

**DEPARTMENT OF POLICE ACCOUNTABILITY
COMPLAINT SUMMARY REPORT**

DATE OF COMPLAINT: 10/13/2020 DATE OF COMPLETION: 01/11/2024 PAGE# 1 of 10

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

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

FINDINGS OF FACT: The complainant was stopped for a U-turn violation. He stated that he handed the officer his temporary driver's license, registration, and insurance, but was then detained and handcuffed. The complainant stated that he did nothing wrong, everything was in order, and he was embarrassed as the people in the area knew him. The officer issued him a citation, but not for the U-turn. The complainant believed that the officer unlawfully detained and handcuffed him.

The named officer was in his first phase of the Field Training program. He stated that he observed the complainant make a U-turn in a business district, informed his Field Training Officer (FTO) of the violation, and conducted a traffic stop. He stated his FTO agreed with the traffic stop. He confirmed that the complainant handed him his temporary driver's license, registration, and insurance. The named officer stated that he ran the complainant's license and was told by dispatch that it was not valid. The named officer stated that he had never seen a temporary driver's license and did not know that it was issued by DMV. The named officer confirmed that he searched, handcuffed, and was going to arrest the complainant for California Vehicle Code section 12500(a), driving without a license, a misdemeanor. After discussing the citation with his FTO, his FTO informed him that the temporary driver's license was valid. The named officer and his FTO agreed to cite the complainant for a mechanical violation only.

The FTO did not believe the complainant made an illegal U-turn; however, he saw other mechanical and equipment violations that gave the named officer reasonable suspicion to detain the complainant, so he believed a traffic stop was appropriate. There was an issue determining if the complainant had a valid driver's license, but when Spanish-speaking officers arrived at the scene and obtained the complainant's photo identification, the FTO learned that the complainant had a temporary driver's license. The FTO stated that he instructed the named officer to give the complainant the benefit of the doubt and only cite him for mechanical violation (a fix-it ticket).

SFPD records showed that the named officer was in phase one of his Field Training and received a low evaluation for this incident.

Body-worn camera footage confirmed that the complainant was stopped for a U-turn violation which resulted in a driver's license investigation. The footage captured the named officer holding the valid

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temporary driver's license. The footage also showed the FTO met with the named officer, review the temporary driver's license, and discuss the citation. The FTO informed the named officer that there was no merit to the CVC 12500(a) violation. He subsequently ordered the named officer to uncuff the complainant and cite him for a mechanical violation only.

Department Notice 20-127, California Driver's License Extensions, issued exactly a month before this incident states, "DMV will not be updating their systems to reflect these extensions in a driver's license query. A paper extension may have been mailed to the licensee by DMV or a temporary driver's license extension may be obtained online and emailed by DMV to the licensee. These paper extensions shall be accepted by Law Enforcement as valid."

DPA identified the following relevant Vehicle Code sections:

Veh. Code, §22102: No person in a business district shall make a U-turn, except at an intersection, or on a divided highway where an opening has been provided in accordance with Section 21651. This turning movement shall be made as close as practicable to the extreme left-hand edge of the lanes moving in the driver's direction of travel immediately prior to the initiation of the turning movement, when more than one lane in the direction of travel is present.

Veh. Code, §21651(a): Whenever a highway has been divided into two or more roadways by means of intermittent barriers or by means of a dividing section of not less than two feet in width, either unpaved or delineated by curbs, double-parallel lines, or other markings on the roadway, it is unlawful to do either of the following:

- (1) To drive any vehicle over, upon, or across the dividing section.
- (2) To make any left, semicircular, or U-turn with the vehicle on the divided highway, except through an opening in the barrier designated and intended by public authorities for the use of vehicles or through a plainly marked opening in the dividing section.

The location of this U-turn was at an intersection, but on a divided highway without the necessary markings. Therefore, the detention was proper conduct.

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

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SUMMARY OF ALLEGATION #2: The officer failed to comply with DGO 5.20 Language Access Services for Limited English Proficient (LEP) Persons.

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

FINDINGS OF FACT: The complainant stated that while he was detained for the traffic stop, he tried to go inside his truck to retrieve his cellphone so he could call for a Spanish-speaking officer. He stated that when he was handcuffed, he requested a Spanish-speaking officer because he did not know why he was handcuffed.

The named officer stated he could not initially hear when the complainant requested a Spanish-speaking officer. The complainant was standing at the rear of his truck, the named officer was in front of the patrol vehicle, and they were on a high traffic street. He stated that it was not until later when he was handcuffing the complainant, that he heard the request for Spanish-speaking officers. The named officer then immediately requested a Spanish-speaking officer when he heard the complainant's request.

SFPD records and BWC confirm that when the named officer heard the complainant's request for a Spanish-speaking officer, he immediately requested for one. Spanish-speaking officers arrived at the scene and spoke to the complainant.

DGO 5.20 mandates that officers take every reasonable step to ensure timely and accurate communication and access to all individuals regardless of national origin or primary language. Thus, when performing law enforcement functions, members shall provide free language assistance to LEP individuals whom they encounter or whenever an LEP person requests language assistance services.

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

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SUMMARY OF ALLEGATION #3: The officer used unnecessary or excessive force.

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

FINDINGS OF FACT: The complainant stated that the officer pushed him against his truck and attempted to force him to sit on the ground by pushing on his shoulder.

The named officer denied the allegation stating that he did not use force against the complainant.

Body-worn camera footage contradicted the complainant's statement. There was no pushing as described by the complainant. The footage showed that the complainant was very compliant, and the named officer did not use or had to use department approved force. When the complainant refused to sit down on the ground due to a previous back injury, the officer allowed the complainant to remain standing.

The evidence proves that the conduct alleged did not occur.

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SUMMARY OF ALLEGATION #4: The officer issued a citation without cause.

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

FINDINGS OF FACT: The complainant stated that the officer issued him a citation even though he had done nothing wrong.

The named officer stated he believed the complainant violated the vehicle code; however, after discussing the citation with his FTO, it was determined that the complainant would be cited for the lesser violation.

The FTO stated that he observed multiple traffic violation on the complainant's truck and decided to cite him on the lesser violation.

Records showed the complainant was cited for California Vehicle Code section 24601, Rear lighting equipment.

Body-worn camera did not capture the rear lighting equipment violation.

Department General Order 9.01 allows officers to use discretion when enforcing traffic and parking laws, because the goals of the Department's traffic enforcement program are to reduce traffic collisions, facilitate traffic flow, and ease parking congestion.

There is nothing that prohibits an officer who is investigating a vehicle violation and citing for one violation found later. However, there was no independent evidence to prove that the complainant had a rear lighting equipment violation.

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

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SUMMARY OF DPA-ADDED ALLEGATION #1: The officer conducted an improper search or seizure.

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

FINDINGS OF FACT: DPA found that the officer conducted an unlawful pat search of the complainant and went into his pocket.

The named officer stated that he conducted a cursory pat search for weapons after he placed the complainant under arrest. He confirmed that he learned about pat searches in the Academy. The named officer believed the complainant was armed and dangerous because he had baggy pockets and baggy pants. He then explained that per his training, people with baggy clothing could have weapons and could easily conceal weapons. The named officer stated that during the pat search he felt a hard object so he placed his hand in the pocket but did not empty the complainant's pockets as he was able to determine that it was not a weapon.

The FTO did not intervene in the pat search. He stated that the named officer arrested the complainant for 12500(a), a misdemeanor arrest. The FTO acknowledged that if the named officer had not pat searched and handcuffed the complainant, he would have noted that failure in the named officer's Daily Observation Report (DOR). The FTO acknowledged that after he reviewed the citation and saw the Temporary Driver's License in the named officer's hand, he informed the named officer that there was no merit to the misdemeanor arrest.

Body-worn camera footage confirmed that the named officer asked the complainant if he had any weapons and proceeded to search him and go inside his pocket. The FTO was observing the pat search from approximately 20 feet away.

Though DGO 5.16 is directed toward search warrants specifically, it sets forth the relevant policy that San Francisco Police Officers must comply with the Fourth Amendment:

I.A. Under the Fourth Amendment of the United States Constitution, the only legal means of obtaining evidence, excluding specific exceptions, is by a search warrant. Search

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warrants are the most reliable means of preserving the admissibility in court of evidence seized during a criminal investigation. **The San Francisco Police Department requires its members to conform themselves to the law in all aspects of their duties and particularly in obtaining evidence by means of searches and seizures.**

San Francisco Police Department Peace Officer Filed Training Manual (July 2014) states in relevant part:

IV.B. Stop and Frisk. Important Factors. This section states, “. . . If original stop of the subject is lawful and the officer has reasonable belief that the person stopped may possess a weapon: 1) The officer has a right to make a pat-down or limited weapons search (Terry (1968) 392 U.S.1) . . .”

It is well-settled that a pat search may only be conducted upon reasonable suspicion that a lawfully detained person is armed and dangerous: “A police officer may temporarily detain and pat search an individual if he believes that criminal activity is afoot, that the individual is connected with it, and that the person is presently armed.” (*People v. Lindsey* (2007) 148 Cal.App.4th 1390, 1395, citing *Terry v. Ohio* (1968) 392 U.S. 1, 30. See also *People v. Adam* (1969) 1 Cal.App.3d 486, 491 [“Before [an officer] places a hand on the person of a citizen in search of anything, he must have constitutionally adequate reasonable grounds for doing so. In the case of the self-protective search for weapons, he must be able to point to particular facts from which he reasonably inferred that the individual was armed and dangerous.”].)

Case law proved that the named officer’s pat search was unlawful, in that it was based on the nature of the call rather than the specific facts confronting the officer. (See e.g., *Terry v. Ohio* (1968) 392 U.S. 1, *In re Jeremiah S.* (2019) 41 Cal.App.5th 299.) The named officer did not provide specific, articulable facts to justify the search.

DPA found that named officer conducted an improper search and seizure of the complainant; however, DPA believed that the FTO should have intervened earlier to prevent the improper search and seizure from occurring. Thus, the totality of circumstances proved that the alleged conduct occurred and was the result of inadequate supervision.

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SUMMARY OF DPA-ADDED ALLEGATION #2: The officer failed to comply with DB 18-105 and DB 18-247 Stop Data Collection System (SDCS) Implementation.

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

FINDINGS OF FACT: SFPD Department Bulletin 18-105 and 18-247, Stop Data Collection System (SDCS) Implementation, required members to submit through the SDCS web portal stop data for all stops, including but not limited to pedestrian, bicycle and vehicle stops prior to end of their shift, unless exigent circumstances prevent entry, in which case officers shall enter data by the end of their next shift.

The named officer stated that he believed he made the SDSC entry because he did not recall getting dinged for any Stop Data Entry in his DOR. He stated that his FTO was with him almost the entire time he was in the station, and his FTO would have debriefed and reviewed everything he did and would have talked to him about it or conducted remedial training if needed.

The FTO stated that at the end of the shift he would ask the named officer if all DOJ stops were entered for the whole shift and assumed the answer was yes. Otherwise, they would stop and do the DOJ stop data entry. He stated that the named officer made stop data entries before but stated that traffic stop data entries are not part of the evaluation for Field Training.

Department records indicated that there was no SDCS entry for this traffic stop.

Department Bulletin 18-247 states, in parts:

- The Department is required to comply with Assembly Bill 953 (AB953) which mandates reportable stop information be entered into the Stop Data Collection System (SDCS).
- Fully complying with policies on SDCS furthers the Department's strategic initiatives on Collaboration by providing transparency on stops to the communities we protect.

As the recruit in Phase One training and as the citing officer, the named officer was responsible for making sure that the entry for this incident was entered. However, the FTO should have confirmed the stop data was complete.

The evidence proves that the alleged conduct occurred and was the result of inadequate supervision.

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SUMMARY OF DPA-ADDED ALLEGATION #3: The officer failed to properly supervise.

CATEGORY OF CONDUCT: ND FINDING: IC (Sustained) DEPT. ACTION:

FINDINGS OF FACT: DPA found that the named officer did not appropriately mentor, train, monitor, or supervise his recruit during Phase One in the Field Training program. The named officer failed to properly supervise his recruit during a traffic stop that escalated into handcuffing and an unlawful pat search. Many of the errors and impositions upon the complainant in this incident could have been completely avoided if the named officer had done the most basic supervision: be present and listen to everything as it occurred. The named officer believed that the recruit's basis for the traffic stop was unlawful at the time but did not intervene. Additionally, the named officer did not remain close enough to the recruit and the complainant to observe and hear the conversation between them. Had the named officer been closer to this interaction, he would have noticed that (1) the complainant was having a difficult time understanding some of the recruit's commands, and (2) the complainant had produced a Temporary Driver's License issued by DMV. The recruit did not know what the Temporary Driver's License was. He did not realize that the complainant had photo identification, because the complainant's first language was Spanish, and the complainant did not appear to understand that he needed to produce his Temporary Driver's License *and* a photo identification (until Spanish-speaking officers arrived).

The recruit had never seen a Temporary Driver's License, so when Dispatch informed him that the complainant's license was expired, he handcuffed the complainant and pat searched him, including entering at least one pocket. Both officers had been advised via Department Notices that DMV would not be updating their databases during the COVID-19 pandemic. Despite this, both officers stated during their interviews that they had probable cause to arrest the complainant for driving with an expired license in violation of Vehicle Code section 12500. On body-worn camera footage, however, the named officer announced there was "no merit" to the 12500 violation after reviewing the Temporary Driver's License and the complainant's identification.

Over five months before this traffic stop, the Department issued Department Notice 20-076, which stated in relevant part: "The state of California has closed Department of Motor Vehicle offices due to the COVID-19 pandemic. The DMV currently offers limited service online, but many individuals will not be able to obtain or correct suspension status of a driver license, and/or correct vehicle registration issues. The DMV has requested law enforcement agencies, *"Exercise flexibility and discretion when reviewing driver license or identification and vehicle registration records."*

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Additionally, one month before the traffic stop in this matter, the Department issued Department Notice 21-127, which stated in relevant part: “The purpose of this Department Notice is to summarize recent Driver License Extensions granted by the Department of Motor Vehicles. Below are the type of licenses and expiration dates that will be affected by these changes. DMV will not be updating their systems to reflect these extensions in a driver’s license query. A paper extension may have been mailed to the licensee by DMV or a temporary driver’s license extension may be obtained online and emailed by DMV to the licensee. These paper extensions shall be accepted by Law Enforcement as valid.”

The complainant had photo identification and a Temporary Driver’s License from DMV. This traffic stop occurred approximately 6-7 months into the global COVID-19 pandemic, during which many, if not all, state offices were subject to very strict closures, including the Department of Motor Vehicles. SFPD officers were directed that they “shall” accept the temporary DMV paper license as valid. DMV specifically advised law enforcement that it would *not* be updating their electronic records. Therefore, the named officer should not have permitted the recruit to rely upon the information from Dispatch or the MDT, considering the documentation that the complainant had in his possession. Given that the named officer stated on body-worn camera that there was “no merit” to the Vehicle Code section 12500 violation after reviewing the paperwork, it stands to reason that the named officer knew that the Temporary Driver’s License was to be accepted as valid. Nonetheless, in his interview the named officer alleged that instead he was giving the complainant a “break” by not “arresting” him.

Body-worn camera footage confirmed that the named officer observed the traffic stop from a distance. The footage confirmed that the named officer did not intervene until the end of the incident when he and the recruit discussed the citation. The named officer confirmed that there was no merit to the Vehicle Code section 12500(a) violation.

SFPD records showed that the named officer had evaluated the recruit at the end of the shift and the recruit was heavily corrected in the areas of officer safety and knowledge of the law.

The DPA interviewed a Subject Matter Expert from the Field Training Program, who believed the named officer could have intervened sooner to determine the reasoning for the handcuffing and agreed that an FTO should be able to observe a recruit’s interaction.

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

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

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant alleged that the named officers should have done more to stop an assault because the suspect had a weapon in his hand. The complainant stated that the named officers should have tased the suspect.

The named officers stated that they responded to a request for a well-being check on a 911 caller. Dispatch described the caller as sounding “confused.” The named officers stated that they did not respond “Code 3” with emergency lights and sirens or draw their firearms when they arrived on scene because the nature of the call did not warrant it. The named officers stated that in their experience, a well-being check could be anything, and they were not aware of any danger or threat that would have necessitated an emergency response. The named officers stated that when they knocked on the door, the suspect and the victim answered the door and appeared nonchalant and smiling as they both held each end of a hammer. One of the named officers ordered the two parties to drop the hammer, at which point the suspect rapidly pulled the hammer out of the victim’s hand and struck the victim once in the head. The named officers immediately rushed into the house and tackled the suspect from behind. The named officers stated that they used the quickest and most effective force option to stop the suspect from continuing to strike the victim. The named officers described that although use of their batons, OC spray, and firearms would all have been justified force options in this situation, they would have either taken too long or jeopardized the victim’s and the officers’ safety. The named officers stated that SFPD does not carry tasers, so this was not an available force option.

Department records indicated that the named officers responded to a call for service for a well-being check on a 911 caller who stated that there was a person in his home, that the person was going to wait for the reporting party’s wife, and that he didn’t know the person but that he was a friend. Department records showed that Dispatch advised the named officers that the 911 caller “sounded somewhat confused.”

Body-worn camera (BWC) footage showed that when the named officers knocked on the door, the suspect and the victim answered the door and they both appeared calm as they greeted the named officers. Both the suspect and the victim had a hand on each end of a hammer and did not appear to be struggling with it. One of the named officers said, “Drop the hammer.” The suspect replied, “Um, nope,” and suddenly pulled the hammer out of the victim’s hand and struck the victim in the head with it. The named officers immediately rushed into the residence and tackled the suspect from behind. The named officers

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then requested backup and Code 3 medical. Based on the information the named officers had, as well as the demeanor of both parties when they came to the door, the named officers had no reason to anticipate a sudden, violent assault right in front of them.

An SFPD Subject Matter Expert (SME) on use of force confirmed that SFPD does not carry tasers, so this was not an available force option during this incident. The SME stated that even if the named officers had a taser available, it would not have been an effective force option given the circumstances. After reviewing the relevant evidence in this case, the SME stated that the named officers' response to this incident was within SFPD's training and policy. The SME stated that the information given to the officers by Dispatch was confusing, and the named officers did not really know what they were responding to. The SME stated that when the suspect and victim answered the door, they were both smiling, and they both appeared relaxed. The SME stated that the named officers did not have time to use another force option due to how quickly the assault occurred.

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

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

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complainant said an officer stopped him on the street for no reason and took his knife. The complainant did not respond to multiple requests for further information.

The named officer said he stopped the complainant because he was carrying what appeared to be a short-barreled shotgun tucked underneath his arm, which is a crime. The complainant immediately dropped the weapon, which turned out to be a machete-style knife with a pistol-shaped handle.

Body-worn camera footage showed that the complainant was carrying a machete-style knife. The complainant acknowledged holding the knife under his arm. He said he found the knife on the street and asked if he could turn it in to the officer because it was too dangerous to leave on the street.

When an officer makes observations that would lead a reasonable person to believe a crime is occurring, the officer may briefly detain the individual to investigate. Carrying a concealed weapon, such as a knife or short-barreled shotgun, is a crime. Based on the way the complainant was carrying the knife and the shape of the handle, it was reasonable for the officer to believe the complainant was concealing an illegal weapon. It was therefore reasonable for the officer to stop the complainant to see if he was carrying a concealed weapon.

The evidence proved that the officer's conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATION #2: The officer failed to issue a certificate of release.

CATEGORY OF CONDUCT: ND

FINDING: IC/S

FINDINGS OF FACT: The complainant said that the officer did not provide him with any paperwork at the end of the detention.

The named officer said that he did not issue a certificate of release because the detention was brief and because it turned out no crime had been committed.

Department General Order 5.03.03.C.1, Investigative Detentions, requires officers to issue a certificate when releasing a detained person. There are no exceptions for brief detentions or detentions where no criminal activity is discovered. The officer therefore violated policy when he chose not to provide the complainant with a certificate of release.

A preponderance of the evidence proved that the officer's conduct violated Department policy.

SUMMARY OF ALLEGATION # 3: The officer failed to comply with the Department's Stop Data reporting requirement.

CATEGORY OF CONDUCT: ND

FINDING: IC/S

FINDINGS OF FACT: Department policy requires officers to document stops by entering data into a California Department of Justice system called the Stop Data Collection System (SDCS).

The named officer acknowledged that he was required to record stop data into the Department of Justice system. There was no record of the data being entered. The officer therefore violated policy when he failed to enter the data. A preponderance of the evidence proved that the officer's conduct violated Department policy.

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SUMMARY OF ALLEGATION # 4: The officer failed to properly care for, process, or book property.

CATEGORY OF CONDUCT: ND

FINDING: IC/S

FINDINGS OF FACT: The complainant stated the officer took his knife for no reason and did not provide him with paperwork to get it back.

The named officer stated that the knife did not belong to the complainant. The named officer said that the complainant explained that he found the knife on the street and wanted to turn it into police because it was too dangerous to leave on the street. The officer said he did not believe that he needed to issue a property receipt for property that does not belong to the person turning it in. Body-worn camera footage showed that the complainant told the officer that the knife did not belong to him.

DGO 6.15 specifically requires officers to provide a receipt to a person who finds and turns in someone else's property. Found property is considered non-evidentiary "property for identification." (DGO 6.15 II.A.1.b) When taking or receiving property for identification from a person, officers are required to give the person a property receipt or state the reason in an incident report. (DGO 6.15 III.A.1)

The officer did not provide a property receipt or document the reason in his incident report.

A preponderance of the evidence proved that the officer's conduct violated Department policy.

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

CATEGORY OF CONDUCT: CUO

FINDING: PC

FINDINGS OF FACT: The complainant stated that the named officer was rude. The complainant did not respond to multiple requests for additional information or clarification.

Department General Order 2.01 requires officers to treat members of the public with courtesy and respect.

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The named officer denied behaving rudely. The officer said that after he detained the complainant, he asked questions to ascertain his welfare. The officer said he was concerned for the complainant and wanted to ensure he received the appropriate necessary services.

Body-worn camera footage showed that the named officer spoke courteously and behaved respectfully to the complainant.

The evidence proved that the officer's conduct was justified, lawful, and proper.

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

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant said that the named officers failed to investigate a hit-and-run vehicle collision that occurred seven years ago. Specifically, the officers failed to take photographs and did not ask him what had happened.

Named Officer #1 stated that he had no recollection of the incident due to the time that had elapsed.

Named Officer #2 is no longer with the Department.

A witness to the collision stated that she was not sure if the officer spoke to the complainant or not.

No body-worn camera (BWC) footage is available as the incident occurred prior to BWC being issued to officers.

The Traffic Collision Report (TCR) includes a statement provided by the complainant to officers. In the statement, the complainant describes the collision. The TCR includes fields for necessary information that officers must gather for the investigation. Photographs are not a field on the form.

Department General Order (DGO) 9.02 Vehicle Accidents (1994 edition) is the relevant policy dictating officer action at vehicle collisions. This document does not require officers to take photographs.

The evidence shows that the officers did speak with the complainant and obtained his statement. There is no evidence that the officers took photographs. However, this was not mandated by Department policy at the time.

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

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SUMMARY OF ALLEGATIONS #3-4: The officers behaved or spoke inappropriately.

CATEGORY OF CONDUCT: CUO

FINDING: IE

FINDINGS OF FACT: The complainant said that the named officers took pieces of the vehicle and his belongings and threw them into the back of an ambulance. The officers also made comments about the complainant having spray paint while paramedics were present. The complainant said that the behavior and comments were inappropriate.

Named Officer #1 stated that he had no recollection of the incident due to the time that had elapsed.

Named Officer #2 is no longer with the Department.

A witness to the collision said that the officers were "well-behaved" and "caring." She said she was not sure if the officers spoke to the complainant or not. She did not hear the officers say anything inappropriate.

No BWC footage is available as the incident occurred prior to BWC being issued to officers.

The complainant and the witness accounts differ. There is no evidence to corroborate either account.

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

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SUMMARY OF ALLEGATIONS #5-6: The officers failed to make an arrest.

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant said that the officers failed to arrest or prosecute the driver of the vehicle that struck him. The complainant said he knew the driver and provided a name. The complainant said he suffered back and wrist pain, with a concussion.

Named Officer #1 stated that he had no recollection of the incident due to the time that had elapsed. He did state that as a patrol officer, he is required to complete the investigation and that the Traffic Collision Investigation Team would conduct follow-up inquiries.

Named Officer #2 is no longer with the Department.

A witness to the collision stated that she did not know the complainant. However, she said that the person the complainant claimed was driving was not the driver of the vehicle involved in the collision. The witness said she knew that person because he was the parent of her daughter's friend. She said the person was a passenger in the vehicle, not the driver. She did not know the driver of the vehicle.

No BWC footage is available, as the incident occurred before BWC was issued to officers.

The TCR includes a statement provided by the complainant to officers. In his statement, the complainant said he did not know who was driving the vehicle that hit him, but a person he knew came out of the vehicle and started to argue with him. The TCR also contains the witness's statement, who said the vehicle's driver was not the named individual described by the complainant. The report also states that the vehicle that struck the complainant had fled before the officers arrived.

The report also notes that the complainant complained of knee pain only but was taken to San Francisco General Hospital by ambulance. The report also concluded that the driver of the vehicle violated California Vehicle Code (CVC) sec. 2000(a) Felony Hit and Run with Injury, and Penal Code (PC) sec. 245(a)(1) Assault with a Deadly Weapon.

DGO 9.02 Vehicle Accidents (1994 edition) states that patrol officers are only required to prepare a Traffic Collision report and a hit-and-run record for all hit-and-run vehicle accidents unless it was a serious injury or death incident.

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The evidence showed that the vehicle and driver who struck the complainant had already fled the scene before officers arrived. Therefore, the officer could not have made an arrest at the time. The statement in the TCR from the complainant contradicts what he said during the interview for his DPA complaint. Also, an independent witness directly contradicted the account provided by the complainant. The injuries described by the complainant would not amount to “serious injury” for the purposes of DGO 9.02. Furthermore, the officers produced a report recommending felony charges for the vehicle's driver.

Based on the evidence provided, since the suspect was not at the scene, the officers could not make be expected to make an arrest.

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

SUMMARY OF ALLEGATION #7: The officer prepared an incomplete or inaccurate incident report.

CATEGORY OF CONDUCT: ND

FINDING: NF

FINDINGS OF FACT: The complainant said that the named officer wrote an inaccurate report. In particular, the complainant said he provided the name, address, and description of the driver to the officer, which is not in the report.

The named officer is no longer with the Department. A witness officer stated that he had no recollection of the incident due to the time that had elapsed.

The TCR includes a statement provided by the complainant to officers. In his statement, the complainant said he did not know who was driving the vehicle, but a person he knew came out of the vehicle and started to argue with him. The complainant also provided a street where the named individual lived.

No findings are made if the officer cannot reasonably be identified or the officer has left the Department and is, therefore, no longer subject to discipline.

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SUMMARY OF ALLEGATIONS # 1-4: The officers failed to prepare an incident report.

CATEGORY OF CONDUCT: ND

FINDING: IC/S

FINDINGS OF FACT: During the investigation of two separate incidents, DPA discovered the named officers failed to write an incident report for the first incident, which involved a felony vehicle evading.

The named officers stated that on the date of the incident at 6:23 p.m., they were on assignment for the Crime Gun Investigations Center (CGIC) conducting violence reduction in an area associated with narcotics dealing and gun crime. The named officers were in an unmarked police vehicle equipped with forward-facing red and blue lights, a spotlight, and a siren. The officers were in plain clothes, wearing police tactical garments with the SFPD crest and "Police" on the sleeves and the backs. The named officers stated their stars were displayed on their outer garments. They observed a Mercedes sedan had heavily tinted windows and no front license plate, a violation of the California Vehicle Code. Named Officer #4 noticed through the windshield of the black Mercedes that two people inside were handing objects back and forth between them. Based on the officer's training and experience, he believed he was observing a "hand-to-hand" narcotics sale. The officers noted the vehicle appeared out of place for the area, and there were no stores around for someone to run into. The officers also observed a male passenger exit the vehicle's passenger side and walk away. Believing the vehicle occupant to be a potential narcotics dealer, the officers attempted an investigative stop by activating their red lights and siren and pulling up alongside the parked vehicle. The driver immediately reversed the vehicle and illegally backed into traffic, drove around the police vehicle, passing the officers on the left side, and fled at a high rate of speed through a red traffic light, continuing up the roadway and running several red lights. The officers did not exit their vehicle as the vehicle took off quickly. The officers chose not to pursue the vehicle because of the pedestrian traffic in the area. The officers lost sight of the vehicle, after it took a left turn several blocks up from their location. Named Officer #1 stated he saw the occupant of the vehicle through the front windshield before he fled the area, and officers were able to get the car license plate number. The officers informed dispatch that the vehicle had evaded them, broadcast the license plate number, and put the information into the Computer Aided Dispatch system (CAD).

Named Officer #2 stated that later that evening, they ran the vehicle's license plate and found a prior arrest booking photo of the owner of vehicle and the alleged driver that Named Officer #1 confirmed was the vehicle's driver. Named Officer #2 stated the driver violated Vehicle Code 2800.2, which is a felony, so they wanted to investigate that as well as the reasons for evading the police. Officer #2 stated, "Individuals who are not involved in criminal activity don't evade the police."

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Named Officer #3 stated he believed someone made a narcotics transaction because he saw someone get out of the car. Officer #3 stated he did not prepare an incident report because he believed the incident was documented in CAD, which was sufficient.

Named Officer #4 stated they were driving slowly, and he looked over and saw into the windshield of the vehicle and thought it was a narcotics transaction. He saw two people in the car handing things back and forth to each other, so he told the driving officer to slow down. The occupant looked up, started the car, and began moving the car back and forth, trying to escape. The driver reversed and backed out and was able to move past the officers and onto the street. Named Officer #4 stated he was able to see the driver was African American but did not see his face. He was unable to see the passenger. Named Officer #4 stated a report was not written because cars often take off on them, and they do not write incident reports for these events.

The named officers stated they did not write an incident report because they handled things themselves as an investigative unit. The named officers also said they did not write an incident report because they planned to continue investigating the vehicle.

The named officers had body-worn cameras (BWC) but did not activate their BWCs because the incident unfolded too quickly.

CAD records reveal the incident was documented as described by the officers. The unit made a priority C Misc entry for the location and time, and the comments note the vehicle taking off and that the license plate and description of the vehicle were broadcast. The incident began at 18:23:19 and was closed at 19:47:53. The disposition was advised.

Department General Order 2.01(25), ON-DUTY WRITTEN REPORTS states, "While on duty, members shall make all required written reports of crimes or incidents requiring police attention."

DGO 1.03, Sec. I(A)(5)(d), Duties of a Patrol Officer, states officers shall "Make written reports on crimes observed or brought to their attention that have not been previously reported. Book all property and evidence in their custody prior to reporting off-duty."

No DGO, DB, DN, Unit Order, or any other official Department policy could be found that would exempt the officers from complying with DGO 2.01, Rule 25, or DGO 1.03(I)(A)(5)(d).

Officers are required to write reports about crimes that have come to their attention. Here, officers witnessed a felony evading incident and did not prepare an incident report documenting the incident or the

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investigative steps they took to identify the vehicle and the driver. The named officers neglected their duty when they failed to prepare an incident report pursuant to Department General Order 2.01.

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

SUMMARY OF ALLEGATIONS #5: The officer used profanity.

CATEGORY OF CONDUCT: CUO

FINDING: IC/S

FINDINGS OF FACT: During the investigation, the body-worn camera (BWC) footage showed that the named officer used profanity when speaking to a suspect following a foot pursuit.

The named officer admitted he used profanity several times while ordering the suspect to the ground, which he intended to de-escalate and gain compliance. The named officer stated they were investigating the suspect for potential firearms. The officer stated he was in the dark and in a vulnerable area. The named officer stated it was not his intention to disrespect the suspect. He was trying to gain compliance using harsher language. The suspect had already run, and he did not know if the suspect stopped because he wanted to engage in a fight. The officer did not know the suspect's intentions, and, at that point, he had not searched the suspect for any weapons.

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

No Department records or manuals were found to support profanity as a tactical means to maintain compliance with a subject or to de-escalate situations.

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

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SUMMARY OF ALLEGATION #6: The officer failed to comply with Stop Data Collection System (SDCS) requirements.

CATEGORY OF CONDUCT: ND

FINDING: IC/S

FINDINGS OF FACT: During the investigation, DPA discovered the named officer neglected to complete the required stop data entry when he conducted a vehicle stop and detained a suspect.

The named officer stated that he forgot to enter the Stop Data and acknowledged that he was responsible for making the required entry.

Department Bulletin 21-062 requires members to submit data for all stops, including, but not limited to, pedestrian, bicycle, and vehicle stops. For purposes of this policy, a stop is defined as:

1. Any detention by a peace officer of a person or;
2. Any peace officer interaction with a person in which the officer conducts a search

Members shall enter all stop data into SDCS prior to end of their shift, unless exigent circumstances prevent entry, in which case officers shall enter data by the end of their next shift.

A letter from the SFPD Legal Division stated department records show no Stop Data records for the incident.

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

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SUMMARY OF ALLEGATIONS #7-10: The officers failed to comply with Department General Order 5.08, Non-Uniformed Officer.

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complaint alleged the named officers violated SFPD policy by conducting a traffic stop purportedly for a window tint violation while working in a plain clothes capacity in an unmarked car.

The named officers stated that on the date of the incident at 6:23 p.m., they were on assignment for the Crime Gun Investigations Center (CGIC) conducting violence reduction in the area associated with narcotics dealing and gun crime. The named officers were in an unmarked police vehicle equipped with forward-facing red and blue lights, a spotlight, and a siren. The officers were in plain clothes, wearing police tactical garments with the SFPD crest and "Police" on the sleeves and the backs. The named officers stated their stars were displayed on their outer garments. They observed a Mercedes sedan had heavily tinted windows and no front license plate, a violation of the California Vehicle Code. Named Officer #4 noticed through the windshield of the black Mercedes that two people inside were handing objects back and forth between each other. Believing the occupant to be a potential narcotics dealer, the officers attempted an investigative stop by activating their red lights and siren and pulling up alongside the parked vehicle. The driver immediately reversed the vehicle illegally back into traffic, drove around the police vehicle, passed the officers on the left side, and fled at a high rate of speed through a red traffic light, continuing up the roadway, running several red lights. The officers did not exit their vehicle as the vehicle took off quickly. The officers stated they chose not to pursue the vehicle because of the pedestrian traffic in the area.

Officer #1 stated that plainclothes officers can make investigative stops. The officers drove around the block and circled back to watch the vehicle for a minute. Officer #1 remembers seeing somebody from across the street enter the passenger seat and leave about a minute later. The officers believed a potential drug sale was happening. Named Officer#2, who was driving, stopped the unmarked police vehicle alongside and just in front of the Mercedes so it could not drive forward. The car immediately turned on and started backing up. Named Officer #2 turned on their police lights, and from the back seat of their vehicle, Named Officer #1 stated he saw the driver's face illuminated by their flickering lights. The driver did a five-point turn to get around the police car and drove away at a high speed, driving through three red lights and then turning out of their view.

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Named Officer #2 stated that plainclothes officers are generally not permitted to make traffic stops, but ongoing criminal investigations fall under an exception to the rule. Named Officer #2 stated he had witnessed narcotics dealing and gun crime in that area before and noted that there were many drug users on that block. The officers saw an occupied Mercedes parked with heavily tinted windows and no front license plate. Believing this to be a potential narcotics dealer, the officers attempted an investigative stop by activating their red lights and siren.

Officer #3 stated they saw a black Mercedes with tinted windows on the east sidewalk. They observed someone exit the passenger seat and walk away, which they believed could be a narcotics transaction. The officer stated he could not see into the vehicle. Still, Named Officer #1 could see into the vehicle's windshield, and they decided they would attempt an investigative stop and turn on their vehicle's lights. Named Officer #3 stated traffic stops are related to traffic violations. In contrast, investigative stops are "based on the totality of what you see and all the information that you gather." The officer stated that non-uniformed officers can't initiate traffic stops unless related to an ongoing criminal investigation. Named Officer #3 characterized the incident as an investigative stop because they were looking for "markers" according to their training, and "people getting in and out of very nice cars in high-narcotic trafficking sales area" was a "decent inference." Named Officer #3 stated the car also violated the vehicle code.

Officer #4 stated that the lights were activated but that it was an investigative stop rather than a traffic stop. The basis for the stop was related to vehicle and health and safety code violations. The officer stated he was not focused on whether the windows were tinted because the first thing he saw when he looked over and into the windshield of the vehicle was what appeared to him to be a narcotics transaction.

Department General Order 5.08 states: Non-uniformed officers shall not initiate traffic stops, issue traffic citations, or make minor traffic arrests except:

- a. When the activity is related to an ongoing criminal investigation or regulated vehicle enforcement, e.g., taxi cabs, shuttle buses, limousines.

The named officers were working in an investigative capacity focusing on narcotics sales and gun crimes in a specific area at the time of the incident, and it was objectively reasonable for the officers to believe a drug transaction had taken place based on their observations, training, and experience. Department policy allows non-uniformed officers to conduct traffic stops when the activity is related to an ongoing criminal investigation. The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATION #11: The officer knowingly engaged in biased policing or discrimination.

CATEGORY OF CONDUCT: CUO

FINDING: U

FINDINGS OF FACT: The complaint alleged the named officer stopped a vehicle for an alleged window tint violation because the driver was a Black man driving a Mercedes in the Tenderloin.

The named officer stated it was dark and he could not see the driver due to the window tint. The named officer stated he did not know the race or sex of the driver at the time he initiated the investigatory stop. The named officer stated the windows were rolled up when he observed the vehicle. It was not until after the driver put the car in reverse, backed up into oncoming traffic, and drove past the officers that one of the officers in his vehicle could see the driver.

Witness Officer #1 stated he did not know the race, color, ethnicity, or gender of the driver before initiating contact. The officers noticed a nice-looking black Mercedes sitting in one of the driveway spots. The side and rear windows were tinted, and they could only make out the silhouette of a person inside the vehicle. It struck the officers as suspicious that a vehicle like that would be parked in that area across the street from “a bunch of drug users.” The officers drove around the block and circled back to watch the vehicle for a minute. Witness Officer #1 remembered seeing somebody from across the street enter the passenger seat and leave about a minute later. The officers believed that there was a potential drug sale happening. Witness Officer #1 stated the named officer, who was driving, stopped their car in front of the Mercedes so it could not drive forward. The car immediately turned on and started backing up. The named officer turned on their police lights, and from the back seat of their vehicle, Witness Officer #1 said he saw the driver’s face illuminated by their flickering lights through the windshield.

Witness Officer #2 stated he could not see into the vehicle and denied race or color, ethnicity, or gender of the driver was a factor in the attempted investigatory stop of the driver.

Witness Officer #3 stated he did not know the race of the driver at the time the attempted investigatory stop was initiated. When the vehicle took off, he could see the driver through the windshield. He could see the driver was African American, but he did not see his face. Witness Officer #3 stated that the driver’s behavior, rather than his race, led to the officers initiating contact. Witness Officer #3 stated he did not see any actions by the named officer that would indicate bias.

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Body-worn camera (BWC) evidence from the second incident corroborates the subject vehicle has dark-tinted front, side, and rear windows.

SFPD General Order 5.17, Policy Prohibiting Biased Policing, states, “Investigative Detentions, traffic stops, arrests, searches and property seizures by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment to the U.S. Constitution.

A preponderance of the evidence shows that the allegation against the named officer for knowingly engaging in biased policing or discrimination based on the driver’s race did not occur and that the named officer had reasonable suspicion to initiate an investigatory stop of the vehicle.

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

SUMMARY OF ALLEGATION #12: The officer misrepresented the truth.

CATEGORY OF CONDUCT: CUO

FINDING: U

FINDINGS OF FACT: The complainant stated the driver was never charged with an illegal window tint, suggesting that the named officer’s original assertion that the driver’s windows were impermissibly tinted is a pretext designed to hide his implicit bias and that his actions are dishonest. The complainant alleged the officer did not provide any supporting information that the windows were tinted.

The named officer stated his investigative unit is not tasked with traffic enforcement. They were conducting violence reduction patrol in the area, and his actions were based on a totality of the circumstances. He observed the vehicle had dark-tinted windows and no front license plate, violating the vehicle code. The individual was sitting in a car, and they could not see into the vehicle. He was in a high narcotics and violent area. They observed a passenger exit the vehicle. Based on the location and time of day, he was not exiting or entering to buy a Coke or something from the store, which led to a suspicion that he was involved in some possible drug dealing because he was remaining in the car. The area has a lot of foot traffic for drug users.

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Body-worn camera (BWC) evidence from the second incident corroborates the subject vehicle has dark-tinted front, side, and rear windows, and no front license plate.

SFPD General Order 5.17, Policy Prohibiting Biased Policing, states, “Investigative Detentions, traffic stops, arrests, searches and property seizures by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment to the U.S. Constitution.

A preponderance of the evidence shows that the allegation against the named officer for misrepresenting the truth did not occur and that the named officer had reasonable suspicion to conduct an investigatory stop of the vehicle and would have done so were it not for the actions of the driver in evading the officers.

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

SUMMARY OF ALLEGATION #13: The officer misrepresented the truth.

CATEGORY OF CONDUCT: CUO

FINDING: PC

FINDINGS OF FACT: The complaint stated the named officer violated DGO 2.09 when he coerced a suspect into parking his car and falsely claimed that the suspect had an outstanding warrant to arrest him to prevent the suspect from ending the interaction with the named officer.

The named officer stated that on the date of the incident, he was conducting surveillance of the suspect’s vehicle for the prior felony evading incident. The officer was in an unmarked police SUV vehicle with forward-facing lights and sirens and wearing tactical garments. The named officer stated he was aware the suspect had a criminal history of violent felonies and gun possession. The named officer saw the lights in the vehicle and radioed for backup units to respond to his location, believing the vehicle was about to move. The backup units were some distance away, so he “slow-rolled” in to try to prolong the contact as two people were associating with the suspect. The named officer said he made it look like he was trying to get his vehicle through the roundabout and asked the suspect to back it up. The named officer stated the suspect was looking around and getting nervous. The named officer stated he was worried the suspect would run, so he attempted to stall for time by approaching the suspect on foot under the “ruse” that he was stopping him for a warrant. The named officer stated that he has often used this ruse to get someone into handcuffs more easily. He uses the tactic to gain compliance from subjects and prevent the need for

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any use of force. The officer stated he was unaware of any rule prohibiting this practice. The named officer stated the suspect ran off when he saw the handcuffs. The named officer chased the suspect, ordering him to stop. The suspect appeared tired of running, and the named officer caught up to the suspect and ordered him to get on the ground. He was able to get him into custody without using any force.

The body-worn camera (BWC) evidence corroborates the named officer's account of the incident.

DPA obtained a subject matter expert (SME) familiar with CGIC operations. The SME stated officers use ruses for safety. The SME stated officers are not trained explicitly in classes in ruses but that they are "taught" and "trained" and that "it's okay." The SME stated that ruses are used when needed, and it is acceptable for an officer to tell someone they have a warrant as a ruse.

Applicable case law does not prohibit officers from using a "ruse" to gain compliance. No DGO, DB, DN, Unit Order, or any other official Department policy that prohibits officers from using ruses to gain compliance from a subject could be found.

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

SUMMARY OF ALLEGATION #14: The officer detained a person without reasonable suspicion.

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complaint alleged the named officer did not have reasonable suspicion to detain a person because the person was not presently engaged in criminal activity as the person was parking his car.

The named officer stated he was surveilling a vehicle involved in a felony evading incident. The driver had been identified and was the subject of an ongoing criminal investigation regarding the felony evading incident and possible narcotics sales. The named officer stated he located the vehicle on a dead-end street, and the vehicle was unoccupied. The named officer saw the suspect enter the vehicle, and the vehicle

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began to move. The named officer radioed for backup units to respond so that he could arrest the suspect before he took off. Backup units were too far away, so the officer stated he used his vehicle to block the suspect in to prevent him from leaving. Worrying that the suspect was going to run, the named officer attempted to stall for time by approaching the suspect on foot under the “ruse” that he was stopping him for a warrant. The suspect took off running, and following a foot pursuit, the named officer took the suspect into custody without further incident. Backup units arrived shortly after.

The body-worn camera (BWC) evidence corroborated the named officer’s account and provided sufficient justification for the detention.

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

The named officer knew that the suspect was the subject of an ongoing criminal investigation for a felony evading incident.

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

SUMMARY OF ALLEGATION #15: The officer arrested a person without probable cause.

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complaint alleged the named officer did not have probable cause to arrest a person because the person did not have an outstanding warrant for his arrest.

The named officer stated he arrested the suspect for a felony evasion incident that occurred about two months prior. The suspect had been identified as the driver of a vehicle that fled from police, and he was the subject of an ongoing investigation.

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The body-worn camera (BWC) evidence corroborated the named officer's account and provided sufficient justification for the arrest.

Department General Order 5.03 states, in part, that Probable cause to arrest is a set of specific facts that would lead a reasonable person to objectively believe and strongly suspect that a crime was committed by the person to be arrested. Under the Fourth Amendment, arrests must be supported by probable cause.

The named officer knew that the suspect had been identified in an ongoing criminal investigation for a felony evading incident.

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

SUMMARY OF ALLEGATIONS #16-18: The officers conducted an improper search or seizure.

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complaint alleged the named officers violated SFPD policy by using the towing policy as a pretext to search the car.

Officer #1 stated he arrested the suspect for violation of Vehicle Code section 2800.2 felony evasion incident. The car would be towed incident to the suspect's arrest for the felony evasion charge under department policy. Officer #1 stated he directed the other officers to secure the suspect's vehicle. During the inventory search of the vehicle, Named Officer #3 found a satchel with a loaded firearm inside the vehicle. The suspect was a convicted felon and prohibited from having firearms. The firearm charges were added to the arrest, and the suspect was transported to the station. The named officer stated the vehicle was driven back to the station instead of having it towed from the scene because they believed there was evidentiary value in the vehicle and because they did not like conducting searches for guns and evidence when they were not in a secure and stable environment. Back at the station, Named Officer #2 searched the vehicle further and found cash and suspected narcotics. Named Officer #1 stated they did not get a search warrant for either search because the vehicle was being towed for inventory.

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Named Officer #2 stated that he searched the vehicle at the scene and at the police station. Officer #2 stated that he and Officer #3 searched the vehicle at the scene as an inventory search because the vehicle would be towed. When Named Officer #3 found a firearm in a satchel in the front passenger seat, it was decided that the vehicle would be driven back to the station for a further search for evidence. While searching the vehicle at the station, Named Officer #2 stated he found suspected narcotics and an estimated \$10,000 in cash. Officer #2 stated they did not obtain a search warrant because of the vehicle exception clause regarding vehicles.

Named Officer #3 stated the basis to search the vehicle at the scene was because the vehicle would be towed, and they needed to conduct an inventory search. Once he located the firearm inside the vehicle, it turned into a probable cause search.

The body-worn camera (BWC) evidence corroborates the named officers' accounts.

Department General Order 9.06 states, in part:

“When towing a vehicle, officers shall inventory the contents of the vehicle. The purpose of the inventory is to locate and secure any valuable property, to guard against false claims, and to protect officers and others from dangerous objects. When conducting an inventory, officers may search anywhere inside the vehicle including consoles, glove boxes, under the seats, inside the trunk and inside any container of the vehicle.

2. a. Firearms. If you locate a firearm in the vehicle, confiscate the weapon, even though the firearm or vehicle is not connected to an offense. Complete a property receipt form (SFPD 315), attach it to the vehicle, and book the firearm as “Property for Safekeeping.” Also complete an incident report describing the circumstances. Do not place a hold on the towed vehicle. Note, however, that a firearm in a vehicle may constitute an offense [see Penal Code Section 12025(a) or 12031(a)].”

The named officers conducted an inventory search of the suspect's vehicle in accordance with department policy. During the inventory search, a firearm was discovered, which then justified a probable cause search of the vehicle. The evidence proves that the alleged conduct occurred; however, the conduct was justified, lawful, and proper.

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SUMMARY OF ALLEGATIONS #19-21: The officers towed a vehicle without cause.

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complaint alleged the named officers towed the vehicle without cause.

The named officers stated the vehicle was towed because the suspect and the vehicle were involved in a felony evading incident, violating Vehicle Code Section 2800.2.

The body-worn camera (BWC) evidence corroborates the named officers' accounts of the incident.

Department General Order 9.06 states, in part:

“A. ARREST TOWS

1. PERMISSIBLE CIRCUMSTANCES. It is the policy of the Department that officers may tow a vehicle driven by, or in the control of, a person arrested and taken into custody when:

a. The vehicle is needed for evidence.”

The complainant was initially arrested for a felony evading incident, necessitating that the subject vehicle be towed per department policy. Additionally, during the inventory search, officers located a loaded firearm inside the vehicle, which gave rise to a probable cause search. During the probable cause search, narcotics and a large amount of cash were found in the vehicle, resulting in additional charges against the suspect. The justification for the towing of the vehicle was the felony evasion.

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

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SUMMARY OF ALLEGATION # 1: The officer made an arrest without cause.

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complainant stated that several police officers arrived at her residence accusing her of hitting another tenant with a hammer and arrested her without cause.

The evidence reflected that several officers, including the named officer, responded to a call for service at the complainant's residence regarding an individual, later determined to be the complainant, who attempted to strike another tenant with a hammer. The named officer served as the investigating officer and made the decision to arrest the complainant.

The named officer conducted a preliminary investigation which included speaking with the victim, who detailed the incident and identified the complainant. The named officer then contacted the complainant and placed her under arrest. The named officer stated that he believed probable cause existed to arrest the complainant as the victim identified the complainant as the individual who attempted to strike him with a hammer in the common area of their building. The victim informed the named officer that he was in fear of harm due to her conduct. Additionally, a sergeant on-scene approved the charges.

DPA obtained the named officer's body-worn camera (BWC) footage of the incident. The BWC footage was consistent with the statement he provided to DPA.

Based on the victim's statement and the positive identification of the complainant, probable cause existed to arrest the complainant.

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

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SUMMARY OF ALLEGATION # 2: The officer used unnecessary or excessive force.

CATEGORY OF CONDUCT: UF

FINDING: PC

FINDINGS OF FACT: The complainant stated that the named officer used excessive force against the complainant while effecting the arrest, causing pain to her shoulder.

The named officer denied using excessive or unnecessary force against the complainant. He stated that the complainant, at that time, was passively resisting and non-compliant. He explained that he used the minimal amount of force necessary to handcuff the complainant and aided in escorting her out of the unit.

BWC footage of the incident confirmed the named officer's statement and does not show that the named officer engaged in unnecessary or excessive force at any point throughout the incident.

DPA interviewed a Subject Matter Expert (SME) in Use of Force Techniques who reviewed the use of force that occurred. The SME believed that the force used by the named officer was reasonable and in compliance with Department Policy and Procedure.

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

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

CATEGORY OF CONDUCT: UA

FINDING: IC/S

FINDINGS OF FACT: During the course of DPA's investigation, it was discovered that the named officer conducted an improper search of the complainant's unit.

The evidence, including BWC footage and the incident report prepared by the named officer, showed that the officers removed the complainant and escorted her down the elevator to prepare her for transportation to the County Jail. The named officer, as the primary officer, instructed the other officers to remain with the complainant while he re-entered her unit and conducted a search.

The search included going through bags within her unit, removing items from on-top of the couch, removing the couch cushions to look underneath, opening several drawers in the kitchen, as well as the oven and freezer and visually scanning all rooms within the unit. While searching the kitchen drawers, the named officer located and seized a hammer which was identified as the object used by the complainant during the commission of the crime.

The named officer confirmed conducting the above-described search of the complainant's unit. The named officer maintained that despite a comment made by a witness officer about re-entering the unit to look for the hammer, he did not conduct the search to locate the hammer or evidence of the alleged crime. He maintained that he searched the unit to locate keys to secure the premises as the complainant made inconsistent statements regarding having keys and that he did not want to leave the premises open to theft.

The named officer admitted that despite his good intentions in conducting the search, he did not have the authority to search the unit, which he quickly realized after the fact. The named officer demonstrated knowledge on when an officer is constitutionally permitted to conduct a warrantless search of a home. Additionally, the named officer demonstrated remorse and described his conduct as a mistake from which he has since learned from. The named officer also stated that he was counseled by the responding Sergeant regarding the search after the incident.

The Fourth Amendment of the United States Constitution, as well as Department Policy protects against unreasonable searches and seizures of an individual's home. Generally, a warrant is required to search the home; however, there are several well-delineated exceptions to the warrant requirement, such as when an

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individual consents to the search, evidence is discovered in plain view, when an officer conducts a protective sweep of the immediate area, or when conducting a search incident to a lawful arrest.

As mentioned by the officer, none of the above-stated exceptions applied in this case, despite whether the officer was searching for keys.

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

SUMMARY OF ALLEGATION # 4: The officer used unnecessary or excessive force.

CATEGORY OF CONDUCT: UF

FINDING: PC

FINDINGS OF FACT: The complainant stated that while she was being transported to the lobby and out of the building, her pants kept falling down. Despite being in handcuffs, she attempted to pull her pants up and accidentally stepped on an officer's foot. She alleged that the officers then dragged her from the lobby to the front gate where the officers engaged in excessive force against her.

The evidence reflected that the named officer, as well as the officer named in the allegation below, engaged in reportable use of force against the complainant.

The named officer demonstrated sufficient knowledge in use of force techniques and confirmed using reportable force against the complainant when escorting her out of the building. The named officer explained that the complainant complained of her pants falling down and that the officers attempted to aide her in pulling her pants back up prior to exiting the building. However, the complainant's behavior escalated from passive non-compliance to actively resisting. While they attempted to escort her out of the building, the named officer stated that she began attempting to kick the officers, pull away from them, and began spitting at them. In response, the named officer then pulled her through the doors and placed her up against the wall holding her there to prevent her from kicking and assaulting the officers.

The named officer stated that he used the minimal amount of force necessary and opted to place her against the wall rather than bring her to the floor which could likely cause her injury.

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BWC footage captured the named officer's use of force. The BWC footage confirmed that when escorting the complainant from the building, her behavior escalated from passive resistance to active resistance, requiring the officers to change the level of control resulting in the use of force.

DPA interviewed a Subject Matter Expert in Use of Force Techniques who reviewed the use of force and felt that bringing her to the wall rather than the floor was permissible, reasonable, and within policy. He stated that in his professional opinion, the officer used the minimal amount of force necessary, and his conduct complied with Department Policy and Procedure.

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

SUMMARY OF ALLEGATION # 5: The officer used unnecessary or excessive force.

CATEGORY OF CONDUCT: UF

FINDING: PF

FINDINGS OF FACT: The complainant also stated that while the officers dragged her out of the building, the named officer slammed her head against the concrete wall.

The evidence, including BWC footage and statements in the incident reports, reflected that while an officer held the complainant's body against the wall, the named officer used his hand to hold the complainant's head against the wall to prevent her from spitting at the officers.

The named officer demonstrated knowledge in use of force techniques and confirmed that he controlled the complainant's head. The named officer explained that while Department General Order 5.01 generally prohibits officers from using force against an individual's head, neck, or throat, an exigent circumstance permitted him to use his hand to hold her head against the wall and away from the officers. The named officer explained that she not only kicked him, but spit on his arm while spitting towards the officers several times. He stated that they commanded her stop spitting, but when she did not, he used his hand to keep her head away from them to prevent the assault. The named officer believed that spitting, which he stated is assaultive behavior, amounted to an exigent circumstance allowing him to use such force. The named officer stated that as soon as the complainant calmed down, they reassessed the situation and he removed his hand. The named officer noted in his report that at no time did his hand contact her neck or throat.

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Department General Order 5.01(8)(4) Prohibited Use of Physical Control to Head, Neck, and Throat, prohibits officers from applying pressure while using force to the head, neck, or throat of a person while effectuating an arrest, overcoming resistance, or preventing escape, unless an exigent circumstance arises. DGO 5.01 defines an exigent circumstance as “when an officer reasonably believes, based on specific and articulable facts, that a threat exists to a person’s safety, the safety of others, or the safety of the involved officers. “

DPA interviewed a Subject Matter Expert on Use of Force Techniques, specifically regarding the above-mentioned General Order and provision. The SME stated that the provision above was recently enacted considering recent events. He stated that he does not believe the Academy or otherwise trains officers specifically how to properly restrain a spitting individual in light of the provision. He shed light on how absent any specific training or guidance regarding a spitting individual, he could see how an officer would be confused as to whether or not they can use force on a subject’s head when presented with a spitting individual.

Additionally, he attested that while spitting does not always amount to an exigent circumstance, he believes, in his professional opinion, that here it did. Moreover, he opined that the officers’ conduct was overall reasonable given the circumstances and his objective to prevent her from spitting.

In light of the SME testimony, the statement by the named officer, and the provision contained in the DGO, DPA recommends that the provision be updated or that the officers receive adequate training on how to properly restrain a spitting individual given the language in the DGO. Doing so will clear up any confusion as to whether or not spitting is considered an exigency, or under what circumstances spitting may be considered an exigency, and provide officers guidance on what to do when presented with a spitting subject.

The evidence proves that the alleged conduct occurred but was justified by Department policy or procedures; however, the DPA recommends that the policy or procedure be changed or modified.

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

CATEGORY OF CONDUCT: ND

FINDING: U

FINDINGS OF FACT: The complainant stated the named officers failed to properly investigate a domestic violence incident where someone shot at her car. The complainant stated that she had given a ride to her neighbor, and as they arrived back at the residence, the neighbor's boyfriend was waiting, pulled out a gun, and shot at the complainant's car while she and her neighbor were inside the car. The complainant said the gunfire did not strike her car.

Named Officer #1 responded to a call for service to the location after the neighbor's boyfriend called the police to allege that he was having an altercation with his girlfriend (the neighbor). The boyfriend said his girlfriend (the complainant's neighbor) was cheating with another man, who was also at the scene, and the other man had a gun. Officer #1 said that the call made no reference to anyone shooting the complainant's vehicle. Officer #1 said that while he was at the scene, a sergeant told him that the complainant said her neighbor's boyfriend had made a gesture toward the complainant as if he had a gun, but that the complainant never saw any type of weapon. The sergeant told Officer #1 that the complainant thought her neighbor had been involved in a domestic violence incident. Officer #1 interviewed the complainant's neighbor, who denied any domestic violence incident in the past or present and said she had never seen her boyfriend with a gun. Officer #1 said he checked the neighbor for injuries and found no damage or blood on the vehicle.

Named Officer #2 said he attended the scene with Officer #1. He said he spoke to the complainant, who told him that her neighbor's boyfriend held his hand up like a gun, but she did not see a gun in boyfriend's hands. Officer #2 said the complainant told him she wanted to keep her involvement in the incident report confidential. Officer #2 asked if he could use the complainant's first name in the report, but the complainant refused, stating that she did not want her neighbor to know she had called the police.

Named Officer #2 said he was called back to the address the next day for a citizen standby request. While en route, Officer #2 conducted computer checks and saw that the complainant had gone to the police station the day before, after the initial police response. At the station, the complainant reported that she had been given surveillance footage of the incident that showed her neighbor's boyfriend shot at her with a firearm. Based on this information, Officer #2 called for more resources and informed his supervisor. An unsuccessful search for the boyfriend was conducted.

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Officer #2 stated he then went to the complainant and viewed the footage she had reported the day before. Officer #2 said the footage did not show the boyfriend had a gun in his hand during the incident but showed the boyfriend raising his arm as if holding a firearm. Officer #2 said five clapping sounds could be heard after the boyfriend left the camera view. There was no muzzle flash on the video despite it being dark. Officer # 2 said that he believed the footage indicated that the boyfriend simulated he had a gun and clapped his hands to scare the complainant and neighbor.

Officer #2 said that despite three different calls for service to the location, (the initial call with Officers #1 and 2, the attendance of the officers later that day after the complainant went to the police station, and the call the day after which Officer #2 attended with other officers) no bullets or casing were discovered. No damage to the vehicle or other property could be found, the girlfriend denied a shooting took place, the complainant initially said she did not see a gun, and there were no ShotSpotter activations in the area. No evidence was found that supported or indicated a shooting or gunfire took place.

Body-worn camera (BWC) footage was obtained for the initial call, the police response to the complainant's home after she visited the police station, and the police attendance the day after the incident. The footage corroborates the named officers' accounts. The footage recorded that the neighbor-girlfriend denied any shooting or domestic violence incident occurred. It showed that the complainant told officers that she did not see a gun. It also recorded Officers #1 and #2's initial investigation, which included interviewing involved parties, checking for injuries, bullet casings, damage to the vehicle, and identifying and trying to locate the potential suspect. The footage recorded the police response later that day, where officers searched the location again and found no other victims, suspects, damaged property, or fired cartridge casings. The footage recorded officer attendance the next day, including the unsuccessful search for the boyfriend and Officer #2 viewing the surveillance footage.

Department records, including an incident report with two supplemental reports and five Computer Aided Dispatch (CAD) call records, were obtained, and corroborated the named officers' accounts and the BWC.

Copies of the surveillance footage were obtained. These appear to be video recorded by a doorbell camera on the other side of the street some distance away. The footage and sound quality are poor and inconclusive.

A preponderance of the evidence proves the named officers conducted a thorough and diligent investigation of the incident and concluded the suspect did not shoot at the complainant's vehicle.

The evidence proves that the conduct alleged did not occur.

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

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated that the named officer inaccurately wrote in his report that the complainant refused to provide her identification information and did not cooperate. The complainant stated this is inaccurate because the complainant gave her identification to a sergeant on the scene. The complainant did not recall the name of the sergeant to whom she gave her information.

The named officer denied writing an inaccurate report. The officer said he tried to speak to the complainant, but she wanted to talk to a sergeant. The officer said that the complainant spoke to at least one sergeant and the witness officer at the scene, but that he was not present for these conversations. The officer said the officers informed him that the complainant did not wish to become involved in the investigation.

The witness officer stated that he spoke to the complainant. She said she wanted to keep her involvement in the incident confidential. The witness officer asked if he could use the complainant's first name in the report, but the complainant refused, stating that she did not want the neighbor to know she had called the police.

BWC footage showed that the complainant refused to speak with the named officer. A sergeant and the witness officer spoke to her. The footage showed that she did provide her name, date of birth, and phone number to the sergeant. However, she also told the witness officer that she did not want her name or details to go into the report as she did not want her neighbor to know that she had called the police.

The incident report shows that the complainant's name, phone number, home address, date of birth, and other identifying personal information are included in the report. The report also notes that the named officer gave the complainant a Reportee Follow-up form. The report narrative does state that the witness officer spoke to the complainant, and the witness officer provided information to the named officer for the report. The report states that the complainant told the witness officer she refused to provide any identifying information and did not wish to be involved with the investigation.

Based on the evidence, the complainant did provide details to a sergeant at the scene. The named officer did write in the report that the complainant refused to provide identifying information and did not wish to be involved with the investigation. However, the information in the report came from the witness officer, and BWC showed that the complainant told the witness officer she did not want her contact details in the

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report and was reluctant to be involved in the investigation. Therefore, what is written in the report is an accurate summary of what the complainant told the witness officer.

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

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

CATEGORY OF CONDUCT: CUO

FINDING: U

FINDINGS OF FACT: The complainant stated that at the third call for service the day after the incident occurred, the named officer rolled his eyes at the complainant and laughed when stating to other officers that the complainant thought someone shot at her.

The named officer denies rolling his eyes, laughing, or mocking the complainant. He said that although he attended the third incident, he was not near the complainant that day.

The witness officer stated he did not witness any conduct by the named officer, as alleged by the complainant.

BWC footage was reviewed for all three incidents, which amounted to 26 different video files. At no time is the named officer captured displaying conduct as described by the complaint.

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

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

CATEGORY OF CONDUCT: UF

FINDING: IC/S

FINDINGS OF FACT: The complainant stated that the named officer used unnecessary force when he pushed her against a wall and put her into handcuffs.

The named officer stated that he used force on the complainant because she exited her vehicle without his permission during a traffic stop. The named officer was concerned that she might flee the scene or have a weapon. SFPD documents confirm that force was used on the complainant to place her in handcuffs.

Body camera footage depicted officers giving the complainant conflicting commands. One officer told her to go over there, while motioning to the sidewalk, while the named officer said, “Ma’am, just wait in the car.” The complainant responded that she did not want to re-enter the vehicle because the officers had just informed her it would be towed. The named officer then pushed the complainant against a wall, and used force to handcuff her.

Officers gave the complainant conflicting directions, she was not given enough time to comply, and no warning was given that force would be used if she did not comply with their requests. The named officer resorted to force without attempting verbal persuasion when it was feasible, and the force used was disproportionate to the level of illegal activity—traffic infractions. Therefore, a preponderance of the evidence proves that the alleged conduct occurred and that the conduct violated the Department policy or procedure.

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

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complainant stated she was issued a citation without cause.

The named officers stated that the complainant was issued a citation for multiple offenses including conducting an illegal U-turn, expired registration and resisting arrest.

SFPD documentation showed that the complainant was issued a citation for illegal U-turn, expired registration and resisting arrest.

Body camera footage showed the complainant admitting to having expired registration and arguing with officers, while not denying conducting an illegal U-turn. Issuance of the citation under the circumstances was proper pursuant to DGO 5.03, and it is not rendered improper because the officer alleged an additional violation that may be questioned from a legal perspective in hindsight.

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

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

CATEGORY OF CONDUCT: UA

FINDING: IC/S

FINDINGS OF FACT: The complainant stated the named officer improperly searched her, her vehicle, and held her in a police vehicle.

The named officer stated officers conducted a lawful inventory search of the vehicle. Policy requires officers to conduct an inventory of the contents of a vehicle before it is towed. Since the complainant's vehicle was being towed, an inventory search was warranted. However, officers must have a separate reason to search the complainant and her purse. The named officer alleged his order to search the complainant was justified because she was under arrest. However, DPA's investigation revealed that the officer's basis for alleging the complainant was under arrest was invalid, and he specifically told her she was not under arrest. As a result, the search, other than the inventory search of her vehicle, was invalid.

In addition, DPA's investigation revealed through review of body-worn camera footage that the complainant's routine traffic stop escalated into an unlawful de facto arrest as described by SFDP DGO 5.03 when the named officer, after complainant refused to re-enter her car, without additional commands or warning, threw complainant against a wall, handcuffed her, and placed her in the back of the patrol vehicle while his fellow officer completed the citation. Unfortunately, his fellow officer was a trainee and required an unreasonable amount of time to conclude the investigation, further escalating the situation from a routine traffic stop to an unlawful seizure described in legal terms as a de facto arrest.

Body camera footage showed the vehicle being searched. The footage also showed the complainant being placed in the rear of a police vehicle where she is held for almost 40 minutes while a citation is filled out. The complainant is put in the vehicle after asking members of the public to film her interaction with police officers. The named officer assured the complainant she was not under arrest when he placed her in the back of the vehicle.

While the inventory search of the vehicle was proper, the search of the complainant and her detention in handcuffs in the back of a patrol car during a routine traffic stop constitutes an illegal search and seizure.

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

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

CATEGORY OF CONDUCT: ND

FINDING: IC/S

FINDING OF FACT: The named officer is alleged to have failed to supervise a recruit officer under his command.

The named officer stated that the recruit officer failed to perform based on the standards set by SFPD for his level of experience during the field training stage he was in. The named officer stated that the recruit officer should have been leading the traffic stop and the mistakes that happened were due to the recruit officer's lack of competence.

SFPD documents showed that trainees work under the guidance and supervision of their training officers. Additional documentation shows that there were previous reports of the recruit officer struggling to perform his duties to the standard expected. The documents also show that the named officer was aware of these limitations prior to the traffic stop. Finally, policies require training officers to step in to assist or take over incidents when recruits are not performing pursuant to applicable policies.

Body camera footage showed the named officer failing to intercede when the recruit officer allowed passengers from the vehicle to exit and leave in violation of applicable training. The footage also showed the named officer looking over the recruit officer's citation and requesting assistance from other officers to fill in the citation as the named officer lamented that the recruit was unable to properly fill out the citation. The named officer then made the recruit officer redo the entire citation to the surprise of other officers on scene. During this time the complainant was held handcuffed in the back of a patrol vehicle for 40 minutes. The named officer is also seen mishandling the situation in his interaction with the detained person, modeling bad behavior in front of the recruit.

The named officer did not set a good standard to the recruit officer and failed to properly supervise the traffic stop and the filling out of the citation.

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

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SUMMARY OF ALLEGATION # 5: The officer behaved or spoke inappropriately.

CATEGORY OF CONDUCT: CUO

FINDING: IC/S

FINDING OF FACTS: The complainant stated that the named officer behaved and spoke to her inappropriately.

The named officer denied the allegations and believed that he treated the complainant as he would any other person.

Body camera footage showed that the named officer treating the complainant unreasonably, blaming her for what transpired. However, a review of the incident reasonably shows that the named officer lost his cool and made unwarranted sarcastic remarks to the complainant when she was simply asking others to film the interaction and protesting the way she was being treated.

Additionally, when asked, officers are to promptly provide individuals with their names and star numbers. The complainant asked for this information, and the named officer told her she would get it on the citation.

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

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SUMMARY OF ALLEGATION # 6: The officer engaged in retaliatory behavior.

CATEGORY OF CONDUCT: CUO

FINDING: IE

FINDINGS OF FACT: The complainant stated that the named officer engaged in retaliatory behavior against her during a traffic stop.

The named officer denied retaliatory behavior. The named officer stated he treated the complainant the same way he would treat any other person.

Body worn camera footage showed the named officer becoming frustrated with the complainant and her actions. The named officer is seen putting the complainant in the back of a police vehicle because he was displeased with her verbal criticism. The named officer expresses to other officers on scene that the complainant's actions were stupid.

It is clear from the evidence that the officer allows the complainant's actions to affect his attitude, which affects his behavior. However, it is not clear that the officer was taking direct retaliatory action on the complainant for her words or actions.

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

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SUMMARY OF ALLEGATIONS #1-2: The officers failed to receive a private person arrest.

CATEGORY OF CONDUCT: ND

FINDING: IE

FINDINGS OF FACT: The complainant called 911 to report that an employee at a women's shelter shoved her through a doorway. The complainant told the responding officers that she was assaulted by a shelter employee and that she wanted to press charges. The officers said she could not press charges.

Department of Emergency Management (DEM) records showed that multiple people called 911 regarding the incident. The complainant called 911 to report being pushed and to request an ambulance. A shelter employee called 911 to report a person breaking in.

The named officers denied the allegations. Neither officer recalled the complainant asking to make a private person arrest. Both officers stated that they were sent to investigate an assault. The complainant informed officers that the assault occurred when a shelter employee backed into her as he was backing out of the same doorway. The shelter employee said that he merely closed and locked the door once the complainant left of her own volition. The officers attempted to interview witnesses, but none wanted to give a statement. The officers determined that they lacked probable cause to make an arrest.

DPA interviewed the shelter employee, who also called 911 to report that the complainant was trying to break into the shelter by kicking the door. He said the complainant was yelling and screaming at officers throughout their investigation.

There was no body-worn camera footage and DPA was unable to determine if the named officers were asked to receive a private person arrest.

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

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

CATEGORY OF CONDUCT: ND

FINDING: IE

FINDINGS OF FACT: The complainant stated that the named officers failed to write an incident report, which prevented her from pressing charges. The complainant called the local district station and spoke with a sergeant who gave her options for filing a report in person or online.

The named officers said that a report was not required because nothing criminal had happened and because the complainant did not request an arrest or ask to press charges. The officers asked the parties what they wanted done and both agreed that documenting the incident with a CAD number was sufficient.

There were no independent witnesses or video footage of the incident.

Offices are required to prepare an incident report when a person requests a private person arrest. However, there was not enough evidence to determine if the complainant requested an arrest.

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

SUMMARY OF ALLEGATIONS #5-6: The officers failed to activate their body-worn cameras as required.

CATEGORY OF CONDUCT: ND

FINDING: IC/S

FINDINGS OF FACT: During the investigation, DPA found that the named officers failed to activate their body-worn cameras as required.

Department records confirmed that there was no body-worn camera footage for the named officers regarding this incident.

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The named officers both wrote in part, “*while enroute officers did not know the exact nature of the assault and not knowing if this was potentially where recordings would be prohibited, and officers therefore did not activate their BWC.*” The officer quoted Department General Order 10.11, Section D which states in part, “Members shall not activate the BWC when encountering: 1. Sexual assault and child abuse victims during a preliminary investigation.”

Department General Order 10.11, Body Worn Cameras, requires officers to activate their cameras in “any situation when the recording would be valuable for evidentiary purposes.” (DGO 10.11.03.C.11.) Department Bulletin 20-175, Activation of Body Worn Cameras, states in relevant part:

Members shall ensure the entire event is captured during all mandated recording circumstances or their involvement at the incident is completed.

- When responding to calls for service with a potential for law enforcement activity or any of the mandatory recording circumstances, members shall begin recording by pressing the ***Event*** button while enroute and prior to arriving on scene.

The officers were sent to investigate a battery and an attempted break-in. They were conducting a criminal investigation and expecting to meet with both reporting parties. They therefore failed to comply with Department General Order 10.11 and Department Bulletin 23-045 when they neglected to activate their body-worn cameras during a battery investigation.

A preponderance of the evidence proves that the officers’ conduct violated Department policy or procedure.

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SUMMARY OF ALLEGATION #7: The officer knowingly engaged in biased policing or discrimination.

CATEGORY OF CONDUCT: CUO

FINDING: U

FINDINGS OF FACT: The complainant called a district station to complain that the officers who responded to the scene did not make an arrest. The complainant repeatedly stated that the officer she spoke with did not provide appropriate services because of her race and disability status.

Department General Order 5.17 Bias-Free Policing establishes the San Francisco Police Department's commitment to just, transparent, and bias-free policing and reinforces existing policies and procedures that serve to assure the public that the SFPD is providing services and enforcing laws in an equitable manner. It also clarifies the limited circumstances in which members can consider race, color, ethnicity, national origin, religion, age, gender identity or expression, sexual orientation, mental or physical disability, or socio-economic status when making law enforcement decisions.

The named officer denied the allegation. The officer remembered accepting a call from the complainant, even though she refused to provide her name. The complainant was upset that officers had ignored her request to press charges and only gave her a CAD number. The named officer explained how to make a DPA complaint and offered to take her statement. The complainant became irate and would not listen to any details about how to contact DPA. Because the complainant disclosed her disability status during their phone conversation, the officer made an extra effort to facilitate her misconduct complaint in case her disability made accessing services difficult. The officer prepared a memorandum documenting his conversation with the complainant, which he forwarded to the DPA.

The officer accurately and thoroughly documented the complainant's side of the story and made efforts to assist the complainant in addressing her concerns. There was no indication that the officer treated the complainant differently based on her race or disability status.

The evidence proves that the alleged conduct did not occur.

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SUMMARY OF ALLEGATIONS #8-9: The officers behaved or spoke inappropriately.

CATEGORY OF CONDUCT: CUO

FINDING: IE

FINDINGS OF FACT: The complainant repeatedly stated that the officers treated her as if they did not care about her.

Department General Order 2.01.08, Public Courtesy, mandates that members follow and incorporate the principles of Procedural Justice into their professional work environment. These principles include giving members of the community a voice (opportunity to speak), fair and impartial treatment, respect, and providing a trustworthy process.

The officers denied the allegations. The officers stated that they were calm and attentive during the incident. One officer offered the complainant an ambulance to have medics assess her wellbeing. He was sympathetic and told the complainant that, while he did not see any visible injuries, he could not know what she was feeling inside. A second officer said that he was patient and attentive and listened to all the complainant's concerns. Both officers said that the complainant refused medical attention.

There were no independent witnesses or video footage, as the officers did not use their body-worn cameras.

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

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SUMMARY OF ALLEGATIONS # 1-2: The officers engaged in unwarranted action.

CATEGORY OF CONDUCT: UA

FINDING: PF

FINDINGS OF FACT: The complainant stated that the named officers provided her address to the suspect in an emergency protective order (EPO). The complainant stated that she did not tell the officers that the suspect did not know her address.

The named officers stated that they did not know the alleged suspect did not know the complainant's address and that the conditions in the order are dictated by a judicial officer. The named officers were not aware of an option to issue an EPO without the victim's address being on it.

SFPD documents showed that the policies and training on stalking investigations include a list of questions for officers to ask. The questions do not direct officers to ask whether a stalking suspect knows a victim's address. Additional documents showed that the complainant's address was placed on the EPO.

Under California law, police officers are not supposed to release the address of stalking victims to the suspect.

The policy and training provided to the officers did not sufficiently address this situation.

The evidence proves that the alleged conduct occurred but was justified by Department policy or procedures; however, the SFPD or DPA recommends that the policy or procedure be changed or modified.

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

CATEGORY OF CONDUCT: ND

FINDING: U

FINDINGS OF FACT: The complainant stated that while her children were in foster care, they were exposed to pornography. Child Protective Services (CPS) was notified of this but failed to take any action. She reported the matter to the police, and according to her, the case was assigned to the named officer for investigation. The complainant said she told the named officer what happened and gave him all the evidence, but the latter refused to believe her and refused to investigate the incident.

The named officer recalled having contact with the complainant when he was assigned to a prior abuse case involving the complainant's son at the hands of the complainant's husband. He said that the child made allegations of sexual abuse against his father, which included exposure to pornography, and that the complainant was possibly aware of the abuse. He said he talked to the child's foster parents and the assigned social worker several times. However, in the end, there was no evidence he could use to corroborate the claims. He said he documented his work in his Chronological Investigation Report (CIR). The named officer said he was unaware of the complainant's second report about her children's situation. He said it was not routed to his unit, and the earlier investigation he conducted was not tagged as a related case. He said the Department conducted only one investigation regarding the complainant's child being exposed to pornography. He said the complainant's second report was never assigned for investigation. The named officer acknowledged receiving additional materials from the complainant, such as an interview transcript and a video clip. He reviewed the materials and remembered asking the complainant for the entire recording instead of the incomplete video clip. He said the complainant refused to cooperate and became verbally abusive throughout their interactions. The named officer said he documented in his CIR his investigative steps after receiving the additional materials.

DPA obtained a copy of the named officer's CIR. The CIR supported the named officer's statement. It showed his investigation of the case and what he did after receiving additional materials from the complainant. The CIR showed that the named officer documented the materials he received from the complainant and provided an analysis of those materials.

The named officer reviewed the materials thoroughly and found that there was not enough evidence to support the complainant's claim that CPS allowed her children to be exposed to pornography.

The evidence proves that the conduct alleged did not occur.

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

CATEGORY OF CONDUCT:

FINDING: IO-1

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

Child Protective Services
P.O. Box 7988
San Francisco, CA 94120

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

CATEGORY OF CONDUCT: CUO

FINDING: IC/S

FINDINGS OF FACT: The complainant stated that the officer publicly mocked an arrested individual by making crying noises and gestures while arresting him. The officer's tone and behavior were inappropriate, causing the individual to feel embarrassed and humiliated.

The officer was supervising the team that arrested the individual. The officer admitted he made crying noises and gestures to stop the arrested individual from complaining and whining. The officer was frustrated that the arrested individual was lying about being hit by the arresting officers. He made crying noises and gestures to show the arrested individual that he was being childish. He believed that making crying noises would get the arrested individual. The officer said he was not trying to humiliate or shame the individual publicly.

Officers are required to treat individuals with courtesy and respect and not use harsh, profane, or uncivil language. The officer mocked the arrested individual during his arrest by making infant crying sounds and gestures. Although officers are permitted to use strategic verbal communication to control a subject, the individual was already in custody and physically compliant. The officer's behavior reflected discredit upon the Department.

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

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SUMMARY OF ALLEGATION # 2: The officer engaged in biased policing or discrimination.

CATEGORY OF CONDUCT: CUO

FINDING: U

FINDINGS OF FACT: The complainant stated that the officer targeted the complainant and was biased toward the arrested individual because of his ethnicity.

The officer denied engaging in biased policing. Although he spoke with the arrested individual in Spanish, he did not treat him differently. Additionally, the arrest was made based on another officer's observations of an apparent drug sale and not based on ethnicity.

Records showed that the arrest was made based on another officer's observations of an apparent drug sale. Body-worn camera footage captured the entire interaction between the officer and the arrested individual. Although the officer behaved rudely, there was no indication that the officer treated the individual differently based on race.

The evidence proves that the alleged conduct alleged did not occur.

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

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant was involved in a one-person vehicle collision whereby he collided with a tree. The named officer responded to the scene and conducted a traffic collision investigation and prepared a report. The named officer determined that the vehicle was inoperable and requested a vehicle tow through the Tow Desk. The complainant stated that a towing company, a company not permitted to tow vehicles for SFPD, responded to the scene and towed his vehicle to an unauthorized impound lot. He thereby incurred exuberant fees. The complainant stated that the named officer should not have allowed his vehicle to be towed by this company and subsequently sent to the unauthorized impound lot.

DPA consulted a Subject Matter Expert (SME) in SFPD Tow Policies and Procedures. The SME explained SFPD's policies and procedures, including an officer's duties on scene. The SME stated that per policy, if SFPD initiates a vehicle tow, such as the case here, an officer should call the request in through the Tow Desk and that the vehicle should have been towed by a permitted towing company and taken to Auto Return—the impound lot contracted with the City. While the latter did not occur here, the SME reviewed the available evidence and opined that the responding officer complied with his duties and obligations regarding the vehicle tow on-scene and that any misconduct could not be attributed to the officer.

Based on the available evidence and the testimony of the SME, DPA confirmed that the officer did not engage in misconduct and complied with his duties while on scene. DPA understands the complainant's frustrations as his vehicle should not have been impounded where the tow company impounded it, however, any irregularity that occurred by the tow company who responded to the scene was outside DPA's investigative jurisdiction.

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

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

CATEGORY OF CONDUCT: ND

FINDING: NF

FINDINGS OF FACT: The complainant spoke with the named officer—an officer who worked in towing permits in the Department—after he learned that his vehicle was improperly impounded. He stated that the named officer told him he would investigate the matter and then despite numerous attempts to contact him, he failed to respond.

The officer has left the Department and DPA was unable to interview him regarding the above allegation. Thus, DPA was unable to make a finding regarding this allegation.

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

CATEGORY OF CONDUCT: ND

FINDING: IO-1

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

Frankie Thomas
Tegsco LLC (SF Auto Return)
fthomas@tegscoco.com

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SUMMARY OF ALLEGATIONS #1-3: The officers failed to properly investigate.

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant stated officers failed to take a DNA swab on blood that was found in her vehicle that someone attempted to steal. In addition, she stated the officers did not lift fingerprints to identify the suspect.

The named officers stated they were not trained in collecting DNA from crime scenes and did not collect fingerprints because they did not observe latent prints. In addition, the named officers stated that they did not call Crime Scene Investigation (CSI) because they did not believe CSI would have responded to a property crime of this degree.

A subject matter expert on crime scene investigation stated any fingerprints lifted off a stolen vehicle would be questionable because vehicles are covered in fingerprints by many people and would not be likely to lead to the identification of a suspect. The expert stated that when the incident occurred, patrol officers were not trained in collecting DNA from crime scenes. If the patrol officers collected DNA before training, there would be a question if the DNA was collected correctly and not contaminated. In addition, the expert stated that due to the boundless reports of stolen vehicles with property damage, CSI would not respond to this type of call.

Department records document that the named officers responded to a call for a stolen/recovered vehicle.

Body-worn camera (BWC) footage showed the named officers inspecting the complainant's vehicle. The complainant directed the officers' attention to fingerprints on her vehicle. Officers #1 and #2 informed the complainant that the fingerprints were smudged and unusable. The complainant directed Officer #3 to blood on the driver's seat and asked if the blood could be swabbed for DNA. Officer #3 informed the complainant that he could not swab the blood and send it to a lab.

Department Notice 23-083 (Collection of DNA Evidence at Crime Scenes) provides training materials on properly collecting DNA evidence and became effective after the complainant's vehicle was recovered.

Due to the lack of training, the named officers did not violate Department policy by not collecting fingerprints or DNA from the crime scene. A Department policy has since become effective in addressing

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

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SUMMARY OF ALLEGATION #1: The officer engaged in unwarranted action.

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: Officers came to the complainant's home with a warrant to arrest a relative and search for evidence. The complainant stated that numerous officers, including tactical officers, were involved in conducting the search, which he said was embarrassing. He said involving a specialized unit in the search was excessive and unnecessary considering the circumstances.

The named officer was the primary investigator in charge of executing the arrest and search warrant, which was related to an attempted murder with a firearm. The officer said he requested the Tactical Detail's assistance for the search because they have extra training and equipment to effectively execute high-risk warrants. He said that because the case involved a serious and violent crime, he believed using the tactical unit was the safest course of action. He stated that his primary concern was for the safety of everyone involved.

Department records showed that officers, including those from the Tactical Detail, were acting on a valid arrest and search warrant. The search warrant pertained to a shooting incident with an unrecovered firearm involving a resident at the complainant's residence. An assessment matrix showed that the search would involve safety risks. Body-worn camera footage showed that numerous officers were involved in conducting the arrest and search. Officers used amplified sound to ask the individuals to come outside the home before the entered.

Based on the violent nature of the crime being investigated, it was reasonable for the officer to request the Tactical Detail's assistance with the arrest and search.

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

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SUMMARY OF ALLEGATION #2: The officer failed to properly care for, process, or book property.

CATEGORY OF CONDUCT: ND

FINDING: PC

FINDINGS OF FACT: The complainant said that officers seized his family member's car, phone, and safe. He said that none of the items were released to his relative when she was released from jail.

The named officer said that he properly cared for the property at issue. He explained that the car was towed and searched because there was evidence the car was used in a violent crime. The officer arranged for the car to be released about eight days after it was seized. The cell phone was released after being processed by the crime lab. He stated the safe was damaged because the warrant authorized them to look inside for firearms, ammunition, and related paraphernalia.

Department records showed that the officer only seized property that was listed on the warrant. A vehicle release notification was completed within eight days and a property receipt was issued for the cell phone.

Department General Order 6.15, Property Processing, states in part under "Returning Property at the District Station" that "[p]roperty may be returned to its owner if it is not contraband and cannot be connected to a crime."

The evidence showed that the named officer had cause to seize and hold the involved property as evidence. The property was released once it was processed and no longer needed as evidence.

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

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SUMMARY OF ALLEGATION #3: The officer intentionally damaged property.

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complainant said that his family member's safe was damaged by officers when they opened it.

The named officer obtained a search warrant that authorized a search for firearms, ammunition, and related paraphernalia. He instructed officers to open the safe because it might have contained firearms and ammunition. The safe was damaged during opening because they did not have the key. He documented the damage to the safe in the incident report as required.

Body-worn camera footage showed that officers seized a safe during the search. The footage also showed that the named officer asked a resident of the searched location if there was a key present to open the safe. Department records showed that a search warrant authorized the officers to open the safe. The incident report documented that officers damaged the safe when they forced it open because no key was available.

Department Notice 22-122 states in part "[o]ccasionally members may damage Department property or the property of another in the course of their duties. Property damage may be intentional (e.g., necessary while executing a search warrant... ."

The evidence showed that the officers were authorized to search inside the safe for guns and ammunition, even if it meant damaging the safe because the key was unavailable.

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

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

CATEGORY OF CONDUCT: CUO

FINDING: U

FINDINGS OF FACT: The complainant stated that the named officer acted arrogantly and rudely during the incident.

Body-worn camera footage did not show the named officer interacting with the complainant during this incident. The footage showed that the named officer briefly communicated with the complainant's relative. There was no indication that the officer acted inappropriately during the interaction.

The evidence proves that the alleged conduct did not occur.

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

CATEGORY OF CONDUCT: ND

FINDING: IE

FINDINGS OF FACT: The complainant reported being harassed and threatened by his roommate through his closed room door. After he exited his room to ask his roommate to stop, the roommate grabbed a knife, and other roommates had to intervene. The complainant told officers he felt unsafe around this individual and requested officer write a report because his landlord told him he needed a police report in order to obtain a restraining order. The officers did not write an incident report but gave the complainant a CAD number to be used when he filed a restraining order.

Evidence obtained and reviewed by DPA revealed that the named officers responded to the complainant's residence regarding the incident, a day after it occurred because complainant did not call for police assistance until the morning after the incident. Named Officer #1 inquired why the complainant waited a day to contact law enforcement. The complainant stated they felt unsafe calling on the day of the incident because the roommate was still in the house. After listening to the complainant explain the incident, Officer #1 thought, at best, there might be probable cause to believe that the roommate committed a misdemeanor brandishing offense and asked complainant if he was willing to sign a citizen's arrest form against his roommate, but the complainant adamantly refused, saying, "I am not interested in having him arrested. I just want a restraining order." Given that the complainant did not seek to arrest the roommate, the officers provided a CAD number and explained that this could be used to request a restraining order. Named Officer #2 generated the CAD number and provided it to the complainant. Named Officer #2 stated that the CAD is a legal document that summarizes what transpired during the call for service. Neither officer wrote an incident report, relying on the language in 5.04 that indicates a report is only necessary when a person requests a citizen's arrest, even if he later withdraws his request.

The body-worn cameras of the named officers show that Named Officer #1 spoke to the complainant regarding the details of the incident. The complainant told the officer that the roommate held a knife at his side while the two were in the kitchen. The roommate began yelling at the complainant and then approached him with the knife in his hand. Other roommates intervened to prevent the roommate from approaching further to the complainant. The roommate stood approximately five feet away from the complainant. Named Officer #1 explained that given the roommate was no longer at the residence and therefore unable to be interviewed, as well as being unable to ascertain his intentions with holding the knife, it was hard to assess whether a crime was committed. The complainant reiterated that he really

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wanted a report and a restraining order. Named Officer #2 provided the complainant with a CAD number, and both officers explained how the complainant could proceed with filing a restraining order with the information from the CAD.

Department General Order 2.01 General Rules of Conduct Rule 25 states that while on duty, members shall make all required written reports of crimes or incidents requiring police attention.

Department General Order 1.03 Duties of a Patrol Officer, Section I, 5(d), states that officers must “make written reports on crimes observed or brought to their attention that have not been previously reported. Book all property and evidence in their custody prior to reporting off-duty.”

However, Department General Order 5.04 Arrests by Private Person, only requires that a report be written if a person signs a Private Person’s Arrest or initially requests and arrest, but later withdraws the request.

Given conflict in the policies, and the officers’ doubt that probable cause to arrest for the crime of brandishing existed, there is insufficient evidence to support a misconduct or proper conduct finding.

SUMMARY OF ALLEGATION #: The complaint raises matters outside the DPA’s jurisdiction.<https://www.sanfranciscopolice.org/your-sfpd/policies/general-orders>

CATEGORY OF CONDUCT:

FINDING: IO-1/DEM

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

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

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

CATEGORY OF CONDUCT: CUO

FINDING: NF

FINDINGS OF FACT: The complainant stated that an officer in a police vehicle followed him without justification. He stated that the officer periodically jumped out of his vehicle and displayed intimidation tactics such as staring at the complainant and driving the police vehicle unnecessarily close to his body. The officer never confronted the complainant and eventually ceased following him as the complainant ignored the officer. The complainant could not identify the officer or otherwise provide any identifying information.

The complainant also stated that officers in this area routinely target and follow him without cause, but never initiate contact.

DPA was unable to identify the officer or locate any incident as described by the complainant. DPA is unable to ascertain whether any active and ongoing SFPD investigations are underway against the complainant warranting surveillance of him.

Thus, DPA was unable to make a finding based on the available evidence.

SUMMARY OF ALLEGATION # 2: The officer knowingly engaged in bias policing or discrimination.

CATEGORY OF CONDUCT: CUO

FINDING: NF

FINDINGS OF FACT: The complainant stated that officers continuously follow him because of his race.

As mentioned above, DPA could not locate any evidence suggesting that SFPD members followed the complainant or whether the complainant is the subject of an open and ongoing investigation.

Thus, DPA could not make a finding based on the available evidence.

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

CATEGORY OF CONDUCT: CUO

FINDING: U

FINDINGS OF FACT: The complainant (they/them/theirs) stated their parked vehicle was blocked by a patrol vehicle, and when they asked the named officers to move the vehicle, the named officers yelled unnecessarily, were dismissive, laughed, and threatened them with a citation.

Department records show that the named officers responded to a medical emergency involving a bloody patient found on the ground having a seizure.

Body-worn camera footage showed the named officers double-park their vehicle and assist an injured man on the sidewalk. The named officers were the initial first responders on the scene. Shortly after, the complainant asked the named officers to move their vehicle because they were blocked from leaving. Officer #1 informed the complainant that they were busy dealing with a medical emergency, and they would have to wait. The footage showed the complainant returning to their vehicle and honking their horn for an extended period. Members of the public gathered around the injured man became upset that the complainant was honking the horn and laughed. The named officers did not laugh. After a short time, the medics moved the injured man to an ambulance. The named officers then turned their attention to the complainant sitting in their car across the street. The complainant refused to comply when named officer #1 asked for their driver's license. Named officer #2 then informed the complainant that they would be arrested if they refused to provide their driver's license. Two sergeants arrived on the scene and spoke with the complainant. The complainant then presented their identification to the officers, and a citation was generated. Officer #2 informed the complainant that they were cited for misusing their vehicle's horn.

Department General Order 2.01 (General Rules of Conduct) states in the relevant part that officers shall treat the members of the public with courtesy and respect.

Body-worn camera footage did not show the named officers laughing at, yelling at, or threatening the complainant. The named officers remained calm and acted professionally in light of the complainant's behavior.

The evidence proves that the conduct alleged did not occur.

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

CATEGORY OF CONDUCT: CUO

FINDING: U

FINDINGS OF FACT: The complainant and co-complainant said the named officer used explicit language directed at the complainant.

The named officer denied the allegation.

Body-worn camera (BWC) footage was unavailable because the incident took place at the airport where BWCs are not currently worn by SFPD officers. The co-complainant provided cell phone video footage of the incident. The named officer was not heard using explicit language in the provided video. The cell phone video footage and independent witness statement showed that the named officer did not use explicit language during the incident.

An independent witness was identified pertaining to this incident. The independent witness heard the complainant and co-complainant use foul language directed at the named officer but denied hearing the named officer use any.

The evidence showed that the named officer did not use any explicit language when speaking with the complainant.

The evidence proves that the conduct alleged did not occur.

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SUMMARY OF ALLEGATION #2: The officer failed to comply with Department General Order 5.01

CATEGORY OF CONDUCT: UF

FINDING: PC

FINDINGS OF FACT: The complainant said the named officer used excessive force while trying to arrest him. The named officer bent the complainant's wrist excessively and held him in awkward uncomfortable positions. The complainant noted that he has physical limitations due to prior injuries and that this made it worse.

The named officer said he gave verbal commands to de-escalate the situation, but the complainant did not comply. The named officer did not observe any injuries or physical limitations of the complainant during the contact. The named officer used a control hold to restrain the complainant, who he alleged was behaving aggressively, and actively resisting arrest. The named officer noted that paramedics were called to the location, but the complainant refused medical treatment.

The co-complainant provided cell phone video footage of the incident. The video footage began with the complainant already handcuffed and detained by the named officer. The complainant continuously moved, and the named officer advised the complainant that moving made the handcuffs hurt worse. DPA obtained Bay Area Rapid Transportation's (BART) video footage which captured the entire incident. The BART video footage was consistent with the statement the named officer provided to DPA.

An independent witness said the complainant was not compliant when interacting with the officers and was pulling away from the named officer.

The evidence showed that the named officer used only control holds to effect a lawful detention. The use of force was proportionate and reasonable given the particular facts here. The named officer restrained the complainant using the minimum force necessary, which was in line with Department training and within Department policy.

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

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

COMPLAINT DATE: 06/12/2023

COMPLETION DATE: 01/30/2024

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SUMMARY OF ALLEGATION #3: The officer improperly used physical control.

CATEGORY OF CONDUCT: UF

FINDING: IE

FINDINGS OF FACT: The complainant said the named officer applied the handcuffs too tight on his left hand. The tight handcuff caused minor scratches to the inside wrist area and caused his left hand to go numb. Another officer later readjusted and loosened the handcuff on the complainant's left wrist.

The named officer stated there were no adjustments needed nor difficulties handcuffing the complainant. While handcuffing the complainant, the named officer made sure it was not too tight or cutting off circulation. The named officer made sure there was equal spacing between the handcuff and the complainant's wrist. The complainant did not say the handcuffs were too tight or asked to loosen the handcuffs. The named officer did not double lock the handcuffs because the complainant was fidgety and was concerned for their safety. Another officer arrived within a few minutes and double locked the handcuffs on the complainant.

The named officer admitted he could not immediately double lock the handcuffs on the complainant. However, there is insufficient evidence to determine whether they were too tight and in violation of Department General Order 5.01.

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

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COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 06/12/2023

COMPLETION DATE: 01/30/2024

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SUMMARY OF ALLEGATION #4: The officer made an arrest without cause.

CATEGORY OF CONDUCT: UA

FINDING: PC

FINDINGS OF FACT: The complainant alleged that the named officer arrested him without cause.

The named officer saw the complainant walk through the fare gates without paying. The named officer detained the complainant based on this violation. The complainant refused to provide his identification to the named officer for a citation and became aggressive. The named officer made the decision to detain the complainant and later cited him.

An independent witness observed the complainant leave the gates without paying.

DPA obtained BART video footage which captured the entire incident. The BART video footage was consistent with the statement the named officer and independent witness provided to DPA.

The evidence proved that the named officer observed the complainant violate 640(C)(1) of the California Penal Code.

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

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

COMPLAINT DATE: 06/12/2023

COMPLETION DATE: 01/30/2024

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SUMMARY OF ALLEGATION #5: The officer used unnecessary or excessive force.

CATEGORY OF CONDUCT: UF

FINDING: IE

FINDINGS OF FACT: The co-complainant said she was recording the incident between the complainant and another officer. The co-complainant alleged that the named officer arrived on location and pushed, or chest bumped the co-complainant.

The named officer observed the co-complainant trying to video record while standing closely behind the officers. She asked the co-complainant to move to another location and informed her it was okay to video record. The named officer did not feel it was safe for the other officers on scene because of the co-complainant's demeanor and her position. The co-complainant was asked to move to another location for officer safety. The co-complainant said she was not going to move. The named officer denied pushing or bumping the co-complainant and said there was no contact made between the named officer and co-complainant.

An independent witness said the co-complainant was too close to the officers with her behavior and hostility. He did not see the named officer push the co-complainant.

BWC footage was unavailable because the incident happened at the airport.

DPA obtained BART video footage of the incident and the co-complainant's cell phone video footage of the incident. The BART video footage and the cell phone footage did not prove there was contact between the named officer and co-complainant but was not definitive enough to prove there was no contact.

Based on the video footage provided by the co-complainant and BART, it is unclear whether there was any physical contact between the named officer and co-complainant.

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

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COMPLAINT SUMMARY REPORT**

COMPLAINT DATE: 06/12/2023

COMPLETION DATE: 01/30/2024

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SUMMARY OF ALLEGATION #6: The officer failed to comply with Department General Order 5.07

CATEGORY OF CONDUCT: ND

FINDING: U

FINDINGS OF FACT: The co-complainant said she was video recording the incident between the complainant and another officer. The named officer tried to prevent the co-complainant from video recording the incident by standing in the way and blocking the camera.

The named officer said she observed the co-complainant standing closely behind the officers trying to video record. She asked the co-complainant to move to another location and informed her it was okay to video record. The named officer did not feel it was safe for the other officers on scene because of the co-complainant's demeanor and her position. The named officer stated the complainant was asked to move due to officer safety and denied that she was trying to obstruct her filming.

DPA obtained BART's video footage and the co-complainant's cell phone footage of the incident. BART's and co-complainant's video footage were consistent with the statement the named officer provided to DPA.

The evidence showed that the named officer did not do anything to obstruct the co-complainant from video recording the incident. The named officer's actions were initiated due to the safety of officers and bystanders.

The evidence proves that the conduct alleged did not occur.

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

COMPLAINT DATE: 10/30/2023

COMPLETION DATE: 01/02/2024

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SUMMARY OF ALLEGATION #1: The officer engaged in unwarranted action.

CATEGORY OF CONDUCT: UA

FINDING: U

FINDINGS OF FACT: The complainant said she went to a police station, hoping to sleep there because she believed government spies were watching and following her. The named officer listened to her concerns and attempted to find her a safe place to sleep, but her efforts were unsuccessful. She said the officer should have kept her safe, but instead allowed spies to take her to a hospital.

The named officer said the elderly complainant came to a police station and made statements that were not based in reality. The complainant seemed intent on staying in the station's lobby overnight. The named officer offered to contact the complainant's friends or family for help and attempted to arrange for a shelter bed, but the complainant refused all services and offers of assistance. The named officer contacted medical personnel as a last resort out of concern for the complainant's health and safety. Paramedics arrived and determined that the complainant was in an altered mental state and transported her to a hospital for further treatment and evaluation.

Body-worn camera footage showed that medical personnel arrived at a police station, spoke with the complainant, and advised the named officer that the complainant was in an altered mental state. The footage showed the complainant was placed on a gurney and loaded into an ambulance for transport.

The evidence proves that the alleged conduct did not occur.

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

COMPLAINT DATE: 12/15/2023

COMPLETION DATE: 01/02/2024

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SUMMARY OF ALLEGATION #1: The complainant raises matters not rationally within DPA's jurisdiction.

CATEGORY OF CONDUCT:

FINDING: IO-2

FINDINGS OF FACT: The complainant raises matters not rationally within DPA's jurisdiction.

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

COMPLAINT DATE: 12/15/2023

COMPLETION DATE: 01/02/2024

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SUMMARY OF ALLEGATIONS # 1: This complaint raises matters not rationally within DPA's jurisdiction.

CATEGORY OF CONDUCT:

FINDING: IO-2

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

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

COMPLAINT DATE: 12/21/2023

COMPLETION DATE: 01/10/2024

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

CATEGORY OF CONDUCT:

FINDING: IO-1/IAD

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

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

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

COMPLAINT DATE: 12/29/2023

COMPLETION DATE: 01/02/2024

PAGE# 1 of 1

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

CATEGORY OF CONDUCT:

FINDING: Referral/DEM

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

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

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

COMPLAINT DATE: 01/03/2024

COMPLETION DATE: 01/10/2024

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

CATEGORY OF CONDUCT:

FINDING: IO-2

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