my department email password and have access once again, although for anything timely I'm best reached via gmail.

I sent over the speedy version (given the time crunch last week) of my recollections from the event involving my colleague but it sounds like it didn't attach. I'll resend right now.

Thank you,

Whitney Barca

On Fri, Oct 25, 2019 at 11:19 AM Bushong, Jesusa (FIR) <[jesusa.bushong@sfgov.org](mailto:jesusa.bushong@sfgov.org)> wrote:

Good morning FF Barca,

I hope my message finds you well!

I am writing to follow up on your complaint regarding a colleague at Station 22. Please do know that the Department takes such allegations seriously and would like to assist you in any way possible. You had left me a voicemail message on October 15 indicating you were locked out of your Department email. Thus, I am following up with you on your personal email on file.

Please let me know if you have completed your write-up of the matter and if you will be sending it to me.

Thank you,

*Jesusa Bushong*

(She, Her, Hers)

Departmental Personnel Officer

Human Resources Division

Voice: (415) 558-3615

Fax: (415) 558-3463

---

**From:** Bushong, Jesusa (FIR)

**Sent:** Friday, October 11, 2019 11:09 AM

**To:** Barca, Whitney (FIR) [REDACTED]

**Subject:** How to File a Discrimination Complaint Information

**Importance:** High

Hello FF Barca,

I am sorry to hear about your allegations concerning a colleague at Station 22. I have reported the matter to Deputy Chief Wyrsch, who will work with the Assignment Office to re-assign that colleague immediately so that you two would not work together.

Please review the attached letter and information and contact me when I return on October 21 if you wish to file a discrimination complaint.

Take care,

*Jesusa Bushong*

*Pronouns: she/her/hers*

Departmental Personnel Officer

Human Resources Division

Voice: 415.558.3615

Fax: 415.558.3463

--  
Whitney

**Bushong, Jesusa (FIR)**

---

**From:** Whitney Barca [REDACTED]  
**Sent:** Friday, October 25, 2019 4:14 PM  
**To:** Bushong, Jesusa (FIR)  
**Subject:** Re: Morales incident

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

There's so much more, but this was the beginning.

On Fri, Oct 11, 2019 at 12:09 PM Whitney Barca [REDACTED] wrote:

Super quick recount of events involving Morales.

Toward the end of February 2018 Morales called me on my cell phone while I'm at home in SF on a Friday night and tries to convince me to come over to his house and have sex with him.

We had never spoken on the phone before this call.

I thought he was kidding at first, like an inappropriate joke, but then he kept asking.

Since I thought he was just messing with me at first I wasn't taking his requests seriously.

I told him I had plans to meet my friends in Santa Cruz for a concert and I was planning on spending the night there. I even extended an invite to join us at the concert.

He said wasn't interested in the concert.

He told me not to go the concert with my friends and to come over to his house instead. I said no.

He suggested I should come by his place first before heading over to Santa Cruz. I said no.

He asked if I could come over to his place after the concert. I kept declining. He was persistent.

Morales was new to E22 like me and I did not know him previously. I thought he was just lonely and trying to awkwardly flirt. I tried to brush it off and just pretend it didn't happen but **the fallout from this interaction nearly two years ago is the reason I've falsely been accused of "lying and stealing" today.** I was so uncomfortable around Morales after this incident and he used that against me. Before this incident I was friendly with the members of Station 22 and felt comfortable there. This incident was the catalyst for a series of events that have destroyed my friendships and reputation.

I have NEVER been romantically interested in Morales. I have never given Morales a reason to proposition me for sex as he did. I felt disrespected and was disappointed in his behavior. Only a short while after this incident there were more issues with Morales that were deeply disconcerting to me and I felt he was trying to intimidate and control me. I was tremendously uncomfortable with his actions and asked twice for help from my Lieutenants. I woke up on three separate mornings to find Morales in the bed next to mine. Not ok! I had no knowledge he was coming in early for shift. He had not done this before, only after he solicited me for sex. The first time he did this i was completely freaked out because I woke up to a dark figure walking toward me in the night. In truth it was probably 0530 but I was startled from my sleep unexpectedly. I thought he was a stranger in the station up to no good and my heart nearly leapt out of my chest. Obviously I was not able to return to sleep. My heart was pounding in my chest. After some coffee that morning I thought maybe he didn't realize I was on duty, no way he would do that again. But he did. Two more times. I felt like he was trying to bully me for rejecting his advances. I went to my LT. after the second time and a different Lt. after the third time. Only then did he stop the uber creepy behavior. Unfortunately, whatever stories he had told the crews about me had already taken hold as evidenced by Jessica (Lee) Lindsey asking me why I didn't just move beds if I was uncomfortable?! I was blown away by this question because I own the firefighter spot on E22 and Morales was VR at that time.



Morales and I are only 1 class apart. I am the 119 and he is the 120. As the newest members of the fire department I wouldn't have been comfortable staking my bed claim over a regular member. I was new to E22 and my experiences forming this opinion came from being a probie at a Division house and then VR at a Chief's house where I was on the books for cooking at both. As a member my bedding remains on my bed when I'm not there. Between that and the sleeping chart and being a regular member with house and department seniority I felt bullied at my own house.

--  
Whitney

<u>Exhibit B:</u>	<u>Complainant Interview Notes</u>
Attachment 1:	Intake Interview
Attachment 2:	Rebuttal Interview

Attachment 1: Intake Interview



**CONFIDENTIAL**  
**DHR EEO INVESTIGATION OF EMPLOYMENT DISCRIMINATION COMPLAINT**  
**INTERVIEW NOTES**

<b>Complainant: Whitney Barca, H002 Firefighter</b>	<b>Dept./EEO File No.: FIR / 3311</b>
EEO Investigator: Dorothy Young, 1233 EEO Programs Specialist	Date & Time: Wednesday, February 12, 2020 at 1:30 pm
Location: DHR, 1 South Van Ness, 4 <sup>th</sup> Fl.	Pages: 17

Contact information:

Personal cell number: [REDACTED]  
Mailing address: [REDACTED]  
Personal email address: [REDACTED]

**I. BACKGROUND INFORMATION**

**A. Employment History**

Since January 2016, complainant Whitney Barca (Barca) has worked with the San Francisco Fire Department (SFFD) as an H002 Firefighter. Barca uses she/her gender pronouns. While on probation, Barca worked at Stations 7, 32, and 31. After probation, beginning in January 2018, Barca “made a spot” as a permanent firefighter at Station 22. Barca’s last day at Station 22 was on January 7, 2020. Barca was asked to leave by her officer, Captain Charles Mc Coy (Mc Coy), as a direct result of the allegations she has made. Barca said the last two years at Station 22 have been retaliatory. Since approximately January 11, 2020, Barca has worked at Station 33 where her supervisor is Captain Don Yontz, although Barca has not yet even worked with him.

Barca explained that there are four officers in a station: three lieutenants and one captain of the house. The ranking of the officers are lieutenants, who report to captains, who report to battalion chief. With the rotation of the schedules, she might be supervised by only one or two of those officers per month.

Barca is currently on a new tour schedule and could not remember if her tour number is 12, 13, or 14. Barca explained that all firefighters have the same work schedule but they rotate, and each rotation is called a tour. Everyone works one day on for a 24-hour shift, and then has 2 days off. There is a weird pattern to it and it is incredible that it works. Firefighters are scheduled 9 days out of the month, and each station has a “6 out of 9” chart posted that shows how the schedules overlap. There are some people in the station Barca has never worked with and will never cross paths with, and then there are some with whom she shares nine out of nine shifts.

At Station 22, Barca’s primary co-workers were Jessica Lee (now Lindsey, since she got

married), [REDACTED] [REDACTED] Chrissy or Christina Snow (Snow), Tim Moyer (Moyer), Jorge Morales (Morales), Joey Doughmeyer (Doughmeyer), and [REDACTED] [REDACTED]. Two of those co-workers, Snow and Moyer, only worked at Station 22 in the year 2019, while the others worked at the station with Barca both years she was there. Each January, there is a shift bid and the crews can shift into a different group of people with different overlapping schedules. Dustin Rough (Rough) was a station colleague she never worked with but would see in passing during shift change. She also worked sometimes with [REDACTED] [REDACTED] and [REDACTED] [REDACTED]. Barca's lieutenant in 2019 was Tony Soule (Soule). The two lieutenants she worked with in 2018 were [REDACTED] [REDACTED] and Eric Kwan (Kwan). Barca worked six out of nine shifts with [REDACTED].

Barca explained that fire stations have regular members, who are known as members of the house. The station also has Vacation Relief (VR) members who are firefighters who float within a battalion. A battalion is made up of four fire stations that are geographically close to each other. Station 22 is part of Battalion 7, along with Stations 14, 12, and 31. The Battalion Chief is an officer who outranks the captains and lieutenants, and who is housed at Station 31. Battalion 7's Chief is Glenn Kircher (Kircher).

Barca had a bed at Station 22, which one of the reasons she had bid for a house: to be permanent somewhere. After probation ended, and Barca entered the department, she was automatically VR, which is when she floated between Stations 7, 32, and 31.

When asked to describe her work environment at Station 22, Barca said prior to the incident in February 2018 with Morales, the work environment was great. When Barca was a VR fifth member at other houses, she was sent to Station 22 multiple times when they were short a fourth member. Barca worked well together with everyone and was treated great. Barca was asked to bid and become a house member of Station 22 and was valued.

After the incident, Barca was literally asked to leave. The work environment was not good and uncomfortable. There was an entire month, at the end of August or early September of 2018, where Barca used all of her sick pay (SP) because the idea of going to work was horrible. Each shift, which is 24 hours, felt even longer because no one in the station would talk to her. Barca said in fire service, there is a saying that if you mess up, don't worry about it because someone else will mess up and the spotlight will move to them. This was not the case for Barca; the spotlight never moved because the entire crew fixated on Barca. Barca said the crew, particularly Morales, made her life very challenging. They would talk about her behind her back and do things like refuse to take her trades, which is when a member requests to swap days. Usually members will casually swap with each other, but no one would swap with Barca, which was mean when the culture is usually to do favors for each other. Barca would write on the board to ask for a trade and have her request erased. When this happened, Barca would lose money because she would have to call in sick on those days she could not work. It was very stressful and there was no reason for that. No one would help Barca in the kitchen, which is common practice, or shop for groceries with her.

As an example, Barca said that one time, at the grocery store, her co-worker [REDACTED] was standing by the mushrooms in the store so Barca asked him to grab some. [REDACTED] looked at the

mushrooms, looked at Barca, and then turned away to keep talking to his friend. Barca had to walk past him and reach up to grab them. This kind of behavior happened every day from her regular co-workers and it was really bad. However, if the regular members were out and other people came into the station, or when she was sent out to another station for the day, Barca would have a great day. This conduct was locked in at Station 22 where the members, for lack of a better understanding, all sided with Morales over Barca. Barca had been yelled and screamed at by other members. For example, her co-worker [REDACTED] once screamed at Barca until he was red in the face and stormed off, then later apologized for his outburst. However, there was no reason for that in the first place.

Barca said there were a few Station 22 members who did not get involved. In 2018 and 2019, Henry Quincy (Quincy) was a member and a former classmate of Barca's who was always kind and nice. Barca said there was another member, Rough, who was treated poorly at the station. He was "a little bit of an oddball, but a nice guy" who kept to himself. He experienced the same kind of behavior from others. Barca communicated with him once when he said he had also experienced being singled out by others every day without exception. Barca said the behavior would not let up unless regular members were not present or if the officers would not tolerate it.

**B. Respondent Jorge Morales**

In January 2018, Morales, whose nickname is "Porkchop," became a VR member at Station 22. Both Barca and Morales were new to 22 at the same time. They met as co-workers because both were firefighters in the same house. Morales belonged to 22 as the VR fifth member, but had the lowest rank because he did not have a permanent spot. This meant that if someone was needed at another station within Battalion 7, Morales would go to fill in at that station. VR members are "first out the door," while permanent members stay in their assigned house.

In October 2019, after Barca reported her sexual harassment complaint, Morales was pulled out of Station 22 and moved to Station 20, under a different battalion, to ensure he and Barca would not cross paths. When Barca met with Jesusa Bushong (Bushong), SFFD Departmental Personnel Officer, Bushong said Morales could be moved immediately and Barca said, "Please do." Barca said it has been miserable to work with him in the 18 months since the incident because Barca was blamed for every issue at work as the "black sheep of the family."

Barca and Morales worked together from January 2018 until Morales was moved in October 2019. Morales's tour schedule, or work schedule, followed Barca's. Their work days overlapped minimally, but they saw each other at shift change because six out of nine work days, Morales worked the day after.

When asked to describe their working relationship, Barca said Morales would not talk to her or was rude and was blatantly unhelpful. For example, if Barca was in the kitchen prepping food, he would sit and watch football, not help. The nature of firefighting is to be uncharacteristically helpful so not helping a co-worker is "pretty blatant," because at every station, firefighters go out of their way to help other firefighters. Barca has only been a firefighter for three years but has experienced that at every station she has worked at.

Morales made Barca into an outcast because he would not reply to her. For example, one time, Morales had Barca's radio. Barca explained that there are radios assigned to a firefighter's position of the day on a truck. The firefighter-driver would have a specific radio so if something happens, dispatch will know the name of the driver based on the radio assignment, which is based on the position on the rig. It is important for everyone to have the correct radio in case of a dangerous situation. When Barca realized Morales had her radio, she asked him to switch and he responded by yelling, "Calm the fuck down!" Barca did not think the radios had been switched on purpose and was not trying to engage him because she knew he did not like her. However, her job and safety are involved so she does not understand why his response was so antagonistic.

Barca and Morales are not friends. They have never socialized outside of work. They have never communicated outside of work. Barca and Morales have no personal relationship at all.

## II. HARASSMENT

### A. End of February 2018: Morales Asked Barca To Have Sex with Him.

Barca alleged that at the end of February 2018, Morales called and asked her to have sex with him. At the time he did this, Barca and Morales had only worked together one time, or maybe twice. They had both been assigned to Station 22 in January 2018 and did not know each other. When Morales called Barca on the phone and said, "Come over and have sex with me," Barca thought he was kidding. First of all, they work together, and second, that is a rude, demeaning, and disrespectful thing to do. Furthermore, Barca and Morales were not in the habit of texting each other. Barca said it is possible they had exchanged work-related text messages in a group text where firefighters ask each other to trade shifts. However, this was only about a month after Morales had come to Station 22. Barca said prior to the weird phone call, they did not hang out or communicate socially, and they have never talked on the phone. In person, Barca never had the impression that Morales was flirting with her. The call and request were "out of the blue, plain and simple."

When asked when the call happened, Barca said it was in February 2018 on a Friday night. Barca could not remember the date. Barca said she went to a concert that night with two friends to see White Buffalo at Moe's Tavern in Santa Cruz.<sup>1</sup> She thinks the band that opened for White Buffalo was The Deltas. Barca said she has looked this up online and could only find one reference to a show that night, but the link does not go anywhere. Barca has a screenshot of that search result but cannot figure out when the show took place. Barca did not have the screenshot on her current phone.

Barca said she asked Morales to go to the show with her and her friends since they were already on the phone and she thought Morales was kidding and "messing around, being dumb." Barca thought this request was just a comment in poor taste. Both Barca and Morales were new to Station 22 and she thought maybe Morales was awkwardly trying to be friendly. Morales did not

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<sup>1</sup> A Google search for White Buffalo, Santa Cruz, Moe's, and February 2018 showed that the band White Buffalo played a show at The Catalyst in Santa Cruz on January 23, 2018, with opener Roadkill Ghost Choir. White Buffalo played a show at Moe's Alley in Santa Cruz on December 12, 2019, with opener L.A. Edwards. White Buffalo also played shows at Moe's Alley in Santa Cruz on February 6 and 7, 2015, and on September 9, 2016.

know Barca had plans to go to a concert when he asked her to come over. Barca had never talked to Morales about music.

Morales repeated his request multiple times. When Barca said she had plans in Santa Cruz and would be spending the night there, Morales said to come over after the concert. This was when Barca invited him to come along and he responded, "Come over before." Barca replied, "No, that's weird, and I'm not running on time." Barca was behind schedule because she lived in San Francisco and had to get to Santa Cruz. Morales said he was not interested in the concert and to come over to his place after. He was persistent and asked multiple times. Barca kept declining.

Barca said when Morales first said to come over, she thought it was a joke and that maybe someone put him up to it and said, "Hey, call up Whitney." The comment came across really innocent at first, as if he were awkward, but by the third time Morales asked her to come over, she said, "No, I'm hanging up now. I'll see you at work." Barca tried to keep it light because she did not want him to get "butt hurt." Initially, Barca did not see any "red flags" go up so inviting him along was to express, "You're welcome to join me and my friends for a whole-group-friendly thing, if you're just looking for something to do." Then, when he kept asking, "No, I want you to come over," it turned and Barca thought, "Well, that's not happening."

Morales had Barca's phone number because everyone in the station has everyone else's phone number. There is a station roster that lists their numbers and group text with everyone. This is normal for a station. Prior to this incident. Barca and Morales had never spoken on the phone before. Barca said she currently has a different phone, otherwise she would be able to check her records. Barca said they might have texted but in a common way for work, such as sending a photo or a meme to all the people at work in a group text. It is possible but she does not recall. Even if they did text, it was not a consistent text relationship between just Barca and Morales.

No one was present while Barca spoke to Morales on the phone. After the exchange, Barca told her friends, [REDACTED], with whom she went to the concert, "The weirdest thing happened." Through the course of the last two years, Barca's friends, including people she knows through work, have asked Barca if she was still dealing with Morales and the situation at Station 22. The issues went on for a long time. Barca said she is glad she is no longer at Station 22 and that as soon as Morales left 22 for 20, the situation improved.

Barca said there was a time in Fall 2018, maybe in October 2018, where she, Morales, and two other members ([REDACTED] and [REDACTED]) were overlapping with her often. Even though their schedules are set by tour, people will trade shifts, and in that way, scheduling is unpredictable. These were the members who gave Barca the hardest time.

When asked if Morales brought up sex again after he made this phone call, Barca said no, but his behavior was different. Morales refused to take her detail and said to "fuck off," which is not okay. (See Section II.B.)

When asked why Morales would have made this request, Barca said he is a "horny bastard" and that she does not know why. Morales has multiple children by multiple women and although Barca is not trying to judge, she thinks he might have issues. Barca said she really did not put



any thought into why he would have asked her this. Morales is not her type and it is not questionable. Barca did not have any feelings about him that changed because she never put him in the category of available men. Barca does not “shop” for dates at work. She has always had a policy to not date men at work. Barca said she cannot imagine that she would have accidentally invited him to call her because that is the opposite of her intentions when at work.

Barca had some documentation of the incident that she printed out at home and pulled up on her phone. Barca was dating someone named Steve at the time, and had a screenshot of a text message from March 5, 2018 that said, “Such drama at work... At least I got the weirdo to move his bed away from mine. That was just strange.” Barca had another message from March 7 where she wrote, “Today’s been rough, I’ve been treated like shit since that douchebag talked shit about me. I don’t need that drama.” Barca also had an exchange with her co-worker Dustin about how she was being treated and his response that he was experiencing the same thing. Barca sent the relevant screenshots of text messages to me by email.

**B. February or March 2018: Morales Refused Barca’s Detail and Spread Rumors to the Lieutenant and Crew.**

Approximately a week after Morales’s phone call, the next time Barca and Morales next worked together, Morales refused to take Barca’s detail and told her to “fuck off.” Barca explained that it takes four people to run an engine and sometimes there will be more than four people at the station on a shift. When this happens, one of the members has to go to another station. The person who leaves for another station goes in order of rank, so the lowest ranked member leaves. At this time, Barca had station and department seniority over Morales because she was a permanent member and had graduated from the Academy earlier than him while Morales was a VR member.

Barca said this happened within a week of the phone call so she thinks it was still February 2018, perhaps the third week of February. On this day, Barca asked Morales to take her detail to the other station and he refused to go and told her to “fuck off.” In firehouse culture, when asking someone to take a detail, a firefighter will give them \$20 cash to pay for lunch. Barca asked the same way she always asks people and had money in her hand, which was normal and above board. Although Barca was “due” for the detail, as Morales’s senior and as a member of the house, Morales should have taken the detail. The appropriate answer would have been “No thanks,” or, realistically, “Yes,” because Morales was junior to Barca and even though he did not have to take her detail, he should. At the time this was not a written rule but common practice in firehouse culture.

Barca said she was scheduled to work three days in a row and this incident happened on the middle day. Barca had to pack up her gear that was on the rig, pack of her bed that was laid out, put it in her personal vehicle to drive to the other station and put everything down, then pack everything back up to return to Station 22, her own house where she was a member. There was no reason for Barca to do all of this except for that Morales was being a jerk. The only reason Barca could come up with for why Morales would be a jerk was that Barca would not come to his house and have sex with him. Morales did take details for other people.

After Morales told her to fuck off, Barca went to Station 14. While there, she talked to another officer about how a colleague was being mean to her for asking him to take a detail. The officer said, "Maybe the problem was how you asked." When Barca returned to Station 22, Morales was there, so she asked him to talk. Barca apologized to him and said she did not mean to come off rude and promised to check that in the future. Instead of accepting her apology, Morales began yelling at Barca to the point where the acting captain stepped in. Station 22 did not have a captain at the time. Acting Captain Gary Altenberger (Alteberger) said, "I'm not the regular officer, but do you mind if I say something? Barca, you have a point and are correct. Morales, you also have a point and are correct. However, you are not going to see eye to eye on this. You are both correct but are not going to agree." Barca and Morales both said, "Yes, sir," and Barca thought the situation was resolved. Because Altenberger addressed what had happened right away, and because captain outranks lieutenant, this should have resolved the situation.

However, Morales then went to [REDACTED] and "made up some big story" so that [REDACTED] took it upon herself to "explode the whole thing. [REDACTED] called a meeting in the house about house rules that Barca did not know about or attend. Barca was then surprised the next day at shift change with a discussion in front of others about station policy. Barca said [REDACTED] "singled out" Barca by approaching her and thinking that Barca did not understand the policy. [REDACTED] gave her the policy about not being required to take other people's details for Barca to read out loud, and then said, "Okay, are you clear? Do you understand." Barca said it was unprofessional because this was not the issue and because [REDACTED] approached Barca in front of everyone else at the station. If [REDACTED] had actually talked to Barca first, she would have known that the problem was not Barca misunderstanding the house rules about details. [REDACTED] did not investigate the situation on a one-on-one basis and made the issues into a "house thing" by calling a meeting, when the issue had already been solved by the acting captain.

After [REDACTED] said, "Are we clear now," Barca responded, "[REDACTED] if you're having me read this and say I understand the policy regarding the situation with Morales, this does not apply. I am not confused. We agree on the rule that he is not obligated to take my detail." This turned into people yelling at Barca, which she said was the only time she almost cried at the fire house. [REDACTED] Lindsey, [REDACTED] [REDACTED] and Morales all yelled because they now thought Barca was someone who would not take a detail. Morales had changed the story so the entire crew believed Barca was acting in an entitled way, as if by outranking someone she was saying they had to take her detail. Barca said Morales was lying and spreading rumors to the point that Barca could not combat the lies. The group had now decided, "Whitney is bad," because the meeting with [REDACTED] was a catalyst for the rumor that Barca was entitled. After this, Barca could not get help in the kitchen, or a workout in because no one would cover the floor for her. There was one time where the crew set up a workout circuit on the floor and Barca asked to jump in and was told no. She was literally excluded from a house workout.

Barca felt like Morales was "butt hurt" from the rejection. Barca does not know why else he would tell her to "fuck off" for not taking a detail, when something like that is not personal and is part of the job. Barca was not asking him to do anything he would not do for others, which he in fact did, and she outranked him. Afterwards, no one would take details from Barca as a result of this situation.

Barca said that eventually, when Mc Coy came on board in March or April 2018, he made it a rule that VR members have to take the detail, when previously it was only a common practice in firehouse culture. Barca does not remember exactly when this happened or when Mc Coy came on board but believes it was when she was out on injury or just a few weeks after she was out.

**C. March or April 2018: Morales Slept in the Bed Next to Barca's in the Dorm.**

Barca alleged that Morales then slept in the bed next to Barca's assigned bed in the station dormitory on three occasions. Barca said it was not immediately following the prior incidents, and was likely in March or April 2018. It happened three times where Morales's tour followed her tour. Barca does not know which dates and said she would check her printed work schedules or text messages.

Barca does not know if Morales came in early on other days, but it was new to her. Barca felt like Morales was trying to intimidate her because he was "butt hurt" from the rejection. Morales knew she was uncomfortable around him after the phone call and Barca's opinion is that Morales used that against her when he came early to work three times in March 2018.

Morales's tour "followed" Barca's tour, which meant that he started his 8 am shift the morning she would end her shift. On three different mornings, Morales slept in the bed next to Barca's in the station dormitory. There are 12 beds in the dorm and only 2 people are sleeping at any given time, so Morales could have chosen from any of the other 10 available beds. There was no reason for him to have slept next to Barca. Barca thinks at the time there were 6 full-time members, so out of 12 beds, about half were assigned. Barca believes the bed next to hers was not assigned and was open. However, usually you do not sleep next to someone. Barca was a member of Station 22 and had a bed assigned to her, with her name and stuff on the bed. For Morales to show up and be in the bed next to hers was weird. Morales was a VR member and VR members do not have an assigned bed. They sleep in a bed not assigned to a member, so their bed is not permanent, just like their positions are not permanent.

Barca explained bed assignments as follows. There were three permanent members at Station 22 prior to January 2018 who all had beds already assigned, which left nine available. The highest-ranking new member chooses from the available beds, then the next ranking member, and so on. Barca said a chart is posted on the wall of the dorm that shows a bird's eye view with everyone's bed assignments. If someone comes in early, it is their responsibility to know who is working so they do not sleep next to someone working and wake them up, which would be rude. People who come in early have options to avoid disturbing on-call members who might have fought a fire earlier or just returned from a call. People who come in early could sleep in their car or in the room downstairs with a sofa. Normally, if someone comes in early, they would go to the furthest away bed from someone who is sleeping to avoid disturbing them. If someone is coming early to avoid traffic, they can sleep in their car until 6:30 am, or maybe get a workout in or take a shower. They would avoid sleeping next to someone in a creepy way.

Barca said there was one other person sleeping and she thinks it was Camille. Barca explained that bed selection goes in order of rank because there are spots in the dorm considered more desirable, such as being close to the pool. As senior members move stations, people will try to

upgrade. Camille had been at Station 22 the longest and had the prized bed in the furthest corner from the door. Barca, as the newest member, was closest to the front and slept in the cubicle right by the door at the top of the stairwell where people come in and out. That bed and cubicle get the most light and traffic.

Barca described the dormitory as containing partitions or cubicles, with two beds located in each cubicle. For Morales to come into her cubicle and crawl into the other bed, when Barca was already asleep on duty, without letting her know he was coming to work early was scary. The first time it happened, she “freaked out” because she saw a shadow coming towards her at 5 am when it was dark. Barca thought, “Oh my god,” and felt it was very rude. Barca heard something and was not expecting anyone, and she saw Morales getting in bed. Barca was startled and afraid when she saw his shadow. Barca could not fall back asleep and was upset because she needed the rest to be ready for calls and to respond.

The first time it happened, Barca gave Morales the benefit of the doubt that it happened by accident because it was early and Morales did not see her or did not care. Barca did not take it personally or as Morales doing something to her. When it happened a second time, Barca thought it was weird and she did not like it.

The second time this happened was maybe a week later. Morales came between 5:00 and 5:20 am. Barca believes he was coming in early to avoid traffic from either Hayward or Fremont. Barca does not remember if he was already asleep when she noticed him in the bed next to her, or if she was woken up by him coming in.

The third time, Barca woke up and saw him in the bed next to her, asleep. Barca’s alarm had gone off at 6:15 am, as usual, and when she woke up, he was there. Barca thought, “Are you kidding me?” because she had already talked to a lieutenant after the second time it happened. There were nine other choices of beds, so there was no reason for Morales to sleep right next to Barca. Barca said if she were a man, it might not be an issue; then again, it might be. It seemed like intentional behavior towards Barca specifically, after the “weirdness” of Morales’s phone call and then acting intimidating towards her.

Barca said usually no one sleeps ever sleeps in the bed next to hers. At other stations, it might be different, such as in a full house with a triple company that has limited sleeping options. Station 22 is a single company with only four people. One person is dedicated downstairs at all times and the officer has their own room, so only 2 people are ever sleeping out of 12 beds. The beds are assigned and the assignments are posted. It is not hard to figure out where to sleep.

Barca said these three occasions were all shifts where Morales followed her tour. She does not remember if they were consecutive shifts or not, but they felt like back-to-back occurrences over the course of about a month. No one else witnessed Morales in the bed next to Barca because no one else was there, other than Camille, who slept far away. Barca does not know where Morales normally slept when he worked.

The common practice when coming in early is to text or otherwise let people at the station know. Or, if someone is in the habit of coming in early, their co-workers will already know and expect

them. For example, a member would come from hours away and arrive the night before her shift began and sleep in her assigned bed. In that case, Barca and others expected her. Barca said it is actually against the rules to come in early. Barca never brought up that he was coming in early because she did not want to negatively impact the other co-worker who came in early regularly. That co-worker comes from Mariposa near Yosemite, which is a 3.5-hour drive, so coming in the night before makes sense. Morales was coming from Fremont or somewhere close, so Barca did not expect him. Barca said Morales's early surprise arrival did not make sense.

Barca does not know if Morales was eventually assigned a bed, even as a VR member, because they were available and it could have happened. Even though Morales told Barca to "fuck off" and never talk to him again, he still bid for a spot at Station 22 and became a permanent member in January 2019, even after everything that had happened and when he knew Barca was a permanent member. Barca found that weird. If Morales was so clearly unhappy with Barca and making her life challenging, why did he decide to come back and continue "torturing" her? In fall or winter 2018, Morales had gone to Truck 1 at Station 1, in a different battalion, as a VR. At bid time, he chose to bid back at Station 22, where Barca is a member.

Barca reported Morales to both Kwan and [REDACTED] to get him to stop sleeping next to her. At the time, there was no captain of the house. Barca spoke to Kwan after the second time Morales slept next to her. Kwan is a "really nice guy who is not confrontational." Even though Barca reported and asked him to do something, Kwan just smiled but nothing happened. The third time it happened, Barca reported to [REDACTED]. Barca said speaking as a woman to another woman was helpful because when she said she felt uncomfortable, [REDACTED] responded, "Yeah, I get it." Barca believes [REDACTED] then had a conversation with Morales and told him not to sleep next to her.

After Morales was spoken to, one of the other female members asked Barca why she did not move beds. Barca said she was on duty and in her own assigned bed. Why should she accommodate someone who is not even scheduled to be at work yet? However, that co-worker did not know that Morales had called Barca up to have sex with him, which was a weird situation that made the creepy factor of sleeping next to her go up. If that had not happened, Barca would have spoken directly to Morales and said, "I would appreciate if you could sleep over there so we don't have issues like waking each other up." With the pre-existing situation and Morales having told her to "fuck off," Barca decided to go straight to the lieutenant because Morales was not reasonable. Barca never spoke to Morales about the situation because his behavior towards her had been so aggressive.

Barca said when Mc Coy came to Station 22, she spoke to him about Morales. She did not report that Morales had called her and asked her to have sex. Barca did report to Mc Coy that Morales had not been talking to her or taking her details, was not helpful, was not willing to participate, or make eye contact with her, and pretended as though she was not there to devalue her, which made for a very unpleasant working environment. After Barca talked to Mc Coy, he said, "Figure it out on your own. You do not want me to get involved." Barca responded, "I believe I do. That's why I'm asking for you to step in because this has gone too far. These people are messing with me. I'm not being treated the same and it's very uncomfortable. How can I make it right?" Barca was not asking Mc Coy to fix the situation for her, but she wanted his involvement. Mc Coy said, "If I get involved it will become a big deal and things will change." Barca did not

understand why, and it went nowhere.

When asked why Morales slept in the bed next to hers on three occasions, Barca said she gave him the benefit of the doubt the first time but she thinks she was “throwing his weight around and trying to intimidate” her, as if he were “top dog.” Barca does not know another way to define “butt hurt” other than that she hurt Morales’s ego by rejecting his advances, so he is now trying to make her pay for it. Morales has a lot of machismo. Barca said she was obviously uncomfortable around him because he was so rude to her. Barca would say “good morning” and he would walk out of the room. These are behaviors that other workplaces would not tolerate. The fire house is different; Barca would not call HR there just because someone was mean to her. In the fire house, you just deal with it. Barca chose to talk to her captain and the captain refused to address the situation. Barca said Morales being “butt hurt” and trying to intimidate her is the reason because she cannot think of anything else.

Barca said she has printouts of schedules and other related documentation at home and agreed to email it. She also provided a write-up which included the same information submitted to Bushong, which probably included everything we discussed.

### **III. RETALIATION**

#### **A. March 2018 Through October 2019: Morales Spread False Stories.**

Barca believes her colleagues treated her poorly due to Morales spreading false stories about her after she rejected his advances. Barca said she did not have specific concrete examples.

Barca provided written notes that she recently shared with a chief regarding her October 2019 discipline situation. (See document in file). Barca wanted to submit the notes because of her opening line: “Today, January 16, 2020, I’m going to state my truth about finding a bracelet.” Barca explained her officer, Mc Coy, accused her of lying to him about co-workers putting garbage in her locker and accessing it without her permission, as well as stealing a co-worker’s bracelet, which she had found in the station. Mc Coy called Barca a liar for not providing evidence that others were in her locker. Barca said she believes these incidents in October 2019 were in direct correlation to the events that began after Morales called her in February 2018 to come over and have sex with him.

Barca said these accusations of lying and stealing are all ultimately related to Morales being a jerk and not letting it go. Barca had apologized to Morales for how he felt or perceived her back in March 2018 when he first began acting rudely to her. By going to a lower-ranking officer, ██████ Morales continued the issue. The meeting he sparked resulted in everyone yelling at Barca so that she had no friends, and further resulted in her trades being knocked off the board, trash being put in her locker, and additional things.

Another example is that, at the end of 2018 or beginning of 2019, Station 22 had a Christmas party and Barca was not even invited.

Barca said recently, after people found out that an HR claim had been filed, she came into work and there was no toilet paper, soap, shampoo, or conditioner in the women’s bathroom and

locker room. Word had gotten out that there was an HR claim related to Morales after he was moved in October 2019. People at the station were saying it was ridiculous. However, they do not know the whole story because Barca did not talk about the fact that he called her to have sex with him. Barca had wanted to move on. However, the removal of toilet paper and shower items that kept Barca from showering kept happening. If Barca worked, everything was removed from the women's bathroom and locker room. Once, Barca came back into the station when she was off and all the items were back in the bathroom and locker room.

Barca said the colleagues who do not treat her well are Lindsey, [REDACTED] and Snow. These are the women she works with that she believes were removing the bathroom items. Barca said Lindsey and Morales are "work best friends" and [REDACTED] and Lindsey are also very close.

Barca said these co-workers also engaged in behaviors such as ignoring Barca by looking away and not answering when Barca said good morning, conversation stopping as soon as Barca came into a room, or co-workers dispersing from an area when Barca arrived.

Barca said the reason they treat her like this is because Morales "has a big mouth." The first rumor Morales spread was that Barca feels entitled because she wanted him to take the detail. Barca knows this with accuracy because at the meeting, someone said, "You really should take your own details." Since that time, Barca has only ever allowed one person to take her detail, even though it is common practice to ask a lower ranking member to go instead. Barca also heard that, regarding sleeping in the bed next to her, Morales tried to set up a rumor that Barca liked him, he rejected her, and that Barca complained because she got "butt hurt." Barca heard this from people who came in when she was not there or from a classmate. Barca said with firefighters there are no secrets, like the saying, "Tell a phone, tell a friend, tell a firefighter."

Barca does not believe Morales told anyone about calling her to have sex. Barca recalls telling Lindsey a few months after that it had happened and it seemed like Morales might like her but it was inappropriate. Barca likened his behavior to pulling a girl's pigtails on the playground when someone likes her, but it is unwanted.

Another rumor spread was that Barca refuses to drive on the fire engine. Barca explained that on the engine there are four positions: an officer, EMT, firefighter, and driver. The EMT, firefighter, and driver positions are interchangeable. Barca "owns" the firefighter spot on the engine. Driver and EMT spots are premium, which means the person in those positions make more money as a higher premium and are more desirable. However, Barca is happy to be the firefighter. Barca said there were times she was asked to drive and she did not want, which she does not have to because she owns the firefighter spot. VR members are there to fill in. A rumor started that Barca refused to take the driver spot because she is a bad driver.

Barca said Morales is at least one of the people spreading these rumors. Barca said it was clear to her that there was solidarity among the group at Station 22 so that what she said or did did not matter. If Barca had actually done something that offended the house or crew, it would have been brought up an officer. However, Barca never had a counseling or sit in and never exhibited behavior that was out of line. These rumors have no validity and it is frustrating.

The last incidents, which occurred in October 2019 and are documented in Barca's notes, occurred when someone put trash in Barca's locker. Someone said they "knew it was" Barca's, so they took a piece of trash paper, crumpled it up, and threw it in Barca's locker instead of the garbage. Barca said you are not supposed to go into people's lockers. The lockers do not have keys because no one ever locks them because they only exist to hold gear and do not contain anything valuable. After Barca found the piece of trash, she set up a "booby trap" over her locker, with a cup of water on a string attached to the locker door so that if someone opened the locker, they would get wet. Barca's point was that no one should be going into her locker. When Barca came into work the following shift, she noticed the water in the cup was no longer at the halfway mark but was now full. When she opened her locker, Barca found that the same piece of paper trash was now folded and inside the locker and had not been thrown away. At this point, Barca felt frustrated. Barca knows that Morales was the person who threw the trash in her locker because Mc Coy told her. Mc Coy was there when it happened because he said, "That was a pretty good trick" (referring to the water booby trap), as he had seen Morales get wet when he went into Barca's locker.

Around this same time, Barca had brought a lamp to work from home because the station needed an extra. If the station did not need it anymore, Barca planned to take the lamp home. Somehow, while being transported, a part on the lamp snapped and broke. Barca brought a replacement part to repair the lamp. This was the morning of the second time Barca found the crumpled piece of paper in her locker. After finding the trash, Barca learned that someone had thrown out her \$150 lamp. Barca went to the captain and said, "People are messing with me and it's not okay," and then told him of her evidence. Morales was the person who threw out the lamp, again, according to Mc Coy.

Barca told Mc Coy about the sexual harassment from February 2018, and he said, "That's not my issue." Barca told him she had come to him about this when he arrived and his response then had also been that it was not his issue and that as an adult Barca should be able to handle the problem. Mc Coy asked Barca, "Why didn't you report this sooner?" and Barca said that she had reported and he had said, "Figure it out on your own." This was when Mc Coy called her a liar.

Barca said it had been 18 or 20 months after the rejection, and she did not understand why Morales kept behaving like this. He did not treat anyone else like this or harass anyone else. Barca believe Morales threw out her personal property because he believed it had value to Barca. Morales accessed her locker without permission.

When asked why she believes Morales spreads stories about her and has engaged in these behaviors, Barca said she thinks it is for the same reason. Morales is a man of large ego and Barca bruised that ego so he cannot get it back. Barca does not know any reason other than that this is related to Morales calling her on the phone and then her rejection of his advances.

#### **IV. REPORTING OF COMPLAINT**

Barca first reported Morales' February 2018 phone call in October 2019. Barca said she reported Morales's March or April 2018 sleeping next to her twice, to Kwan and [REDACTED] Barca reported to Kwan the morning right after she woke up and found Morales in the bed next to hers, as she



was leaving the shift and ran into him. Kwan's response was, "Oh okay. What do you want me to do about it?" Barca said, "Make him stop. It's awkward and uncomfortable and shouldn't be happening." Kwan said he understood and would talk to Morales to try and get him to stop. Barca does not know if he did speak to Morales, but Morales did not stop because it happened again. Barca reported to Kwan initially because he was the officer that was there. Barca reported at this time because it had just happened and she felt uncomfortable. If a female firefighter had come into the cubicle and slept in the bed next to her, Barca would still have been uncomfortable but would have told her, "Hey there's other beds." In the situation with Morales, there was a prior history and his behavior seemed intentional.

Barca reported the third time Morales slept next to her to [REDACTED] because she was the officer on duty that day. [REDACTED] agreed with Barca that Morales should not be sleeping next to her and said she would talk to him.

Mc Coy did not report it until after a separate incident where he spoke to Kircher and brought up this sexual harassment claim. Kircher made Mc Coy write a report and report the sexual harassment. Barca said she only reported Morales's request to Mc Coy "under duress." In October 2019, Barca went to the captain after people, specifically Morales, had thrown her lamp out and put trash in her locker twice, and said that the behavior needed to stop. Barca told the captain that he had said to "deal with it on your own," but the situation had continued since Spring 2018 into Fall 2019. It is the same situation but has gotten worse. Barca was still being harassed and picked on and asked Mc Coy for help. Mc Coy said, "No. Why? This is nothing. Why are you even complaining?" Barca explained that this behavior had been consistent since a February 2018 event, at which time she told him about Morales calling her requesting sex.

Barca said this was the first time she reported this issue because she did not realize it was sexual harassment. It was not until Barca met with Bushong and Bushong asked, "Why didn't you call me?" Barca said, "Because it's not the firehouse way. As a female in the fire department, you don't want to make waves." Barca felt this would have been horrible timing because of the Suzanne Montes case that was going on at the time. Barca had been affected by that because when she was at Station 7, her officer there would not even speak to Barca because she was a female in the fire department. Barca reiterated that she only even spoke to Bushong after Kircher forced Mc Coy to report, when Mc Coy should have reported multiple things.

## V. IMPACT

Barca was impacted by this conduct when she missed a lot of work. Barca did not think she could show up to work and not cry. Going to work and not receiving any eye contact or being spoken to was difficult, and there is only so much that one can do in the workplace with that. Barca just did not want to go to work. Barca loves her job and worked hard to get to where she is now. However, not being able to work out or have any support at the station was difficult.

Barca provided, as an example, that one time, on a call with Morales where he was the driver and she was the go-between for the officer in a building on fire, Morales put her in danger. The officer told Barca to shut the water down, so Barca exited the burning building to tell Morales to shut the water down. Morales said, "I'm not listening to you. I'll wait for my officer to give me the direction." Barca then had to return to the burning building, where the officer said, "Why

didn't you shut the water down?" Morales treating Barca like she is invisible kept Barca from being able to do her job. Everything in the fire department is based on chain of command and Barca was conveying a message. If Barca does not do as she is told, she is now in trouble, even though the reason was Morales being a jerk. Morales's personal reasons need to stop on the fire ground because it puts Barca and the crew in danger.

Barca said she generally does not believe her crew would come after her if she was lost or dead in a burning building. That is the level of isolation she faced. Barca said everything sounds small, except it happens 9 shifts per month, times 12 months, times 24 hour shifts each, which is a lot of hours to be miserable, not have a voice, and feel that if something bad happens, she would die. Barca was alone in a group and had to pretend every single shift, drop her feelings and say good morning, and still not be engaged with. It took a lot of effort for two years. Barca was then asked to leave Station 22, which she does not even think an officer can do, just because she does not fit. Barca was driven out of the place that is her home.

Barca came to a new home (Station 33) who act like they do not want her either because she is "drama." Barca does not have a chance at a fair shot even in this new place. Someone else who was not as emotionally strong as Barca would have quit or had a breakdown because there is only so long someone can be treated this way. Officer intervention did not help Barca, as in the end she was accused of lying and stealing. These bad experiences have all been compounded.

When asked if she had gone to a health care provider, Barca said she was coincidentally asked to join the stress unit. Through those connections and trainings, Barca has talked to some people about what happened at Station 22. People asked her often, "What happened with Morales?" and Barca would not respond, but it has been very hard. Barca learned in trainings for the stress unit that she hits a lot of stressors based on what she experienced. Barca said she should have taken time off not on her own Sick or Vacation leave because the issue was not resolved. Barca took mental health days because if Morales was working, she did not want to work.

Barca said she had taken time off. Between funerals she had to attend, the issues in the workplace, and other things like her moving homes, there was a time period that if someone "looked at [her] funny," she did not know how to react other than wanting to cry or yell. Barca's fear was that after she had been strong for long to one day undo everything by getting upset, and having people say she was "the girl who went hysterical." Fortunately, that never happened. Barca did not want her co-workers to know how much she was affected and that it was horrible. Barca was smiling and laughing at work but it was awful. It affected multiple relationships in her dating life as well.

## **VI. REMEDIES**

When asked how she would like to resolve the complaint, Barca said she does not know and that part of this has been cathartic just sharing her experiencing and knowing that she is not crazy. Bushong telling Barca, "This is a real problem" and "I'm sorry it happened, we will move that guy you have had to work with" had really improved her life.

The second problem is actually that Barca was accused of lying and stealing and asked to leave. She only has her reputation, which is currently "dog shit." Some of Barca's "true friends" have

told her, “You’ve got stuff following you.” In a perfect world, Barca would like her reputation back but she knows that is unrealistic. Barca cannot go back and be invited to the 2018-19 Christmas party, but she does not like that her reputation is so tarnished. Barca does not know how to fix this other than being good at her job and continuing to not bad mouth people.

Barca said as soon as this investigation closes, Morales will go back to Station 22 since she no longer works there. Barca said she would like positive closure, like someone saying, “Whitney, you went through all this shit and we acknowledge that a bad thing happened when it shouldn’t have.” Barca does not know what repercussions would look if there were any. She does not believe she would get her sick time or lost pay back because she had gone off on an injury.

Barca would like anything that would help her get out of her current yucky situation but does not know what that would look like.

Barca said she knows Morales is a jerk who acted and continues to act like a child. However, she is most upset that as a result of his rumors, even though she does not know what all the rumors are, her officer accused her of lying and stealing. Mc Coy told Barca, “I know what good character is and you don’t have it.” Barca could not believe that the captain was backing the guy who called her to have sex with him. Mc Coy did not know what was going on, yet told Barca she did not have good character and that he wanted her to leave. Barca said Mc Coy would know the rumors because he accused her as a result.

I reminded Barca that the EEO process only entitles a complainant to a “make whole” remedy.

## **VII. MISCELLANEOUS**

Barca added that in February 2018, she had really long hair and then cut it off. When she came in to work, Morales said something like, “Oh my god, how are you ever going to get a date with short hair like that?” This was after Morales had called Barca and requested to have sex with her. Barca said this comment was Morales sexualizing her at work. Barca believes she responded snarkily, like, “That’s something you’ll never have to worry about,” which probably did not help his ego.

Barca has not filed an EEOC or DFEH complaint and has not filed a grievance or lawsuit.

Barca said there is an ongoing complaint through the union regarding the accusation of lying and stealing. She is waiting to get results. Barca said her officer bribed and intimidated her and called her names. She hopes the issue gets solved but if not, she will come after him personally and above board and he should know that. Barca said there are chiefs in the fire department who have yelled at people and received unpaid days off in return. Mc Coy yelled at Barca repeatedly, which is just one offense, so he should not be in a position of power. For him to know about sexual harassment when Barca reported Morales sleeping in the cubicle next to her and say, “It’s not my problem,” and refuse to intervene at the four-month mark when she asked him for help is why he should not hold power. Barca had already talk to both lieutenants and was trying to solve the issues with Morales. Instead, it has now been 24 months.

### **VIII. CONCLUSION**

When asked if she knows of any witnesses other than those identified in the course of the interview, Barca said she can provide additional names if she looks at her notes. She does not have everyone's names on her phone because her current phone is different from the one she had in February 2018.

I thanked Barca for participating in the interview and reminded her of confidentiality and that retaliation is prohibited.

Attachment 2: Rebuttal Interview



**CONFIDENTIAL**

**DHR EEO INVESTIGATION OF EMPLOYMENT DISCRIMINATION COMPLAINT  
REBUTTAL INTERVIEW NOTES**

<b>Witness: Whitney Barca</b>	<b>EEO File No./Dept.: 3311 / FIR</b>
EEO Investigator: Jennifer Burke	Date & Time: April 25, 2022 1:30 p.m. – 3:47 p.m.
Others Present: Steve Giacalone, Local 798.	
Location: Via Teams	Pages: 12

Firefighter Whitney Barca (Barca) was informed that the purpose of the interview is to inform her of the information DHR received during the investigation and get any additional information she may have to support the allegations she made against Firefighter Jorge “Porkchop” Morales (Morales). Barca had questions about recording the interview. Barca was informed that there would be no interview transcripts. Barca wished to get a pen.

Barca was asked whether there are any San Francisco Fire Department (SFFD) employees who would lie or make up stories against her. She replied, “Yes,” and stated, “That’s a long list. I wrote that list down last night.” Barca stated that Morales would lie about her because he had solicited her for sex and then retaliated against her. [REDACTED] would lie about her because she is friends with Morales and they worked together in 2018 to 2019. Captain Charlie Mc Coy (Mc Coy) would lie about her because he does not like her due to the “things he’s heard through the crew at [Station] 22.”

[REDACTED] ( [REDACTED] ) would lie about Barca because she does not like her; when Morales started being “derogatory” toward her, [REDACTED] did not ask where she was coming from and instead believed Morales; and Morales slept in the bed next to hers three times before it stopped. Barca stated that on February 3, 2018, she got her hair cut short and Morales said, “Good luck getting a man with that haircut, just not sexy.” Barca also stated that [REDACTED] “held a meeting that was meant to clarify things” and it was a “pointed attack” against her. During the meeting, [REDACTED] ( [REDACTED] ) was red in the face.

[REDACTED] ( [REDACTED] ) would lie about Barca because “that’s his nature,” “he’s been spoken to about not doing that,” and he “stirs the pot” and is an “instigator.” Barca stated that [REDACTED] “was saying derogatory comments, and Firefighter Rigel Juratovac (Juratovac) and said, “Hey, that’s not ok.” [REDACTED] “said he can’t help himself, being a jerk.” One example of [REDACTED] stirring the pot was when they were on the rig and people were talking about how another firefighter was a stripper. The firefighters had the person’s correct first name but not the last name. Barca said, “You all have the wrong person,” and [REDACTED] “defended.” [REDACTED] “talks about other people in the way. Hard to say. Hard to prove.”

██████████ would lie about Barca because, “It is all the same answer, same rumors. Not entirely clear.” Barca believes it is “stemming from the harassment and whatever Porkchop rejection feelings are.”

Barca stated, “There was an incident where I asked, Morales refused and blew up at me and swore, and that became an issue.” Barca continued, “[Captain] Gary [Altenberg] mediated that conversation, which made me think the conversation went well, and I thought it was over. ██████████ comes in and below rank from Altenberg. The whole thing got rehashed again” with a “group/intervention meeting. Basically, double crew screamed at me and said, ‘I can’t deal with you.’”

Firefighter Jessica Lindsey (Lindsey) would lie about Barca for the same reasons as ██████████

Barca also stated that Station 33 Firefighters Rico Gracia (Gracia), Kyle Atkinson (Atkinson), and Bryan Lee (Lee) would lie about her, as would Acting Lieutenant Abigail Alvarenga (Alvarenga). Gracia, Atkinson, and Lee spoke to Alvarenga before Barca got there and told Alvarenga that Barca is “drama” and they did not want her at the station. Alvarenga did not know Barca was bidding for that station.

Barca wrote all of this down on post-it notes with dates and times, and saved two text messages” to “document different things when a person was highlighted for being a jerk or retelling a story, drama, things like that.”

### **SEXUAL HARASSMENT ALLEGATIONS**

Barca confirmed that Morales called her on her personal cell phone number ██████████. Barca does not have her phone records from this time. She previously had Verizon and now she has First Net. Barca has not contacted Verizon to get her records. She stated, “I could. I don’t know how that works.”

When asked whether she has ever spoken to Morales about personal interests, Barca replied, that their interactions started in January 2018, when they were assigned to the same fire station, “So no.” They had “limited” social interactions at work, “never outside of work.” They followed each other at shift change, which was limited to the hour between the crew shift change. In a two-week period, they had two to three interactions.

Barca does not know what ethnicity or ancestry Morales is, but stated, “He could be Hispanic.”

Barca’s brother, Dane Barca, has worked at a rum bar and she has “probably” spoken with Morales about that. When asked how Morales would know this about her, Barca stated, “Everyone knows that about me. He’s a famous bartender, celebrity bartender. He’s in a book. He’s been on the radio, for the Star Wars guy, George Lucas.”

Barca was informed that Morales alleged that he and Barca had spoken about meeting up to go to a rum bar in the City that Barca’s brother worked at, then Barca had called and asked Morales to

change the plan and help her move some furniture to Santa Cruz, and then after Morales agreed, Barca invited him to stop by a party with her friends and suggested they sleep on the beach afterwards. Barca laughed and said, "That seems like a cool story. None of that is true." Barca laughed again and said, "It is a bold-faced lie, literally a story that has no bearing in reality. If we had a conversation, there would be a phone record. Why would I move furniture to Santa Cruz? I went to a concert in Santa Cruz." Barca stated that Morales's story makes it appear as though she was making "some advance" toward him. However, she said, "If you've seen him, I have much better choices. Not appealing."

When asked why she waited until October 2019 to report conduct that occurred in early 2018, Barca replied, "Regarding the call outside of work, I didn't realize it fell under work harassment. It didn't feel like work harassment." Barca thought Morales was "immature and drunk" and thought she was "cute" and so she "brushed it off." She continued, "It wasn't until the repetitive pattern and snubbing continued for such a long period of time." Barca also stated, "In addition, when he slept in the bed next to me, when the environment was chaotic. I spoke with Mc Coy several times over the year-plus that we worked together. I do have it in my text messages to other people. I said I talked to Mc Coy and time stamp."

When asked why she waited until Mc Coy asked her about [REDACTED] bracelet to report a sexual harassment allegation against Morales, Barca stated, "To Captain Mc Coy, yes, I did in 2019." Barca stated that the circumstances leading up to her report to Mc Coy were: "I had found garbage in my locker, and the next shift, I found that same garbage in my locker and I went to Mc Coy and said, 'These guys are fucking with me.' He said nothing. I was complaining and if he had to get involved, I'd be sorry and I was childish." Barca continued, "Because everything I had experienced stemmed from that event. I was asked to bid Station 22. I had a very positive experience. I don't date firefighters, that's not a thing for me. Everything changed after that phone call. Each is a microaggression, shift after shift. Something wasn't right, someone didn't help cook and didn't pick it up and I had to run and answer the phone. And a pattern and I can't trust my crew on calls, safety related. I'm not comfortable sharing with them. I live in a firehouse. You have to share things."

Barca stated that she reported her allegations to Mc Coy on October 3, 2019, "within one hour of me realizing what was going on." Barca stated that the incident with [REDACTED] bracelet happened on October 6, 2019. She also said, "My lamp and other items were stolen prior to that. The lamp was stolen in September 2019, at the end of September, because I brought it up on September 29, 2019." She continued, "In 2018, the bed foam on my bed was removed. In 2019, my bed sheet was removed. The blender I brought in was never brought in. I asked for help to my officer [Mc Coy], and it isn't okay."

### **Sleeping in Adjacent Bed**

Barca was informed that Morales acknowledged he came into the dormitory early to sleep before his shift; however, he denied sleeping in the bed adjacent to Barca's and claimed he had his own assigned bed towards the back of the room. Barca responded, "Well, that's a lie. I have photos to prove it, his gear next to mine. The second reason, the bed he was assigned to came out to March 31, 2018 because of the reporting that I did, to leave me alone." Barca maintained that Morales



laid in the bed next to hers when there were 10 other beds available and “he’s a liar.”

When informed that witnesses [REDACTED] [REDACTED] and [REDACTED] never observed Morales sleep in the bed next to hers, Barca replied, “That would be awkward if there was a third person in the dorms. There is no reason to have a witness.” Barca explained that in Station 22, at any given time, there are four people working, an officer and three firefighters. The officer sleeps in the officer quarters, one firefighter sleeps downstairs on night watch, and two firefighters sleep upstairs in assigned beds. Barca stated, “I can also share that I spoke with Lieutenant [REDACTED] and Lieutenant Kwan.” Barca made contemporaneous notes “taken directly out of text message threads and time-stamped, exactly what happened in real time.” Barca wrote in 2018, “rough day at work, at to talk to the Captain it was so bad.” This was not in reference to Morales: “that had ceased by April 2018.” Barca had also written, “help too much drama” and “crew was rough.” Barca was referring to Lindsey, Morales’s “BFF.” Barca stated about Lindsey, “She came to me after in the women’s locker room and she asked me, ‘Why didn’t you move beds if you weren’t comfortable.’”

Barca stated that after the sleeping incidents, she and Morales got along and were speaking to each other. She said, “Yeah, I pretended like nothing happened, easier that way.” However, Morales “was a jerk.” Barca explained, “I outrank him in the station and Department. I’m a house member, and he gave me so much lip. He didn’t have to do anything because he didn’t think I was senior enough. Norms, patterns of behavior.”

Barca was informed that witnesses stated there are between 10 to 14 beds in the Station 22 dorm and there are always enough beds for vacation relief (VR) to have an assigned bed. Giacolone stated in response, “You might have two to three firefighters working on any given day. There are people assigned to a house and people who make a house. We have a vacancy bid. WE can bid on a spot in the house in the City, if I’m awarded that spot on seniority. However, there are always holes to fill, not 100% staffed. So at a company, to balance out that battalion, people who have not made a spot and are assigned to VR, they can get moved. We’re going to move. In the hierarchy of being at a house, people who made the house and own the spot have seniority in the house versus someone who is VR. Most houses have their own station policy, and regular members and made the house/VR/probies. The typical practice is if one is VR and one is a regular member of the house and a detail, the VR member will take that detail or the regular will take the detail, L&D. Kind of how it goes. 99.9% how it goes. Not an issue. ‘Sure, no problem, I’ll take it.’ We were in the 0.1%.”

When asked why Morales was lying in the bed, Barca stated, “First, I thought he was an idiot and didn’t see me. Oops, benefit of the doubt. He might have forgotten to tell people. He screamed at me, ‘Never fucking talk to me again.’ I wasn’t going to address him directly. I have him the benefit of the doubt. Awkward, not going well for me. I thought it would solve itself. It happened again, he’s doing it. Intimidating, like a dominating way. Oh, there are 10 other beds. Really scary and against norms to come in. Inappropriate and to tell others you’re going to do that. You might not want to get with him. It felt bad. It felt pointed.”

When asked whether it was sexual, Barca replied, “I don’t know how to answer that. I believe it was a direct result of rejecting him, like, ‘You have to deal with me.’ It came across as he might

have a chance and because he'd been so rude and mean, why would he sleep in the bed next to me? Why would he sleep next to me? It felt very confusing?" When asked why he would sleep in the bed next to her, Barca replied, "An incel. Flippant. Sorry. I have not observed him to be a very mature emotional person." Barca stated that Morales did not engage in any other sexual conduct. However, on February 3, he commented, "Good luck getting a guy with that short hair," which Barca found "inappropriate" and "weird." Morales did not make other comments like that to others. Morales did not comment on others' bodies.

When asked if Morales engaged in any other similar pointed conduct toward her, Barca replied, "Yes. Um, similar is tricky because of the timing of the bed stuff. It just seemed like a raw type of rejection, and maybe it wasn't an embarrassment. I don't know." Barca stated, "I will provide all of these notes to you. There is quite a bit of content here. We're at the grocery store and he doesn't come in to shop and buys everyone a coffee but me. Not in a sexual nature. Indecent human."

When asked if she could state what she said to [REDACTED] about Morales coming into the dorm, Barca responded, "Yeah, this one I'll just read. 3/1/18, the bed thing. Advice from [REDACTED] afraid to bring it up with Porkchop as retaliation. That porkchop was in the bed next to mine and woke up and it was uncomfortable. I said that to Eric Kwan and he said talk to [REDACTED] no captain available." [REDACTED] "blew it off. She said, 'That's kind of weird. What do you want me to do about it?'" [REDACTED] laughed. Barca did not think it was funny because she and [REDACTED] are not friends.

When asked whether she knows if [REDACTED] followed up with Morales, Barca replied, "I asked her the first time. I said I wasn't comfortable speaking to him because he said he didn't want to speak with me. She said, 'Okay.' She didn't feel like it was a big deal. She'd get to it. I thought it probably wouldn't happen anyway. I gave him every excuse possible. I went to her a second time. I said, 'This isn't okay.' She said, 'Sigh, fine.' Then it happened a third time. I said, 'You have to stop this.' And she did." Barca knows because Morales stopped doing it and Lindsey came to Barca and said, "If you were so uncomfortable, why wouldn't you just change beds?"

When asked why she would not change beds, Barca said, "Morales is her BFF," and Lindsey, [REDACTED] and Morales "are a trio. He's infallible. It isn't him, it's you. I'm in a bed at work, and my problem. I should move beds on a day he hasn't said, 'I'm coming in earlier.' We have open beds, he couldn't sleep next to my open bed. That's the standard bed, two beds to a cubby. Ample opportunity to lay your head."

Barca stated that she wrote in a text on March 1, 2018, "[REDACTED] rules and regulations, he wouldn't engage in any conversation. I was accused of not letting it go in the detail, I got cut off. No voice because of [REDACTED] surprise intervention. I made reference to the whole taking the detail. [REDACTED] made a lot of assumptions, and she hasn't taken my take on things. She took the station gossip as the truth." Barca also wrote, "Morales didn't take the detail because I'm not senior enough." On March 8, 2018, Barca wrote in a text message, "Bully me into taking the driving spot and I didn't want to take the driving spot. I was the paramedic. Constant tension."

Barca stated that Morales was coming to the station early because he lived in Hayward or

somewhere in the East Bay and “didn’t want to sit in traffic, which makes perfect sense.” Barca explained, “We have other people that come in and they come in before midnight. They don’t let firefighters come in the dorms before 7 am. You should have the decency to call first.” Barca does not recall if Morales came in early after these incidents. Barca’s understanding is that “he just started driving in like a normal human. I know that he got in early. His truck was very loud and when it locked, it beeped loud. I don’t know if he slept downstairs or not. Early, 5:30 am or 6 am, noisy entrance.”

Barca was informed that Morales acknowledged that ██████ told him about coming into the dorm while those on shift were still sleeping. Barca said, she has a photo and she would not have gone to ██████ three times if Morales “wasn’t doing those things.” She also stated, “Jessica Lee wouldn’t have made that comment to me, ‘Why wouldn’t you have changed beds with him next to you?’”

### **RETALIATION ALLEGATION 1 – TAKE DETAIL**

Barca stated about Station 22’s policy for VR members taking permanent members’ details: “It is never a requirement, social norm, just like bringing ice cream when you come for a visit. It is encouraged and social etiquette.” Giacalone stated, “It’s the right thing to do, the rite of passage. Seniority and not have to do. Those will come in time for those same people, like Morales and becoming a regular member from VR.”

Barca stated that Morales claims she asked him to take her detail “in a not nice way.” However, she does not recollect that. Barca said that on February 8, 2018, she wrote that she had just made her first house, was in a position of many years to ask someone to take the detail, and had never been able to ask someone to take a detail. “The first experience for me was glorious. <laughs> Porkchop was the one I asked.” She “asked and gave him \$20. He didn’t say, ‘Thank you.’ He left. He gave me a lot of attitude but didn’t say anything negative.” Barca stated that on February 22, 2018, Morales “refused in a glorious way. I offered him the \$20 again. This was my day two, I was on a 48-hour shift, day two of three. I had already been on February 21, my gear is on the rig, my bed is ready. I said, ‘Hey, can you take the detail, please?’ and he said, ‘I’m not doing it.’” Barca further stated, “He truly should have taken the detail because he’s a junior. As a regular member, my bed is set up, my gear is on the rig, and I’m going to have to leave my home station to re-set up and have to do the same thing at the [other station]. Inconvenient. Really selfish. I offered with cash in hand, and he was very upset. He claims he didn’t like the way I asked. He goes 0 to 60. It is bad emotional maturity. That felt specific to me.” Barca believes Morales would have taken a detail “if one of his buddies asked,” but he felt like he did not owe Barca anything.

When asked whether she asked or told Morales to take the detail, Barca replied, “No, later. He just wouldn’t do it. Jessica Lee told me he didn’t like the way I asked. It was specific to me. I never received this type of behavior.” When asked again, Barca replied, “I mean, if I told him, I would not say that.”

Barca stated that she “went to go hand [the \$20] to him, and he wouldn’t receive it.”

When asked if she ever insisted during the conversation that Morales take the detail, Barca responded, "I assume this was related to the uneasy feelings between the calling and the bed situation. It all seemed like part of a greater story that I didn't really put together until later. The pattern wasn't clear to me yet. Ridiculous."

Regarding her apology to Morales, Barca explained, "Jessica Lee had approached me and I knew they were friends and I thought Lee and I were friends. I was mistaken. Camille Rutherford, I asked her, too. I said, 'What's going on?' He didn't like the way I asked, which implied I asked and didn't tell him. I said, 'There is some discord, and it needs to go away.'" Barca further stated, "I went to him in the morning. [REDACTED] and Jessica Lee were in the kitchen. We sat down, and I said, 'Listen, we've gotten off on the wrong foot. I seemed to offend you.'" Barca apologized to Morales, stating, "We've had a miscommunication. Sorry if I offended you." Morales "stood up and used a lot more swear words." Barca "stood up and used more swear words." There was a shift change – Altenberg and Barca were leaving their shift, and [REDACTED] and Morales were coming in. Altenberg stepped in.

Barca stated that on February 28, 2018, she wrote, "Morales is a dick." Morales "rehashes this whole thing to [REDACTED] and she thinks I'm an evil person." This is "when [REDACTED] held a meeting about the rules and regulations and inquired about me." Barca feels that Morales "went out of rank. He was given an instruction by an officer and went to an officer that had a sympathetic ear." Barca explained that Altenberg had told Morales and Barca to "let it go" and there was "no reason to continue this dialogue." Altenberg stated, "You're both right, and you'll never agree." Barca "was approaching it from a social etiquette perspective." She went on, "[REDACTED] set up a meeting because of the issue with the detail. It was a really easy problem to solve, but she made a lot of assumptions and they were wrong."

Barca believes that her request to Morales to take the detail "accidentally made him look the fool publicly." Barca described Morales as a "confused man." She further stated, "I don't think he wanted me in particular to put him in the position where he wasn't the alpha." Barca does not think it matters what she asked him.

When asked why she thinks Morales took her detail the first time she asked, Barca replied, "He begrudgingly took it. It was the right thing to do. He does understand the social norms. He knows the rules and the expectations. That's why he took the detail the first time and had a tantrum the second time. He just didn't want to and wasn't kind about it. It wasn't like he had a reason for saying no. No negotiation and you're evil and I hate you."

Barca was informed that a witness stated that she waved \$20 in front of Morales and said, "You're taking my detail." Barca stated that was a "piece of a question" and denied waving the money. Barca also stated, "Jessica Lee was there. Please consider the source. That's Morales's best friend."

Barca was informed that a witness stated that two weeks after the detail incident, the witness heard her complaint to another firefighter that Morales would not take her detail. Barca has "no idea" whether this is accurate. Barca does not recall whether she continued to talk about it with others at the station and does not know why she would.

Barca was informed that Morales acknowledged he turned down her detail but said he did so because she demanded he take the detail, she was rude, and it was not station policy to require VR members to take details. Barca responded as follows: “VR members are not required. It is social etiquette that he has failed to recognize. According to his probationary officer, his officer states and he knows the expectations and why he took the February 8. He knows the rules and he chose not to take the detail because of personal issues with me.” The personal issues are that “he felt rejected and dumb. He didn’t like a woman in a position to ask him anything. He’s super alpha macho, big truck driving kind of man.” Morales felt “rejected from having sex from me when he made those multiple requests in January. I didn’t want him sleeping next to me in the dorms. Those are the two big ones.”

### **RETALIATION ALLEGATION 2 – MORALES COMPLAINED TO ██████████**

Barca was informed that no witnesses heard Morales spread rumors about her being entitled, being entitled, or liking and being rejected by Morales. She responded, “Cool. I mean, that’s great. Doesn’t explain why there were screaming at me. Yeah, so here’s what I got, here we go.” Barca read a note she had written on March 1, 2018, which states, “████████ has the rules and regulations intervention. I didn’t know about this meeting. The crews who were going off were still there. Double crews. 8:15, ██████████ calls a meeting and she has photocopied the rules and regulations section.” Barca wrote that ██████████ said, “Whitney, why don’t you read the section about taking the detail,” and asked snarkily, “Does that clear things up for you?” Barca said no. She described ██████████ as “dramatic.”

Barca stated that she was not “confused on what the written word says.” Barca stated, “Morales is not required to take my detail. Nobody ever said that’s incorrect.” Barca expressed concern about how they were going to follow social etiquette when they did not have a captain and only had an acting lieutenant, and everyone was at a new house that had different rules. Barca stated that at Station 31, the rules were clear: VR members still take details. Barca had assumed that was the case for Station 22, and this incident was clarifying. Barca stated, “They were just uncomfortable. I was screamed at by ██████████ He was red in the face, hunched over, and pointing. This anger, where is it coming from? Great, they have no knowledge about me. Where is this aggression coming from?” Barca continued, “But ██████████ organized a meeting and then hands me the rules and regulations and says, ‘Do you understand it yet?’ And they story that I’m hearing is they’ve had no knowledge about anything. I don’t buy it.”

Barca identified ██████████ as being “not well-liked” at Station 22. Barca also identified Firefighter Dustin Ruff as receiving “a lot of backlash for Morale and getting the captain involved, altercations. Not hazing, but microaggressions that existed in that station.”

Barca stated that at Station 33, she was identified as “drama.” A firefighter Barca has never met told thee of her friends at the farmer’s market, “Oh hey, Abigail, I heard you’re getting that troublemaker from 22.” Another firefighter at a different station has an opinion about Barca. She went to a detail at Station 18, where her officer was Ken Smith (Smith), a “gruff” person she’d never met before. By mid-day, Barca and Smith “were good pals.” Smith shared with Barca that a different officer whom Barca does not know had told him about Barca, “Hey, you’re getting

this person. Watch out for her. She's trouble."

After these events, no one else ever took Barca's detail or traded shifts with her unless she was doing someone else a trade. Barca stated, "If I needed a trade, they'd go on the board and get erased. That caused me to lose money and I had to lose sick time."

Barca was informed that witnesses heard she was a bad driver but did not hear this from Morales. Barca laughed and stated, "Okay. I don't have any opinion on that." Barca acknowledged having some problems as a new driver.

Barca was informed that Morales denied gossiping or spreading rumors about her. Barca responded, "I mean, I've proven that he's a liar. This falls into the lying category. My personal experience is he can't keep his mouth shut. If you're not at dinner, you're what's for dinner. It's still happening. Jessica is worse. [REDACTED] is the absolute worst."

### **RETALIATION ALLEGATION 3 – FFs DIDN'T HELP BARCA WITH DUTIES**

Regarding whether firefighters are required to help the person on kitchen duty cook, Barca stated, "So this falls into the social etiquette we were talking about." She explained, "Well, typically, firefighters shop as a group. The officer and firefighters will go inside, 'What do you need?' get back and cook." Barca offered an example: "[REDACTED] was standing near the mushrooms. They were high and he's taller than me. He turns around and looks at the mushrooms and walks out the door. He left Safeway, apparently, my request. Is he required to get me the mushrooms? No. Or chop? No."

Barca stated that others do not help her on the days when she cooks and shops. She also said, "I remember mopping around Mc Coy because they up and walked out. Didn't take out trash, didn't take up dishes." Barca stated that it is her responsibility as the watch person and the duties are broken up, but she has never seen the teamwork lacking in such a way that it was. "Everything started with Morales with the phone call. It got worse with the detail bit" and the "[REDACTED] meeting."

Barca explained that it got worse as follows: On March 3, 2018, "Mc Coy wouldn't let me get past in the kitchen. Jessica and [REDACTED] refused me to work out with them, you just take radio. They're allowed to say no, they said no, but that's a stupid excuse." Barca stated there was an "exercise circuit" in the bay with "some weights and jumping, a little something." Barca said, "You can still monitor the phone and door and other duties. You just bring a portable radio. They said, 'No, we don't want you.'" Barca does not know when Lindsey and [REDACTED] would not allow her to work out with them.

Barca documented on November 7, 2018, "little things to make it tough, not specific but something was going on."

On March 31, 2019, Barca wrote, "Crew was tough today. You know when you don't jive and the guys played dumb. There were a lot of things that didn't happen." Barca stated that things escalated. She explained, "I walk into a room, and people leave. They don't respond to saying

hello. No help in the kitchen. Not happening to other people. Specific to me.”

On June 1, 2019, Barca wrote, “I haven’t cried yet.” On September 9, 2019, she wrote, “Better crew Sunday than Saturday.”

On September 10, 2019, she wrote, “Captain: Deal with it and if you don’t like it, leave, when I was reporting garbage, harassment. Nothing overt until really bad (garbage). Captain could have influence but refusing. Challenging conversation. Who is not in my corner. I had bad character, he kept deviating. The captain said I can’t wait on things. It happened 8:12 that morning and 9:15 I’m having a conversation. Bad things are happening.”

On October 6, 2019, Barca wrote, “Unless officer is there helping, Porkchop refuses to help in kitchen unless officer is there. I’m not safe with undermining.”

On October 8, 2019, Barca wrote, “Captain accused me of stealing. He threatens me. Said hi to [REDACTED]. Hard to answer question. I was experiencing retaliatory behavior. After October 2, I said the retaliation and removing soap, TP when I was the only firefighter on duty. Everything would be gone.”

Barca stated that Mc Coy told her, “You’re not welcome here. I ask that you bid another station.” Barca thinks Mc Coy said this “because of all the things that were said of the house the two years I worked there. I had worked with Charlie Mc Coy 11 times in 22 months. To say he knows good character tells me that conversations are happening that I’m not part of. Why would someone accuse me of stealing a bracelet? They don’t make sense. Even though a Fire investigation, no evidence to touch on theft. The findings came up zero. That is a very aggressive maneuver backed up with the words ‘we don’t want you here.’ If you can’t handle it, maybe I’m not cut out to be in this job. If I’m reporting toxicity – I don’t know what to do, guide me, and rut of toxic grossness and rude and treating me and being unfriendly and putting me in danger, and I’m going to be sorry. Something is not right there.”

Barca was informed that witnesses observed her and Morales help cook and saw other firefighters offer to help her and Morales cook. She responded, “When the firefighters helped me cook, they were detailed in. There are firefighters that help me cook, just the people [REDACTED] and Tim Moyer [a paramedic], we worked nine out of nine. Joey Doughmeyer, he would help. Am I saying nobody didn’t help me cook ever? I’m definitely not saying that. When other people cooked, there was always help. For me, specifically, people choose not to participate. If someone else was cooking, everyone was always in the kitchen.

Barca was informed that a witness stated that the witness helped her perform night watch duties. Barca responded, “Uh, what are they saying those night watch duties are? I was told I couldn’t work out or shower.” Barca acknowledged, “sure, at times, sure,” others would help her. However, “[REDACTED] Lee, or Morales would not help me, ever.”

#### **RETALIATION ALLEGATION 4 – CHRISTMAS PARTY**

Barca learned there was a Christmas party when she was shown photos later. She stated, “I was

on light duty and at HQ, and when I got back, I was told, 'We didn't invite you because you were on light duty.' That's a reason." Firefighter Chrissy Snow told her this. Also, Firefighter Babcock, "a really nice guy," talked to her about the party. Barca stated, "He was off on a shoulder injury, light duty and not yet at Station 22. He had bid and was not assigned until January, he was invited. They gave me a reason but invited someone else." Barca stated she knows because "Babcock was talking about it. There are photos on the board at the station. I was at HQ, didn't know about it until I got back."

Barca stated that "stations put on their own parties, pool some money for alcohol and snacks. Depends on the size of the station."

Barca believes Morales attended the party. She stated, "I can't imagine why he wouldn't." Barca does not recall whether Morales was in the party pictures she saw. Barca was informed that Morales said he did not attend the Christmas party. Barca said that if he did not attend, this would be kept from her because people dislike her due to the rumors Morales started. Barca noted that Babcock was invited to the party and welcomed to the station; however, she was excluded as part of a pattern.

Barca was informed that witness testimony indicated that the party invitation was posted publicly. She responded, "Sure, at the station. I'm sure it was. I'm at HQ. I know Babcock did not go into Station 22. Look at the invite. He was invited." Barca believes the house collector invited him. She also stated they have a group text and there was a group text thread about the subsequent holiday party. Both Barca and Morales were invited to the 2019 holiday party. He attended, but she did not. Barca knows Morales attended because she later saw photos on the board where the invitation had been posted.

### **ADDITIONAL ALLEGATION**

Barca was asked to confirm whether, from October 2019 to January 2020, whenever she worked at Station 22, there were no toiletries in the bathroom and locker room. Barca could not estimate how many times she was the only female firefighter on her shift. To get that information, she would have to look up the schedule day by day. Barca said she would try to find this information.

When asked what she did for soap and toilet paper needs, Barca replied, "Well, the first time was awkward and then I knew to look for it. Just went into the cabinet and restocked soap and toilet paper. I had been the only female on duty and then when [REDACTED] came in and trailing me and I should have been off and forgot something upstairs and it was after 8 am and came running back up and find [REDACTED] restocking the stuff for her because I had put it in the corner and we'll put it right here. And people were bringing in their own items and soaps and whatnot. Why they would remove the station pot. They brought in specific items and that would be cleared out and include house-purchased items that I was using up. [REDACTED] was setting up her items, everyone's personal items. In the locker where the t-shirts are kept, keeping everyone's items in there. Jessica, [REDACTED], and house items were removed when I was on shift by myself and I just happened to come in after hours. Very petty. We have a storage closet pantry stocking area, back up of soap and TP in the closet. You have to leave the locker room and get that, not like I could get it with my pants down and everything."



Barca confirmed the soap and toilet paper were gone. She thought they were out of toilet paper. She stated, "That's awkward and you work it out and go wash my hands and no soap and went to wipe my hands. I get what's going on here. I noticed the absence of everyone's personal items. When I came back on shift, I had to grab and [REDACTED] was replacing everything. Clearly to make things difficult for me. I felt like that it was in retaliation to getting Porkchop in trouble, which, technically he wasn't, but I was asserting myself."

Barca was informed that a witness stated that due to [REDACTED] bracelet going missing in October 2019, some female firefighters began locking up their personal toiletries in their lockers, but there was always soap, toilet paper, and shampoo and conditioner, which are SFFD-provided items. Barca was also informed that a witness stated that stocking bathrooms is a house duty performed daily. Barca responded, "Um, yeah, exactly what I said. On days when I was the only female working, they were removed. The men don't go into the women's bathroom, so it might be house duty to replace them. Women only go into those bathrooms." Barca does not have any photos or other documentation to support her allegations.

When asked whether she has any other information to substantiate this allegation, Barca replied, "There are other items, behavior towards me. Things that are simple, 'Oh, I'd like to miss the deadline.' Petty files left on the computer that are trash."

Exhibit C:

Charge of Discrimination

**CHARGE OF DISCRIMINATION**

(To be Completed by EEO Staff in Consultation with Complainant)

1. Complainant: Whitney Barca Email Address: [REDACTED]  
Address: [REDACTED] Work Phone: \_\_\_\_\_  
[REDACTED] Home Phone: [REDACTED]

2. Respondent Department: San Francisco Fire Department (SFFD)  
Individual Respondent(s): Jorge Morales, H002 Firefighter  
Worksite: Station 22 Telephone No.: [REDACTED]  
Address: \_\_\_\_\_

3. Complainant's Current Employment Status (circle one): Classification: H002 Firefighter  
PCS TCS TPV PEX TEX PROB NOT A CITY EMPLOYEE

4. Basis of Discrimination (specify):  
 Race: \_\_\_\_\_  
 Color: \_\_\_\_\_  
 Religion: \_\_\_\_\_  
 Creed: \_\_\_\_\_  
 Sex: Female  
 National Origin: \_\_\_\_\_  
 Ethnicity: \_\_\_\_\_  
 Age: \_\_\_\_\_  
 Disability/Medical Condition: \_\_\_\_\_  
 Political Affiliation: \_\_\_\_\_  
 Sexual Orientation: \_\_\_\_\_  
 Ancestry: \_\_\_\_\_  
 Marital or Domestic Partner Status: \_\_\_\_\_  
 Gender Identity: \_\_\_\_\_  
 Parental Status: \_\_\_\_\_  
 Other Non-Merit Factors: \_\_\_\_\_  
 Retaliation: Harassment for Rejecting Respondent's Sexual Advance

5. Issue complained of:  
 Denial of Employment  
 Denial of Training  
 Denial of Promotion  
 Denial of Reasonable Accommodation  
 Termination  
 Lay-off  
 Constructive Discharge  
 Disciplinary Action  
 Harassment  
 Work Assignment  
 Sexual Harassment  
 Compensation  
 Other (specify): \_\_\_\_\_

6. Has the Complainant filed the complaint with any other local, state or federal agency? Yes  No   
If yes, please specify: \_\_\_\_\_

7. Has the Complainant filed a grievance or lawsuit? Yes  No   
If yes, please specify: \_\_\_\_\_

8. Is the Complainant represented by a Union or an Attorney? Yes  No   
Name: \_\_\_\_\_ Organization/Firm: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone No.: \_\_\_\_\_

9. Describe specifically and in detail the circumstances of the alleged discrimination. Please include date(s) of adverse employment action(s).

Since January 2016, I have worked for SFFD as an H002 Firefighter. From January 2018 to January 2020, I was a permanent member at Station 22. From January 2018 until October 2019, Jorge "Porkchop" Morales was my lower-ranked Vacation Relief (VR) co-worker at Station 22. Our tour schedules rarely overlapped but we often saw each other at shift change because six out of nine workdays, Morales worked the day after I worked.

On October 7, 2019, I was approached by my then-commanding officer, Captain Charles McCoy, about stealing another firefighter's bracelet, which I denied. This was one week after I reported to Captain McCoy that a lamp I owned at the station was thrown away. On October 10, 2019, when further questioned about these incidents, I told Captain McCoy that I felt this treatment was a continuation of negative treatment I had experienced for two years as a result of rejecting a sexual advance by Morales in 2018. I believe Morales spread rumors about me that led to me being bullied and disliked by Station 22 firefighters.

## **I. SEXUAL HARASSMENT**

Morales subjected me to the following unwelcome conduct based on my sex (female):

1. At the end of February 2018, Morales called my cell phone and asked me three times to come to his house and have sex with him. I thought he was kidding so I responded that I was going to a concert in Santa Cruz and invited him to join me and my friends. He repeated that I should come over after the concert. I said, "No, I'm hanging up now. I'll see you at work." I believe Morales was "butt hurt" by my rejection because one week later, he refused to take my detail and told me to "fuck off." (see Section II.1).

In March or April 2018, on three separate dates where Morales' workday followed my workday, I woke up to find Morales sleeping in the bed next to my assigned bed in the station dormitory, even though there are several empty beds in the dormitory. As a permanent member, I had an assigned bed but Morales, a VR member, did not. The first time this happened, I woke up around 5:00 am when it was dark and saw a shadow coming towards me. It was Morales getting into the bed next to mine. I was startled and then could not fall back to sleep. The second time it happened was about a week later, also between 5:00 and 5:20 am. I do not remember if I was again woken up by him coming in or if I saw him in the bed next to me after I woke up. The morning after the second incident, I reported to Lieutenant Eric Kwan that Morales had slept next to me and asked Lt. Kwan to get Morales to stop. The third time, I woke up when my alarm went off at 6:15 am and saw Morales in the bed next to me. I then reported to [REDACTED] that Morales was sleeping in the bed next to me and that it made me feel uncomfortable. [REDACTED] said, "Yeah, I get it." I believe she spoke to Morales because he stopped sleeping in the bed next to me.

## **II. RETALIATION**

1. Approximately one week after rejecting Morales' sexual advance in February 2018, I was detailed to go to another station as the lowest ranked permanent member. Per the usual practice, I asked Morales to take my detail, since he was a lower ranked member. Instead of accepting the detail, as is customary for a junior member, or simply telling me, "No thanks," Morales told me to "fuck off." I took the detail and after returning, I apologized to Morales in case I had come across as rude. Instead of accepting my apology, Morales began to yell at me. Acting Captain Gary Altenberger then stepped in and addressed us both, which I thought resolved the issue.

2. The next day, at shift change, I learned that Morales complained to [REDACTED] that I asked him to take my detail. Lt. [REDACTED] reminded me that station policy did not require junior members to take details. I stated that I agreed on the rule, and that Morales was not obligated to take my detail. Around this time, other firefighters including Jessica Lindsay, [REDACTED], [REDACTED] and [REDACTED] began to yell at me and say that I acted "entitled." I believe they were influenced by Morales' version of events.

In addition to the rumor that I was "entitled," I believe Morales spread other rumors about me to hurt my reputation. According to a classmate or co-workers whose names I cannot recall, Morales set up a rumor that I liked him and he had rejected me. Morales also spread a rumor that I refused to drive on the fire engine because I am a bad driver, because I often did not take the drive position due to being happy with my firefighter spot.

3. Due to Morales' rumors about me, most of the other Station 22 firefighters, whose names were provided above, refused to help me in the kitchen or cover the floor for me so I could work out. These members would not talk to me directly but talked about me behind my back. They refused to take my shift trade requests. This behavior lasted until December 2019, when I reassigned to a different station.
4. Around December 2018 or January 2019, I was not invited to the Station 22 Christmas party.
5. In October 2019, Captain McCoy informed me that Morales twice put a crumpled piece of trash paper in my locker. Captain McCoy also informed me that Morales was the person who threw away my lamp.

I believe Morales engaged in the above described conduct and convinced station members to ostracize me because I rejected his request to have sex.

In October 2019, after I reported Morales' phone call to Captain McCoy, Morales was transferred to another station. When I reported to work after filing the complaint, I found that there was no toilet paper, soap, shampoo, or condition in the women's bathroom and locker room, multiple times. I believe the toiletries were only removed when I worked, because I came to work on my day off, and noticed toiletries were present. I believe Jessica Lindsay, [REDACTED] and Christina Snow are responsible because they were the women who had access to those spaces. I believe these actions were in retaliation for my complaint to McCoy, because shortly after Morales was transferred to a different station, I heard a rumor that an HR claim was the reason for his transfer, and because firefighter Lindsay is close friends with Morales.

10. Has the Complainant taken any action to resolve the issue(s)? If yes, please specify.  
Around April 2018, after the second and third sleeping incidents, I reported Morales' behavior to two separate lieutenants. In April 2018, when Captain Charlie McCoy became Station 22's commanding officer, I reported to him that Morales and I had conflict stemming from him sleeping next to my assigned bed. In October 2019, following the trash in my locker and a separate disciplinary incident, I reported the February 2018 phone call for the first time, to Captain McCoy.

11. Remedy or corrective action desired by Complainant:

I would like my reputation within SFFD to be remedied, although I do not know how that would happen. I would like positive closure and for my negative experience at Station 22 to be acknowledged.

Completed by:

/s/ Dorothy Young  
EEO Staff's Name and Signature

September 23, 2020  
Date

\_\_\_\_\_  
Complainant's Name and Signature

\_\_\_\_\_  
Date

Exhibit D:

Notice of Charge and Request for Information

City and County of San Francisco  
Micki Callahan  
Human Resources Director



Department of Human Resources  
*Connecting People with Purpose*  
www.sfdhr.org

**CONFIDENTIAL**

September 23, 2020

Jeanine Nicholson, Fire Chief  
San Francisco Fire Department  
698 Second Street, Rm. 304  
San Francisco, CA 94107-2015

Via Email  
*jeanine.nicholson@sfgov.org*

RE: Request for Information  
Complainant: Whitney Barca, EEO File No. 3311

Dear Chief Nicholson,

A complaint of employment discrimination has been filed against the San Francisco Fire Department (SFFD) by Whitney Barca, H002 Firefighter. A copy of the Charge of Discrimination is enclosed. The Charter of the City and County of San Francisco provides that the Human Resources Director shall review and resolve all allegations of employment discrimination. I have been assigned to investigate this complaint and my role as an investigator is to act as an objective third party, representing neither the complainant nor the party charged with discrimination.

**I. NOTIFICATION OF CHARGES**

Barca alleged that she was subjected to sexual harassment by her former co-worker Jorge Morales, H002 Firefighter, when in February 2018, he called her personal cell phone and asked her to have sex with him, and in March or April 2018, on three occasions, when he slept in in the dormitory in an unassigned bed next to Barca's assigned bed. Barca further alleged that after she rejected Morales' sexual advance, he spread rumors about her, causing retaliation by Station 22 firefighters who refused to speak to her, would not trade shifts with her, and did not invite her to the December 2018 Christmas party. In October 2019, after complaining about Morales' conduct, he was transferred to a different station and Barca experienced additional retaliation from fellow female firefighters who removed the toiletries from the women's bathroom and locker room only when Barca worked.

Barca seeks the following remedies: for her reputation within SFFD to be remedied, for positive closure to her complaint, and for her negative experience at Station 22 to be acknowledged.



## **II. REQUEST FOR INFORMATION AND DEPARTMENT RESPONSE**

To investigate the above allegations, we request the following information be provided within 10 business days. Therefore, please provide a response by no later than **October 7, 2020**.

### **A. Respondent's Response to the Charge**

The Department should cooperate in providing me the information requested herein, **but should not** conduct its own investigation to respond to the allegations. In particular, the Department should not interview persons regarding the allegations. If the Department believes it is necessary to investigate or interview witnesses to respond to the charge, requests for information, or requests for documents, please contact me before conducting any investigation or interviews.

### **B. Witnesses for the Department**

Please provide a list of witnesses that the Department requests to be interviewed on its behalf.

### **C. Request for Information**

We would like to obtain the following information:

1. Whitney Barca's scheduled and actual days worked in February, March, and April 2018.
2. Jorge Morales' scheduled and actual days worked in February, March, and April 2018.
3. Planning and publicity information for the Station 22 Christmas Party; specifically who planned the party, who was in charge of invitations, and how people were informed of the party.
4. Policies and procedures for station sleeping assignments, particularly at Station 22, between January and April 2018.
5. Policies and procedures for issuing details to lower ranked members, particularly at Station 22, between January and April 2018.
6. Whitney Barca's schedule and actual days worked in October 2019.
7. The October 2019 schedule and actual days worked of all female firefighters in Station 22, including but not limited to, Jessica Lindsay, [REDACTED] and Christina Snow.

### **D. Request for Documents**

Please provide copies of the following documents:

1. Timecard information for Whitney Barca from February, March, and April 2018.
2. Timecard information for Jorge Morales from February, March, and April 2018.

3. Any communication or invitation information for the Station 22 Christmas Party.
4. Written policies or procedures around use of shared toiletries in station female locker rooms and/or bathrooms.
5. Time card information for Whitney Barca and all other female firefighters at Station 22, including but not limited to, Jessica Lindsay, [REDACTED] and Christina Snow, from October 2019.

Additionally, I will be requesting to review Barca and Morales' official personnel files. Please mark all information sent in response to this request "Confidential."

**E. Scheduling of Interviews**

We also request your assistance in scheduling interviews with any witnesses identified by the Department, as well as the employees listed below:

1. [REDACTED] H020 Lieutenant, Fire Suppression
2. Eric C Kwan, H020 Lieutenant, Fire Suppression
3. Gary Altenberger,
4. [REDACTED]
5. [REDACTED]
6. Christina Snow
7. Jessica Lindsay
8. [REDACTED]
9. Charles McCoy, H030 Captain, Fire Suppression
10. Jorge Morales, H002 Firefighter

Please provide the upcoming schedules for all witnesses and respondents.

Also, please be advised that there may be a need to schedule further witness interviews as the investigation progresses. We would appreciate the Department's designating a person to assist in this process and informing us of the person's name and contact information.

**III. IMPORTANT REMINDERS**

Please remember that the information in this request is sensitive and that this document should not be shared with anyone named in the document. In addition, management should be reminded that any form of retaliation against an employee for making a complaint of discrimination or participating in this investigation is strictly prohibited by law.

We remind all those involved in complaints of discrimination that the process of evaluating the merits of the charges reinforces each employee's right to a workplace free of discrimination. Therefore, allegations should not be considered as personal attacks but management opportunities to demonstrate a commitment to such a working environment.

Jeanine Nicholson  
EEO File No. 3311  
Page 4 of 4

Should you have any questions about the complaint process, mediation, or this request, please do not hesitate to contact me at [dorothy.s.young@sfgov.org](mailto:dorothy.s.young@sfgov.org) or leave a message on my voicemail at 415-557-4934. Thank you for your assistance.

Sincerely,  
/s/ Dorothy Young  
Dorothy Young  
EEO Programs Specialist

Encl: Whitney Barca Unsigned Charge of Discrimination

c: Jeanine Nicholson, Fire Chief, SFFD  
Jesusa Bushong, Department Personnel Officer, SFFD  
Linda C. Simon, Director, EEO and Leave Programs, DHR

Exhibit E:

Attachment 1:

Attachment 2:

SFFD Response to RFI

SFFD General Form Re: [REDACTED]

SFFD Report Re: [REDACTED]



October 19, 2020

Dorothy Young  
EEO Programs Specialist  
Department of Human Resources  
1 South Van Ness, 4<sup>th</sup> Floor  
San Francisco, CA 94102

Re: EEO File No. 3311

Dear Ms. Young:

The San Francisco Fire Department ("Department") received the above-referenced complaint filed by the complainant, Firefighter Whitney Barca (FF Barca) alleging that she was subjected to sexual harassment and retaliation by her former co-worker Firefighter Jorge Morales (FF Morales) and to retaliation by her co-workers at Station 22. The Department is committed to providing a workplace free of retaliation for all its employees, as reflected through its Mission Statement (See Exhibit A) and as exemplified by its employment practices. The Department supports and upholds the policies of the City and County of San Francisco and takes all complaints of discrimination seriously. The Department assures the Department of Human Resources (DHR) of its full cooperation with the investigation and with any required or recommended actions that may arise from the findings.

### RESPONSES TO CHARGES

#### I. Sexual Harassment

The Department investigated FF Barca's complaints against FF Morales. The specific allegations investigated related to sexual harassment were: 1) FF Barca's claim that FF Morales contacted her sometime in February 2018 asking to have sex with her, and 2) that she found FF Morales on three occasions sleeping in the bed next to her at the firehouse.

#### II. Retaliation

The Department, likewise, investigated FF Barca's allegation that FF Morales retaliated against her for rejecting his sexual advances by not accepting details for her as the more junior firefighter.

Based on FF Barca's original allegations in October 2019, the Department focused the scope of its investigation on the items above. [REDACTED]

Enclosed as Exhibit B is a copy of the Department's investigation.

### WITNESSES FOR THE DEPARTMENT

The Department does not recommend any witnesses on its behalf but supports any requests for interviews by DHR.

### REQUEST FOR INFORMATION

1. See Exhibit C.
2. See Exhibit D.
3. At Station 22, the house collector plans the holiday party. The house collector collaborates with members through firehouse discussions to consider date, time, venue and cost. In 2018, Station 22 collectively decided on John's Grill. In 2019 and 2020, Station 22 collaborated with Station 8 and held the joint holiday party at The Elk's Club. There were no formal or individual invitations sent. Information regarding the party would have been posted on the door leading to the apparatus floor and on the cork board in the station day room where Department information is posted.
4. There are no written policies or procedures at Station 22 regarding sleeping assignments.
5. There are no written policies or procedures at Station 22 regarding issuing details to lower ranked members. The Department's Administrative Policy for Stations template, page 2 states that "*All members (regular or unassigned) shall have the same status in regard to watches and details.*" Therefore, absent a Station Policy for a particular fire house, the Department template would prevail. (See Exhibit E.)
6. See Exhibit F.
7. See Exhibit G.

## REQUEST FOR DOCUMENTS

1. See Exhibit H.
2. See Exhibit I.
3. The typical firehouse communication regarding Station 22's holiday party involves internal discussions among its members, followed by a sign-up sheet with the details about the party. The sign-up sheet is generally posted at common visible areas, such as on the door leading to the apparatus floor and on the cork board in the station day room.
4. There are no written policies or procedures at Station 22 regarding the use of shared toiletries in station female locker rooms and/or bathrooms.
5. See Exhibit J.

## SCHEDULING OF INTERVIEWS

Work calendars for each employee listed were sent separately via email on September 25, 2020.

## EXHIBIT LIST

Exhibit A – Department Mission Statement

Exhibit B – Department Investigation Report

Exhibit C – Whitney Barca Work History – February, March and April 2018

Exhibit D – Jorge Morales Work History – February, March and April 2018

Exhibit E – Department's Administrative Policy for Stations template

Exhibit F – Whitney Barca Work History – October 2019

Exhibit G – October 2019 Work Histories for Female Firefighters at Station 22

Exhibit H – Whitney Barca Time Sheet – February, March and April 2018

Exhibit I - Jorge Morales Time Sheet – February, March and April 2018

Exhibit J – October 2019 Time Sheets for Female Firefighters at Station 22

Please call Ms. Bushong at (415) 558-3615 if you have any questions or need any further information to complete your investigation.

Sincerely,

Jeanine R. Nicholson




By: Jesusa Bushong  
Departmental Personnel Officer

Enclosures

cc: Rikki DeWit, Acting Director, DHR EEO and Leave Programs



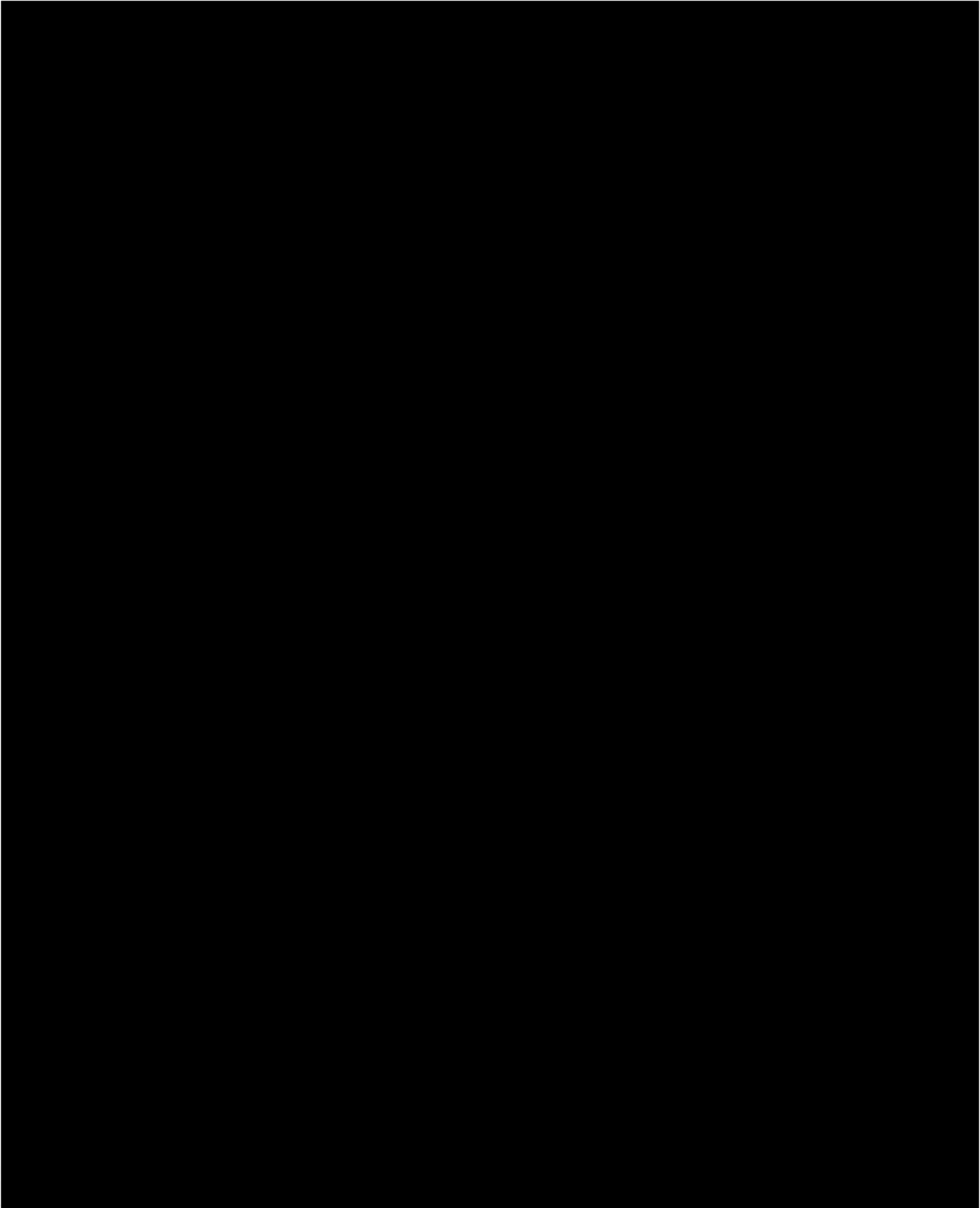
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SFFD General Form Re: 

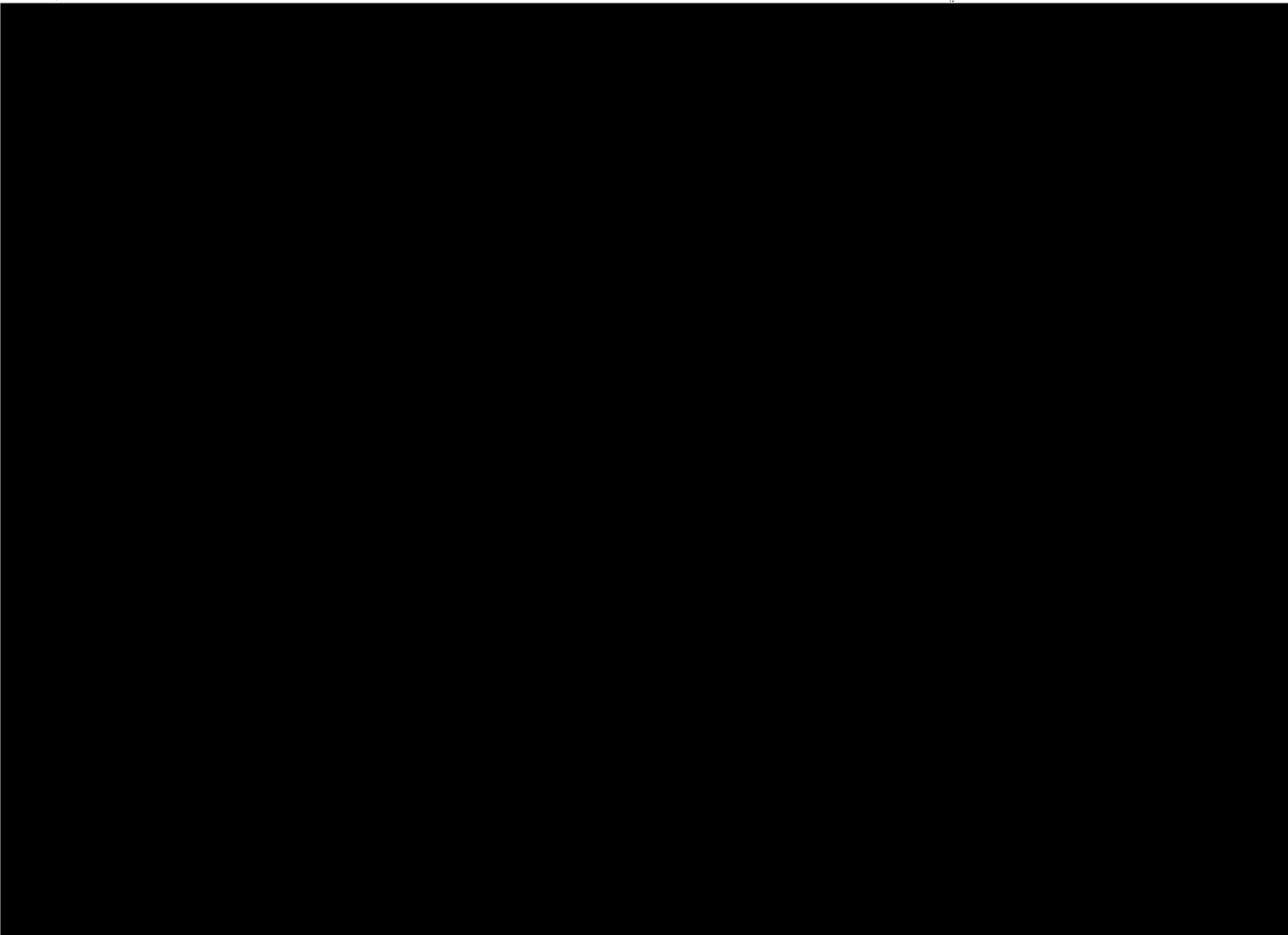


**San Francisco Fire Department**  
*General Form*

Date: 11/21/2019







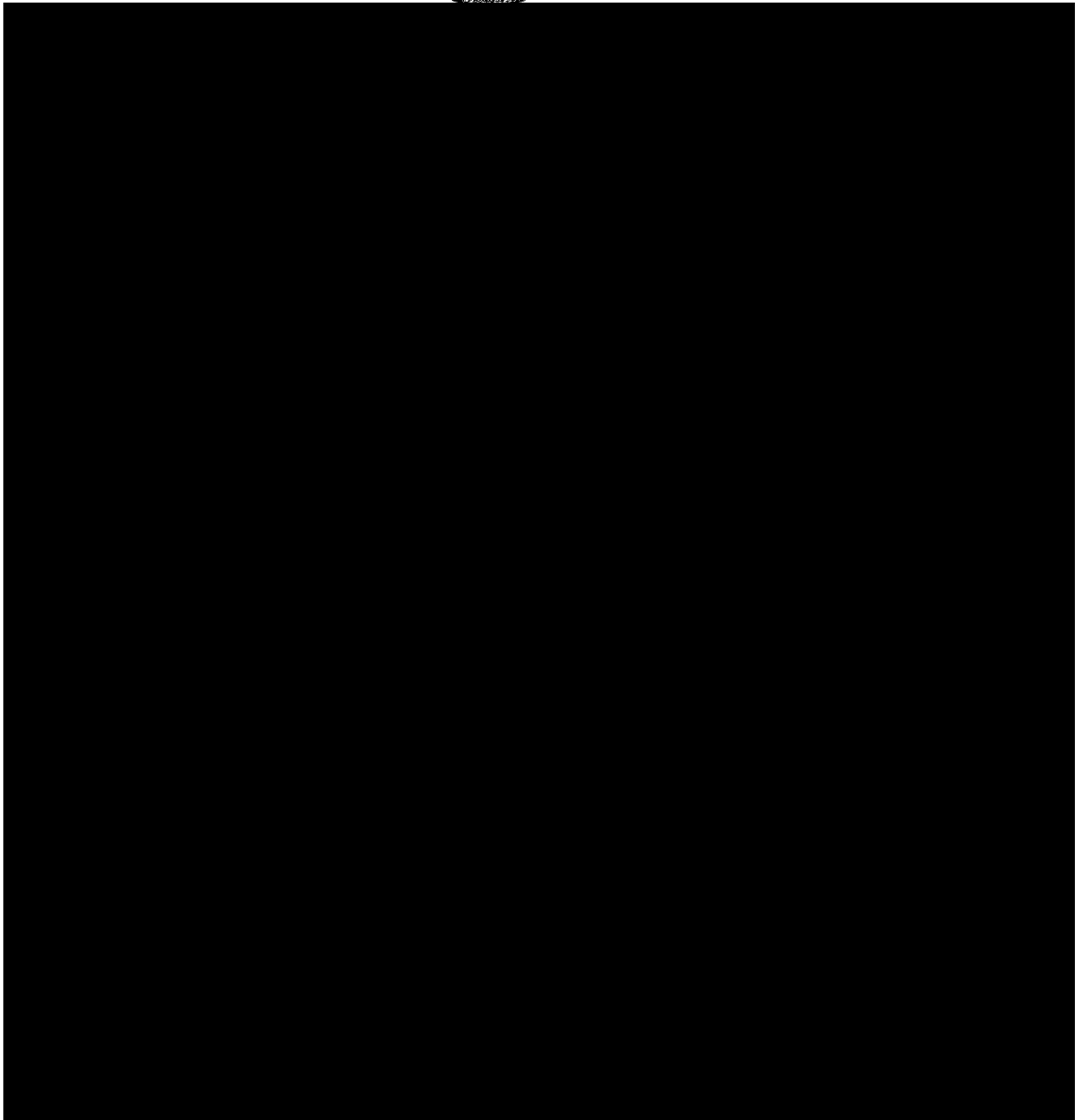
Attachment 2:

SFFD Report Re: [REDACTED]

**SAN FRANCISCO**



**FIRE DEPARTMENT**



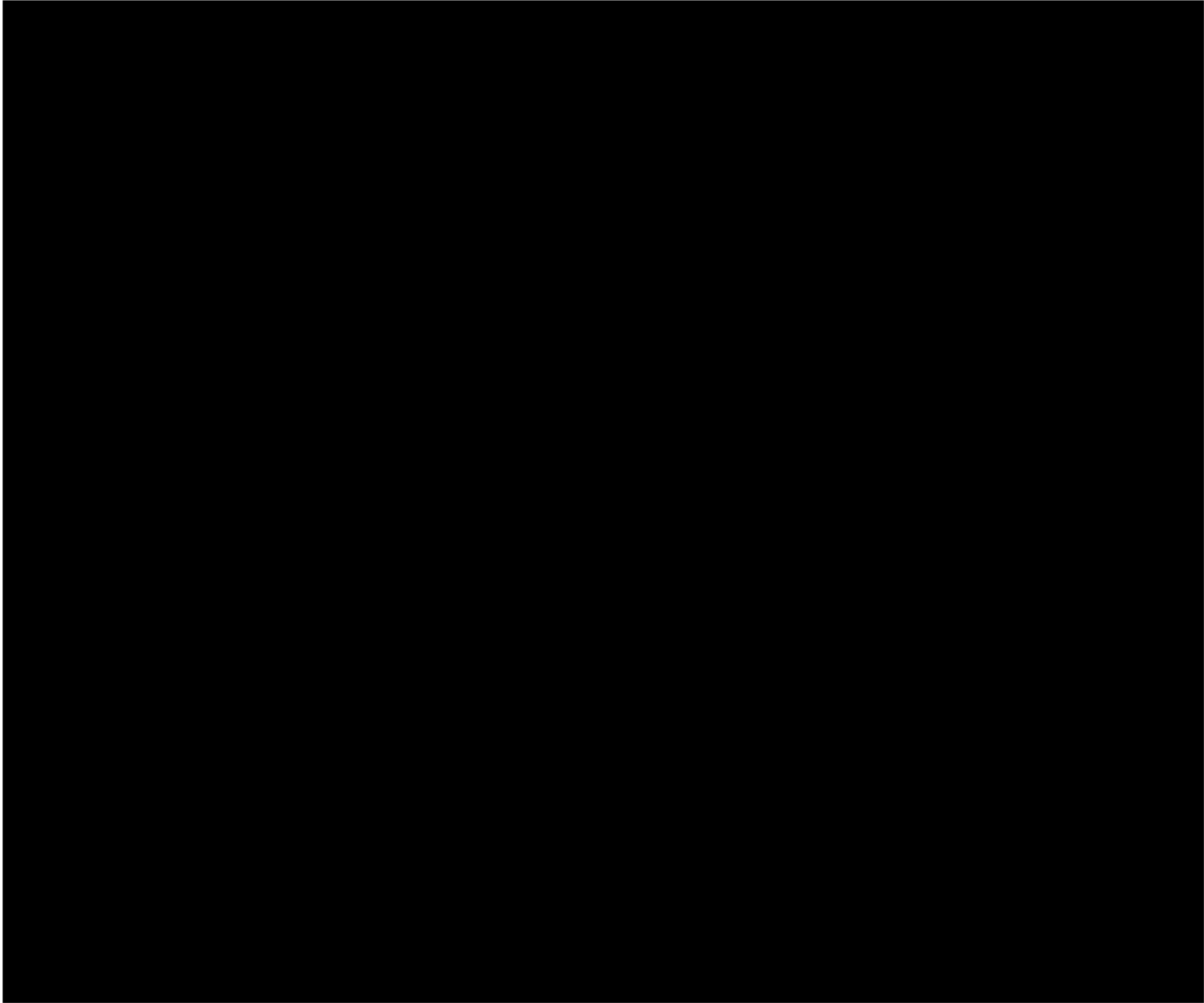
**SAN FRANCISCO**



**FIRE DEPARTMENT**

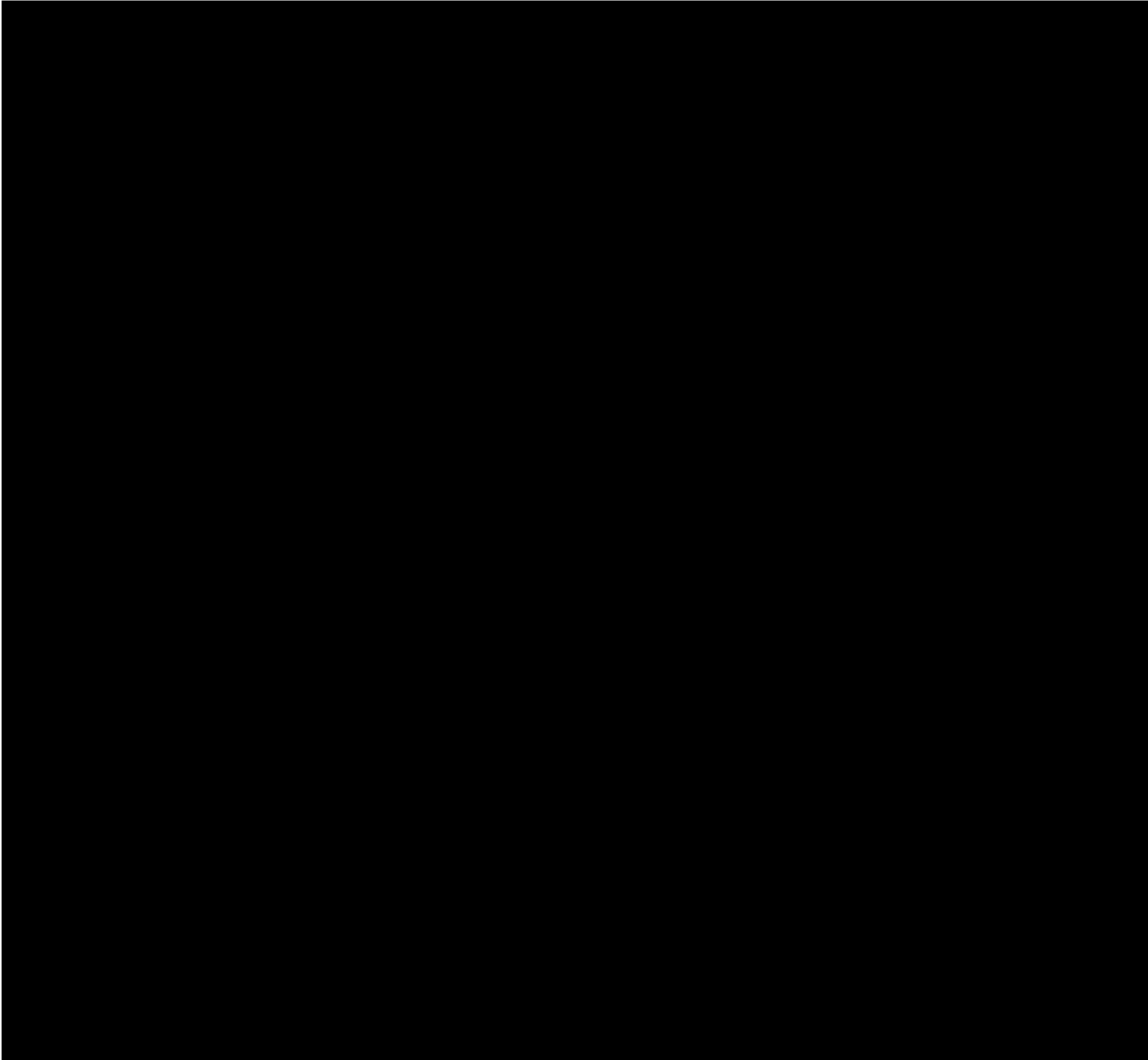


**SAN FRANCISCO**  **FIRE DEPARTMENT**





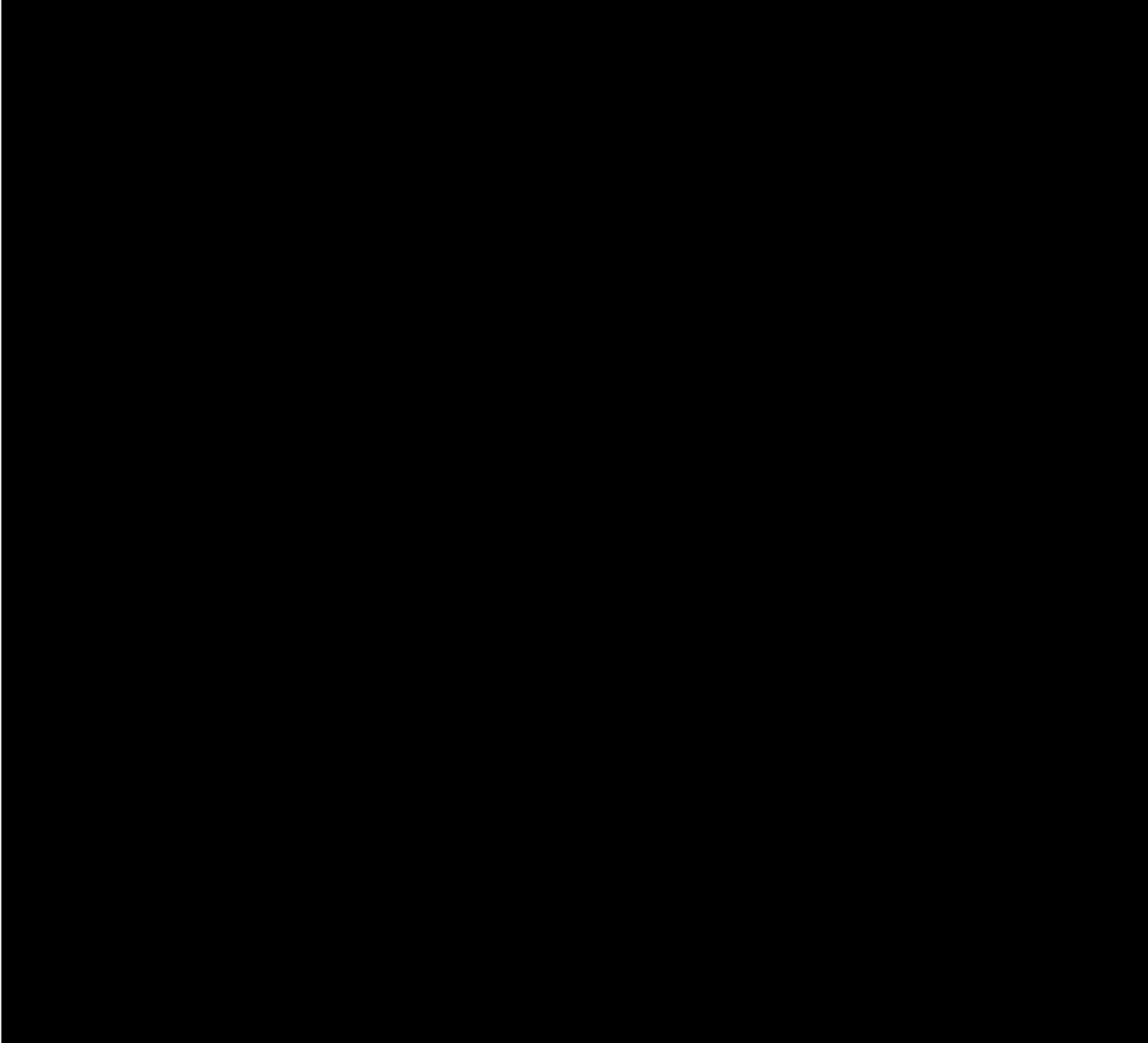
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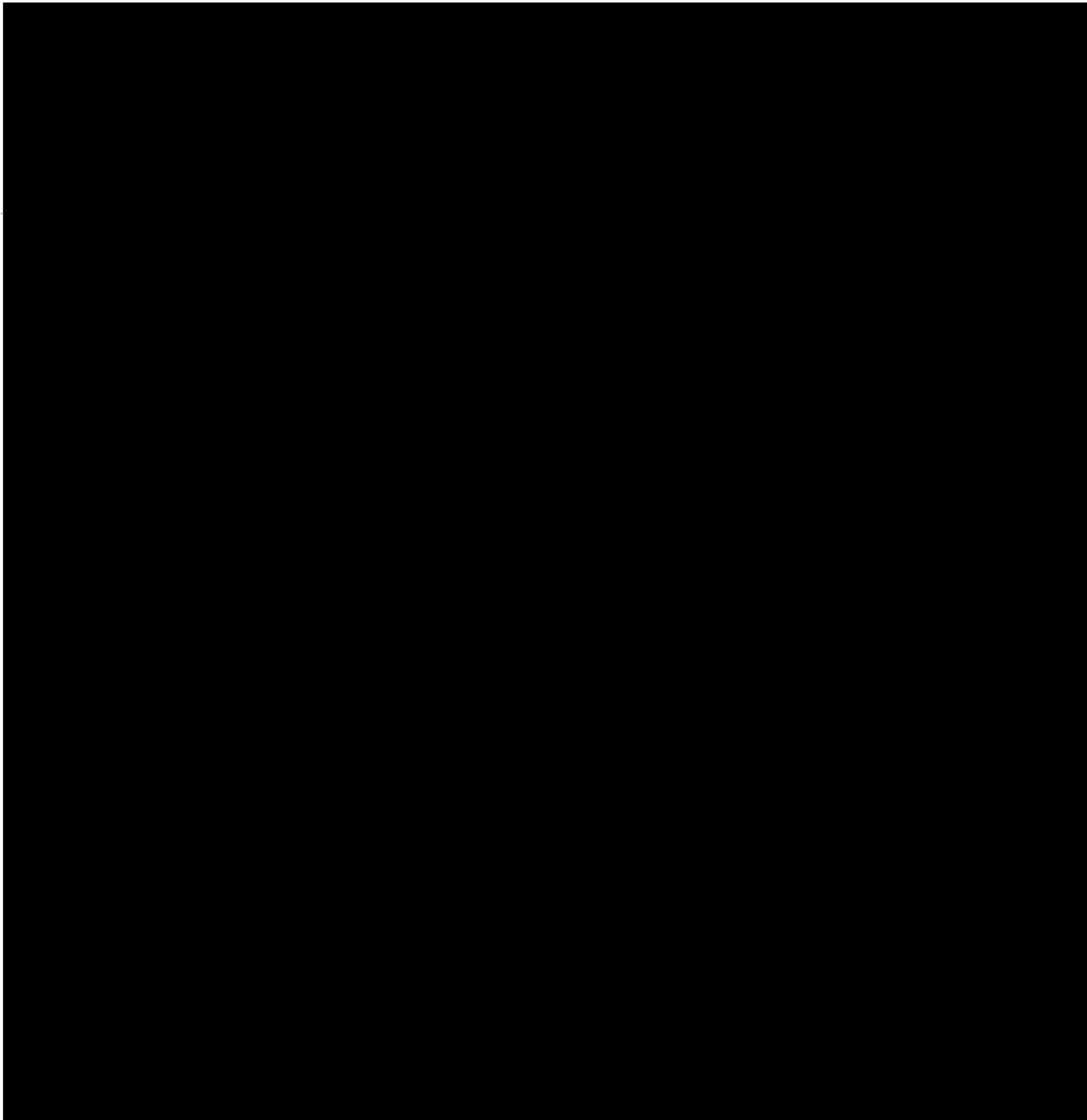
**SAN FRANCISCO**



**FIRE DEPARTMENT**



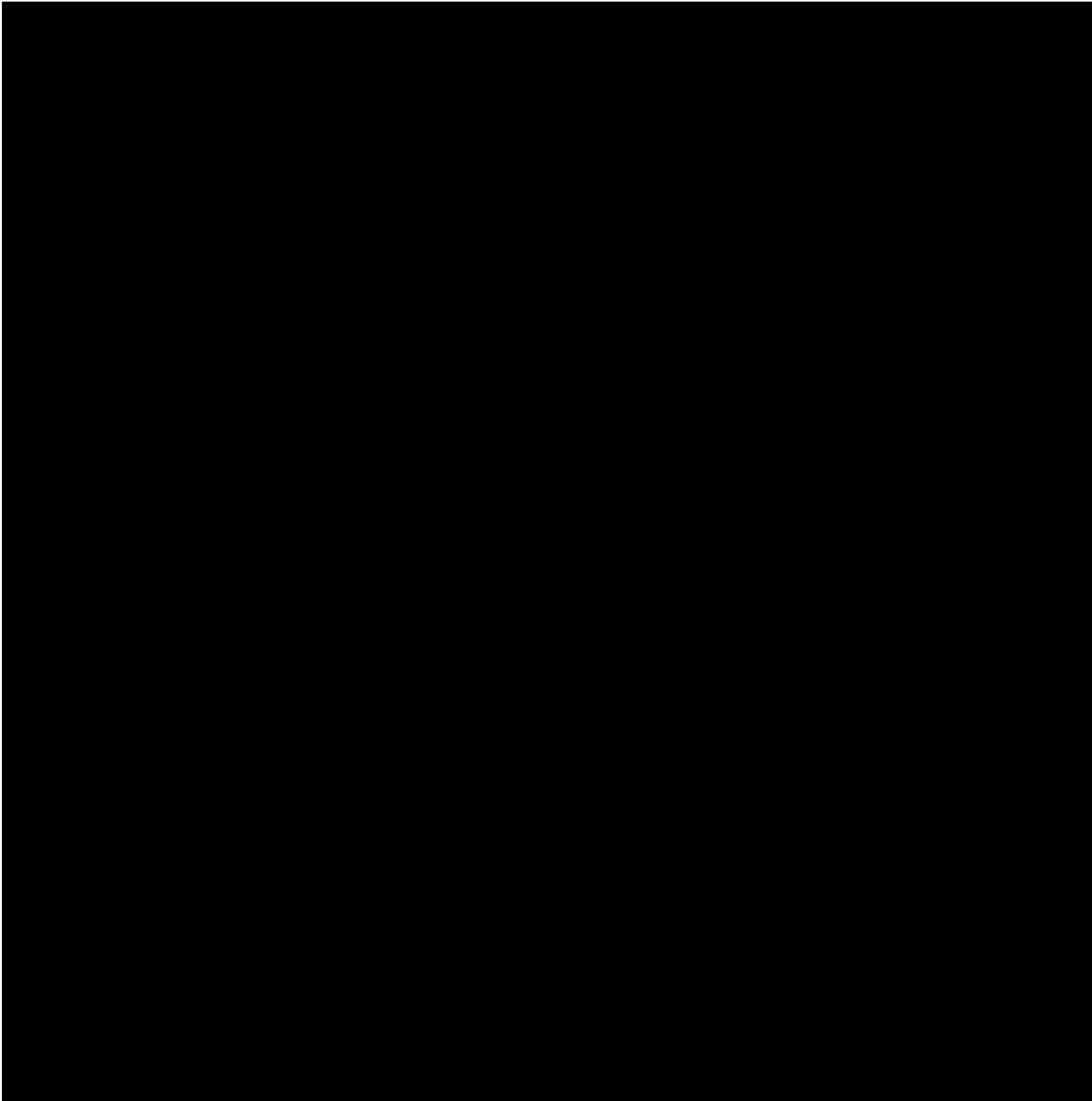
**SAN FRANCISCO**  **FIRE DEPARTMENT**



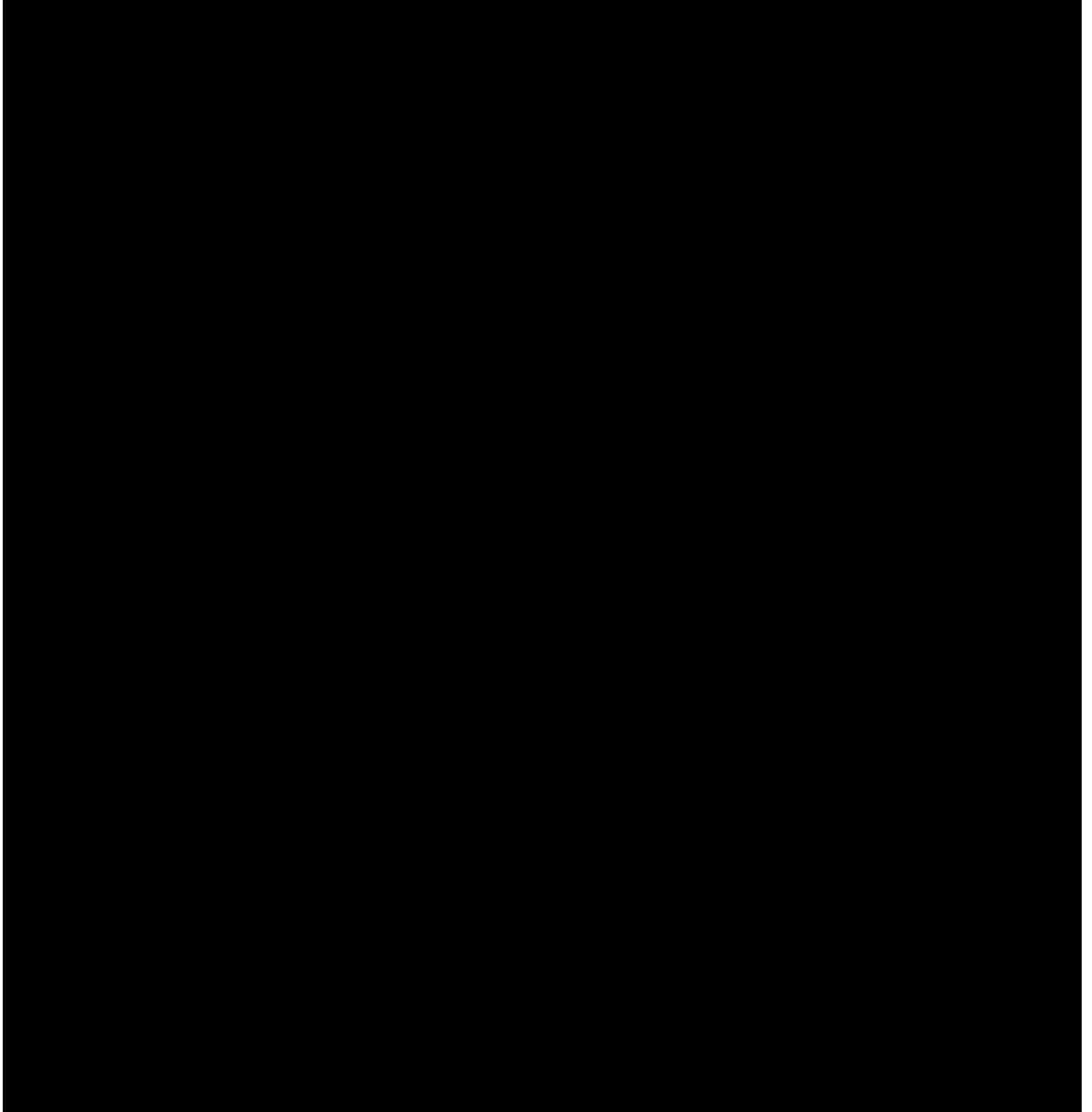
**SAN FRANCISCO**



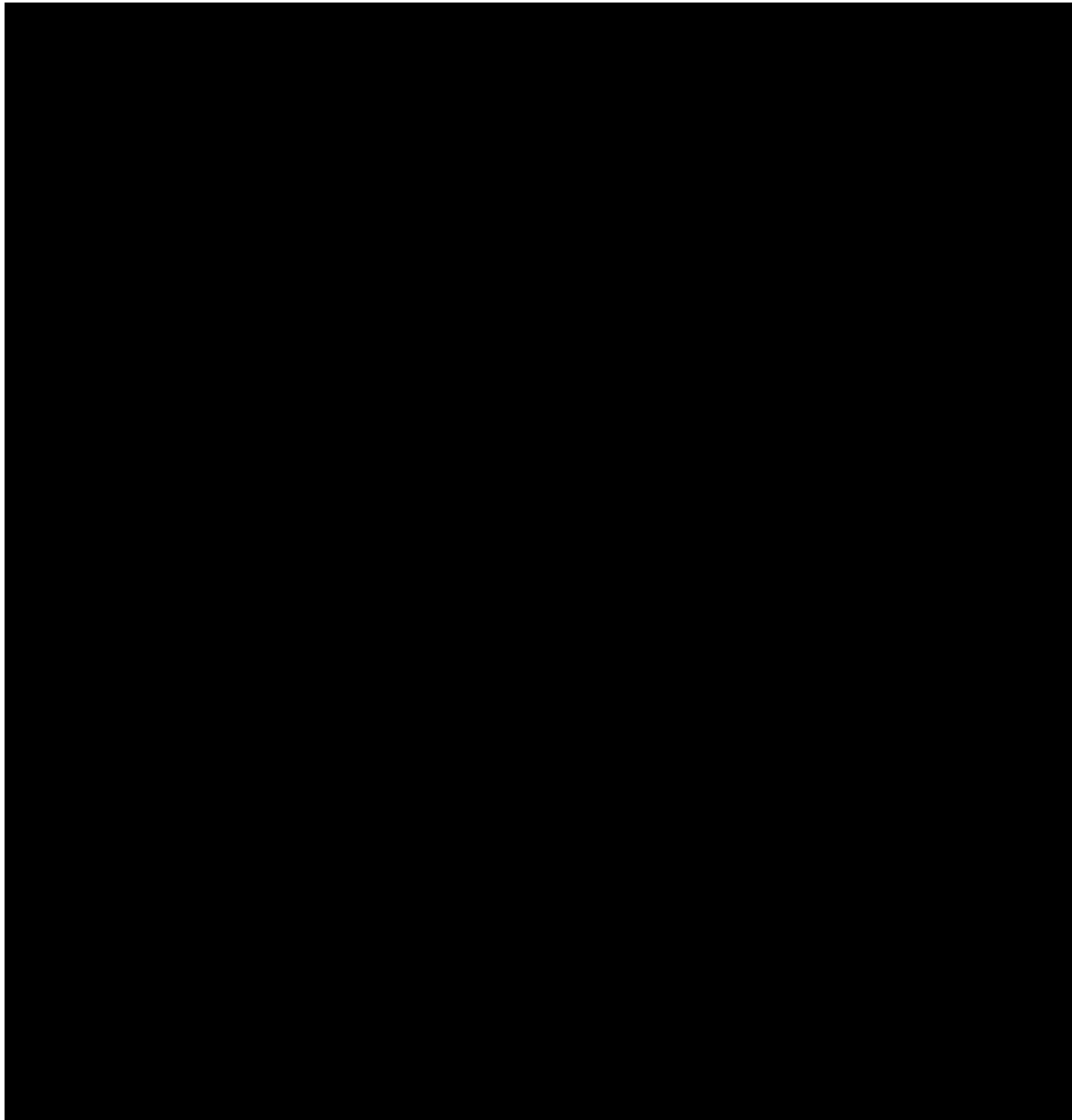
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**SAN FRANCISCO**  **FIRE DEPARTMENT**



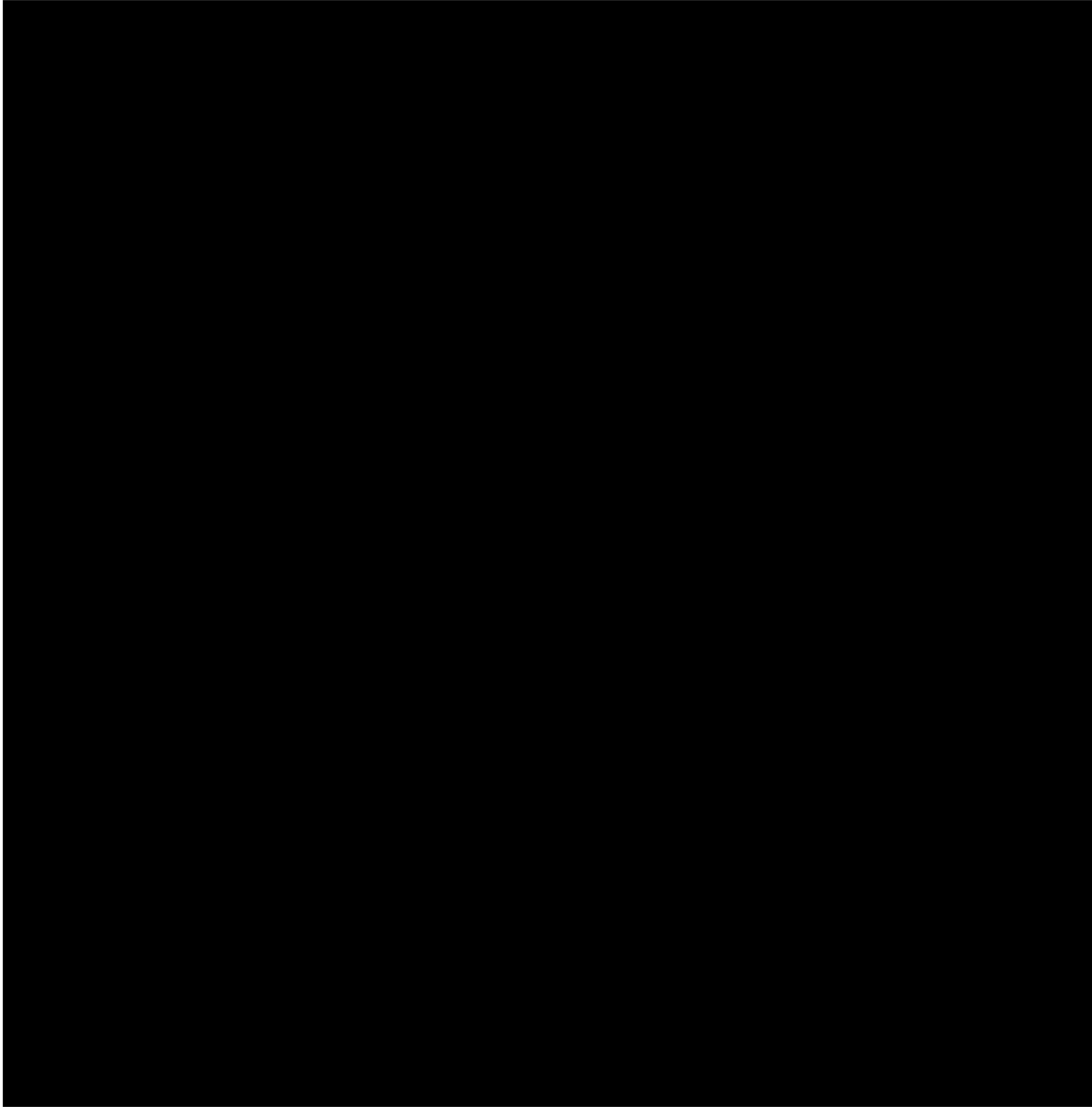
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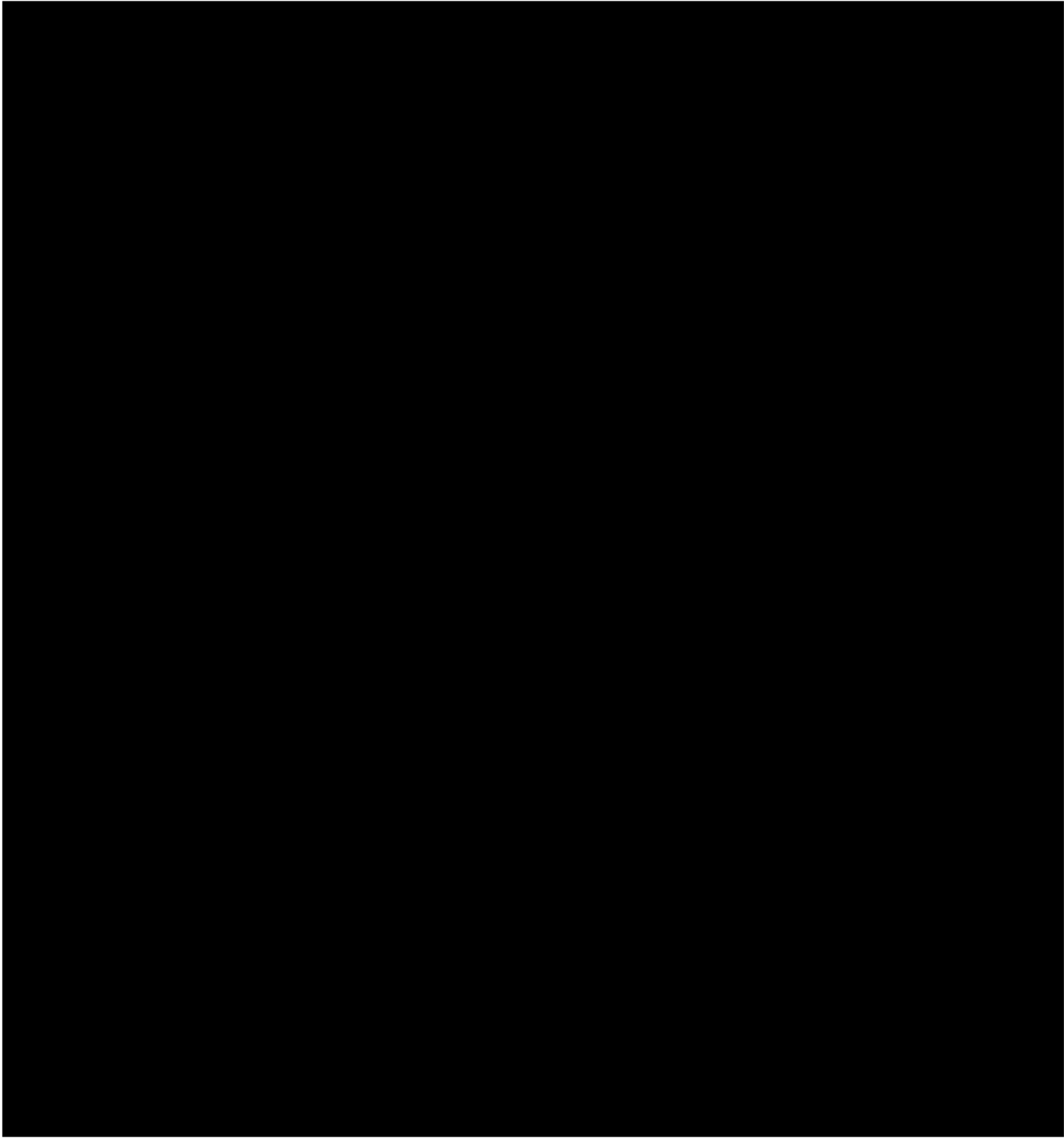
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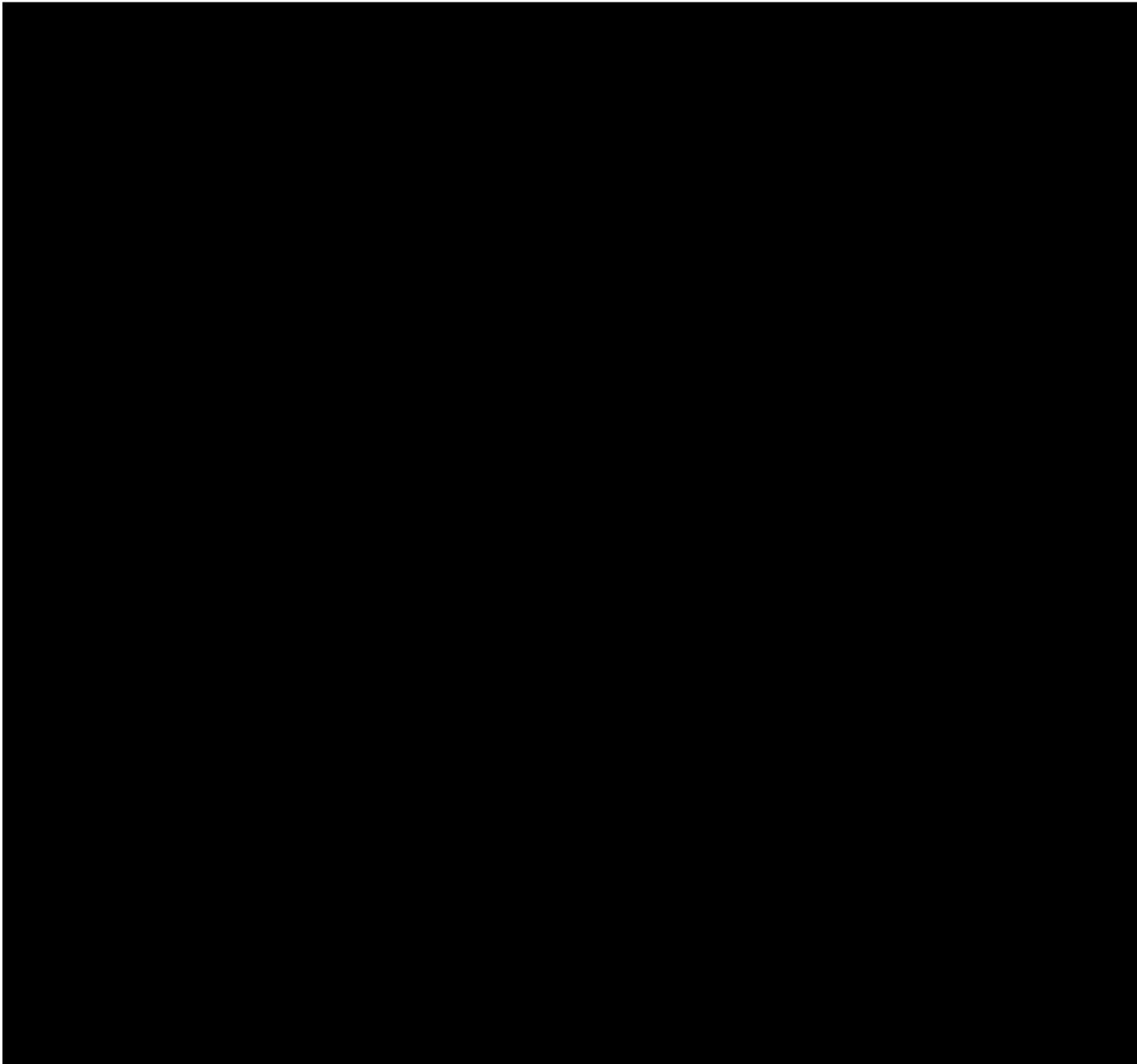




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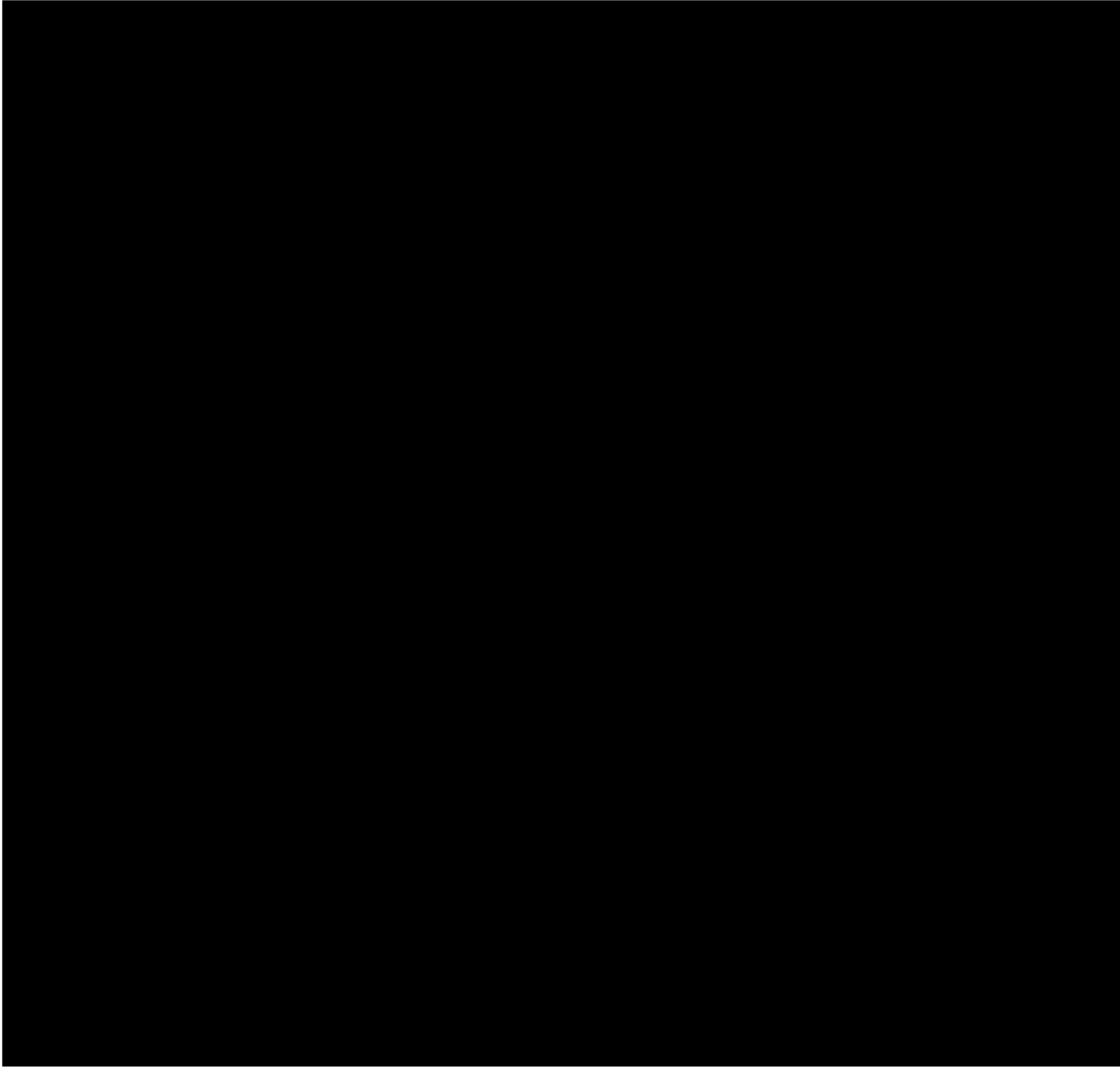
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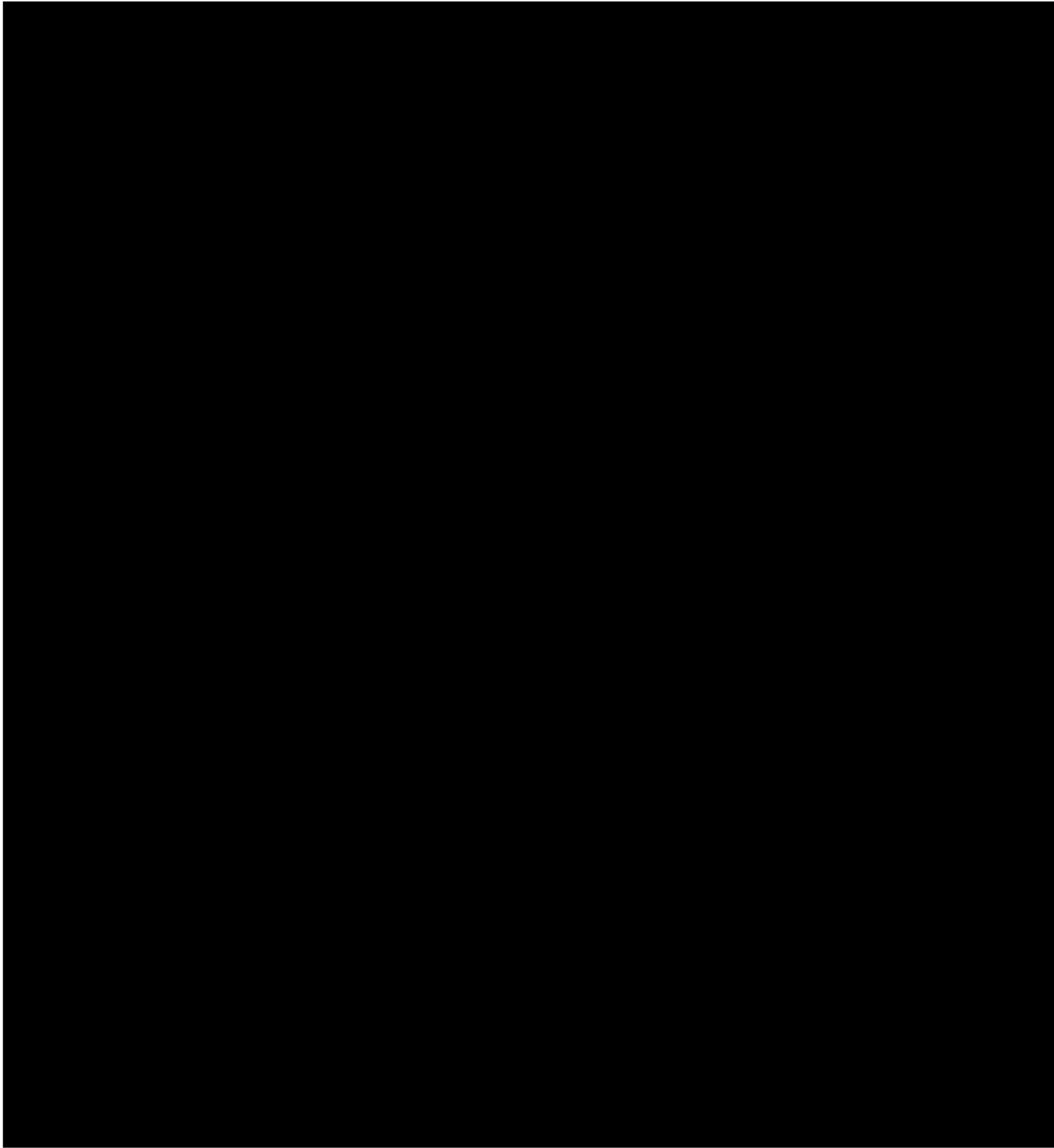


Exhibit F:

Investigative Interview Notes

- Attachment 1: Jorge Morales, H002 Firefighter, Respondent
- Attachment 2: [REDACTED] H020 Lieutenant
- Attachment 3: [REDACTED] H002 Firefighter
- Attachment 4: [REDACTED] H002 Firefighter
- Attachment 5: [REDACTED] H002 Firefighter
- Attachment 6: [REDACTED] H003 EMT/Paramedic/Firefighter

Attachment 1: Jorge Morales, H002 Firefighter, Respondent



**CONFIDENTIAL**

**DHR EEO INVESTIGATION OF EMPLOYMENT DISCRIMINATION COMPLAINT  
RESPONDENT INTERVIEW QUESTIONS**

<b>Respondent: Jorge Morales</b>	<b>EEO File No./Dept.: 3311/ FIR</b>
EEO Investigator: Jennifer Burke, EEO Programs Senior Specialist	Date & Time: April 1, 2022 8:54 a.m. – 9:50 a.m.
Others Present: No rep.	
Location: 1 SVN, 4 <sup>th</sup> Floor	Pages: 6

Respondent Jorge Morales (Morales) was read the introductory checklist and confirmed that he understood his right to have a representative present during the interview.

**I. BACKGROUND INFORMATION**

**A. Employment Background**

Since June 20, 2016, Morales has been an H002 Firefighter with the San Francisco Fire Department (SFFD). Since 2019, he has been a member of Station 22. In early 2018, he was detailed to Station 22 as a Vacation Relief (VR) firefighter. Morales works nine 24-hour shifts per month. For the past three years, Morales’s supervisor has been Captain Charles Mc Coy (Mc Coy).

Morales holds the position of EMT on the engine, and his duties include: “check out medical gear in the morning, housework, wash the rig, cook together, if it is my day to cook, we help each other. Drills in the morning. Reading any bulletins we need to read, lunch, and your time after lunch, you can work out. Personal phone calls, we’re there 24 hours. But other than that, that’s pretty much our day.”

Morales described working at the Fire Department as follows: “It is great. It is different personalities. Everyone comes from a different background. We gotta get along for 24 hours. There are some people who can get along and some who can’t. The same personality as you and you stick together and you get along. Same background. Just get along.” Morales gets along with everyone at Station 22.

Morales is familiar with the City’s EEO Policy but could not state when he last read it. Morales has not talked with any City employees about this interview.

Morales believes that Firefighter Whitney Barca (Barca) would lie or make up stories about him. When asked why, he replied, “Just the person she is. She never got along with anyone. She thought she was better than everyone and had a chip on her shoulder. It doesn’t work like that. We’re grownups. I respect you if you respect me. We didn’t get that from her. She came

in with an ‘I was better than you and you should know that’ mentality.’”

Morales does not believe that anyone else would lie or make up stories about him.

**B. Complainant Whitney Barca**

Morales met Barca in 2018 at Station 22. Barca was there for the six months Morales was there as VR. She was there when he got there and when he returned, she was still there for one year. Then Barca bid out to Engine 33. Morales and Barca were not on the same shift. They both had firefighter spots, so they could not work together unless it was overtime or some other detail. Their regular work days were not together. For one and a half years, Morales and Barca worked together “maybe two to three times a month, depending on OT.”

Morales explained that at every station, there is a firefighter, EMT, driver, and officer every day. Each person has his or her own role. For instance, Morales currently holds an EMT position, so there cannot be another regular EMT assigned to the same shift. However, if he is working overtime, he can work in a different position alongside another EMT.

Morales described Barca as a “horrible” firefighter. He explained, “She didn’t know her job, couldn’t be trusted, didn’t know how to drive, didn’t know how to pump, didn’t know the area. We have to be familiar and get to each address. She was not familiar. You didn’t know when she was on the fire engine what you were gonna get, if she was going to grab the right tool. They’re responsible to put the tools together. You wouldn’t know if she had the tool.”

Morales and Barca never socialized outside of work. They were supposed to once when they first met, but it never happened. Morales explained, “I’m Puerto Rican, and 95% of rum comes from Puerto Rico. When I first met her, we were VR, getting to know each other. I told her I was Puerto Rican, and she said her brother worked at a Puerto Rican rum bar downtown and to go out and try some rum. I believe if that was earlier in the week, Monday or Tuesday, and it was supposed to happen Friday.” Morales did not know the bar but knew that it was local. Morales continued, “She called me on Friday and the plan had changed. She asked me to help her move a dresser or something. She said, ‘My friend is having a party, and we can drink there.’ She said move it to Santa Cruz. I had no problem with that. When I asked her where we were taking it, she said to stop by a friend’s party. I told her I didn’t feel comfortable and I didn’t know her and wasn’t going to drink and drive. She said we could stay out there and we could drink on the beach. I said, ‘No, I’m not doing that at all.’” Morales did not take Barca’s invitation as romantic. He “took it as that’s what she liked to do.”

Morales said he “shut it down” because he did not know Barca or her friends and he does not “do bonfires and sleep on the beach.” Morales does not know why Barca asked him to help her move a dresser. Barca had Morales’s phone number because he gave it to her. It is the same number he currently has.

Barca responded, “No thanks, I’ll see you at work.” Then afterward, at work, there was “just a little tension” as if Barca felt as though Morales stood her up or “denied” her. It was “awkward.” Morales did not call Barca again.