ALAMEDA POLICE DEPARTMENT
PERSONNEL COMPLAINT INVESTIGATION SUMMARY

TO: Chief of Police

Date: March 5, 2015

FROM: Sergeant Wayland Gee S-1 WG S-1

Complaint Log # 15-02

Personnel Involved: (Name and Signature)

Report # IC #162 / 011115

1. Officer Stephen Mitchell #83 SRM
3. _____
2. Officer [redacted] [redacted]
4. _____

Date/Time/Location of Incident: 011115 / 1930 - 2030, [redacted] Alameda

Date/Time of Complaint: 020215 / 1020

Complainant: Sergeant Erik Klaus S-14
Name/Race/Sex/Age

Allegations: 1. Violation of Policy 205.2.1 - General Conduct
2. Violation of Policy 205.2.6(d) - Performance of Duty
3. Violation of Policy 340.3.5(i) - Falsification of Work-Related Records
4. Violation of Policy 340.3.5(q) - Failure to Take Reasonable Action

Allegations Involve: Race ☐ Sex ☐ Religion ☐ Ethnicity ☐ Unnecessary Force ☐

Recommended Findings (Policy 1020.7)

Officer Mitchell: Allegations 1, 2, 3 & 4 - SUSTAINED

[redacted]

Division/Watch Commander Concurrence: YES ☒ NO ☐ See Memo ☐

Division/Watch Commander Recommendations (Policy 340.5.1) None.

Have Personnel files been checked for similar incidents? YES ☒ NO ☐

Investigation Received/Approved by:

Chief of Police: [signature] C-1 Date: 03/11/15

Captain - Bureau of Services: [signature] C3 Date: 3/10/15

Captain - Bureau of Operations: [signature] C-2 Date: 3/10/15

Watch Commander: [signature] Date: 03/12/15

Inspectional Services: Sergeant Wayland Gee S-1 Date: 030515

Complainant Advised of Investigative Findings By Letter (Copy Attached)

By (Staff Officer): N/A Date/Time: _____

APD 213 (03/2013)

City of Alameda

Interdepartmental Memorandum

Date: March 5, 2015

To: Paul J. Rolleri
Chief of Police

From: Sergeant Wayland Gee WG 5-1
Inspectional Services

RE: Administrative Investigation IA 15-02

Dates/Times Occurred: January 11, 2015 / 1930 – 2030

Date/Time Reported: February 2, 2015 / 1020

Location of Incident: [redacted]
Alameda, CA 94501

Complainant: Sergeant Erik Klaus

Allegations:

205.2.1 GENERAL CONDUCT: *Police officers and employees of the Department hold a trust from the public which is different from that of any other public employee. Consequently, the public expects police officers and Department employees to live up to the same standards of conduct they are charged with enforcing. Therefore, members and employees shall conduct themselves at all times in such a manner as to reflect favorably upon themselves, the City, the Department and the police profession…*

205.2.6(d) Performance of Duty: *All members and employees shall perform their duties as required or directed by law, Department rule, policy or primary directive, lawful order of a superior officer, or by lawful order relayed from a superior by an employee of the same or lesser rank. All lawful duties required by competent authority shall be*

performed promptly as directed, notwithstanding the general assignment of duties and responsibilities.

340.3 CONDUCT WHICH MAY RESULT IN DISCIPLINE
340.3.5(i) The falsification of any work-related records, the making of misleading entries or statements with the intent to deceive, or the willful and unauthorized destruction and/or mutilation of any department record, book, paper or document.

340.3.5(q) Failure to take reasonable action while on-duty and when required by law, statute, resolution or approved department practices or procedures.

Subject Employees: Officer Stephen Mitchell, #83
Officer [redacted]

Witnesses: [redacted]

Alameda, CA 94501

Attorney: Alison Berry-Wilkinson
Berry Wilkinson Law Group
4040 Civic Center Drive, Suite 200
San Rafael, CA 94903
415- 259-6638

Connected Report: Incident Card #162, 011115

Summary:

On January 12, 2015, Sergeant Klaus responded to [redacted] where [redacted] was arrested for domestic violence per report #15-0204. Sergeant Klaus learned from [redacted] that she had been contacted by officers at that location the previous night. [redacted] claimed that the officers informed her of an outstanding arrest warrant, but did not arrest her. [redacted] was subsequently allowed to stay at the scene, despite the outstanding warrant and a restraining order.

Sergeant Klaus checked for recent calls at that location to verify what [redacted] had claimed. He confirmed that Officer Mitchell and Officer [redacted] responded the previous

night, January 11, 2015, per incident #162. Sergeant Klaus researched that call and then decided to meet with each of the officers to conduct a training session regarding warrant arrests. When Sergeant Klaus met with Officer Mitchell, Officer Mitchell divulged that he falsely wrote on the incident card that [redacted] was not at the scene. Sergeant Klaus reported this information and initiated a formal investigation. Officer Mitchell was subsequently placed on administrative leave pending the internal investigation.

Investigation:

Chief Rolleri and Lieutenant Simmons advised me of the circumstances surrounding this incident on February 2, 2015, and I opened a formal investigation. Prior to this, I only had limited knowledge of the circumstances that I happened to learn from Sergeant Klaus when he came to me seeking advice regarding obtaining patrol vehicle MDT records in relation to this incident. At the time, Sergeant Klaus was not aware yet of the false statement that was written on the incident card.

After talking to Chief Rolleri and Lieutenant Simmons, I met with Sergeant Klaus later that afternoon and obtained further details from him about the incident. I asked Sergeant Klaus to complete a Personnel Complaint Report. I obtained copies of the incident card and Communications Center recordings for incident #162 on January 11, 2015 from Sergeant Klaus. Sergeant Klaus also gave me copies of [redacted] warrant paperwork from her arrest per report #15-0204 on January 12, 2015.

I then obtained the call history details for incident #162 on January 11, 2015, Officer Mitchell's unit history for the same day, and a copy of report #15-0204. I checked for any DAR recordings associated with this incident, but found none from Officer Mitchell or Officer [redacted].

Call History

I reviewed the details of incident #162 for January 11, 2015. According to the Incident History printout, this incident began at 18:49:16 when [redacted] called 911 to report that he was involved in an argument / disturbance with [redacted] at [redacted] reported that it did not get physical and he was walking to the police department. The premise history showed numerous hazards, including one message which indicated that [redacted] had a restraining order against [redacted] with an expiration date of July 27, 2017. Supplemental dispatch entries a few seconds later indicated that there were no weapons involved in the incident. The entries addressed the restraining order and listed [redacted] clothing description. The call was then held until 19:30:52 when [redacted] called back stating that his mother was yelling at him and [redacted] was now back at the residence and indicated that his mother was possibly intoxicated. The call was held a few more minutes until it was dispatched at 19:38:59 to Officer Mitchell and Officer [redacted]. Officer Mitchell was the primary officer and was

the first to arrive on scene at 19:41:42. Officer Mitchell indicated that no further assistance was necessary at 19:47:34. Officer [redacted] apparently continued to the scene and arrived at 19:51:07. Officer Mitchell cleared the call with an incident card at 20:24:45. Refer to Incident History printout for further details.

Communications Center Recordings

I listened to the Communications Center phone and dispatch recordings for incident #162 on January 11, 2015. The recordings were consistent with the details in the Incident History printout. I observed that during the dispatch of the call to Officer Mitchell and Officer [redacted] the dispatcher stated, *"...RP is [redacted] He called earlier. He was en route 924. He had a 415 with [redacted] who he has an RO against..."* Both officers verbally acknowledged this information at 19:39:56.

I did not find any dispatch recordings in which either Officer Mitchell or Officer [redacted] requested a warrant check on [redacted] Refer to Communication Center recordings for further details.

Warrant Abstract

[redacted] warrant abstract indicated a BART Police Services misdemeanor warrant for violation of 481.1(a) PC, Fraudulent Fare Media. The bail was $5000, and the warrant was issued on December 19, 2014, well before this incident date of January 11, 2015.

Incident Card

I examined a copy of Incident Card #162 for January 11, 2015. Officer Mitchell's badge number, 83, was listed on the card, indicating that he was the author. [redacted] was listed as the RP and [redacted] was listed as the OP. No other names were listed on the card. The narrative on the card stated, *"R/P called to report a verbal altercation with O/P. O/P was GOA upon my arrival."* The only disposition box checked at the bottom of the card was the box for GOA. Refer to the copy of Incident Card #162 for further details.

The original Incident Card was pulled from Records files and replaced with a copy. The original was retained in Inspectional Services for the duration of this investigation.

Unit History

Officer Mitchell was assigned the beat designator "4L33" on January 11, 2015. I examined his unit history for that day and observed that incident #162 was his last call on this shift. Officer Mitchell had one call at the beginning of his shift which generated a

battery report. According to the Automated Reporting System, this report, #15-0185, was last submitted by Officer Mitchell for supervisor approval at 18:20:09, well before incident #162 was dispatched to him. The remainder of Officer Mitchell's unit history was unremarkable. Refer to Unit History printout for further details.

MDT Transaction Log

I obtained Officer Mitchell's patrol vehicle information from his Unit History for January 11, 2015, and requested an MDT transaction log from IT personnel. The transactions I requested were from 1930 to 2100 hours.

I examined the log and found that at 19:57:37, while Officer Mitchell was on scene at [redacted] a NAMS query was entered on the MDT for [redacted]. This was followed by a Wants/Warrants query for [redacted] at 19:58:11. The Wants/Warrants query returned with one active misdemeanor warrant and two court probation entries for [redacted]. In addition, the California Restraining and Protective Order System returned with an active restraining order, indicating [redacted] as the restrained person and [redacted] as the protected person. Refer to MDT Transaction Log for further details.

Training Records

I requested records from Personnel & Training and the Field Training Program commander. From these records, I learned that Officer Mitchell attended the Los Angeles Police Department Academy, graduating on November 2, 2012, and Officer [redacted]. Both of these academies are certified by the Commission on Peace Officer Standards and Training. As such, they are required to provide training in 43 separate learning domains. Learning Domain 15, Laws of Arrest, covers warrants and warrant arrests. Academy students are required to receive a minimum of 12 hours of instruction specifically on Learning Domain 15.

Officer Mitchell and Officer [redacted] each completed the Alameda Police Department Field Training Program before working as solo patrol officers. Their Field Training Guides indicate that they received training in laws of arrest, warrants, and warrant arrests during weeks two, three, and six. They, as well as their Field Training Officers, acknowledged the training by initialing and dating the relevant areas in their Field Training Guides. Refer to Regular Basic Course Minimum Hourly Requirements and Field Training Guide excerpts for further details.

[redacted] Interview

On February 6, 2015, I interviewed [redacted] at the Santa Rita Jail. The interview was

DAR recorded. In summary, [redacted] confirmed that she was arrested on the morning of January 12, 2015 for a warrant and for violation of a restraining order. [redacted] said that she was also contacted hours earlier by the police, during the evening hours of January 11, 2015, in front of [redacted] residence at [redacted] [redacted] said that during that first contact, the officers were helpful and provided her with advice regarding homeless shelters. [redacted] said only one of the officers talked to her most of the time. [redacted] did not know if she had prior contact with either of these two officers, but she felt that they were aware that there was a restraining order against her.

I showed CalPhoto images of each officer and asked [redacted] if she recognized either officer from the January 11 contact. [redacted] did not want the officers to get into any trouble and said she did not recognize either image. [redacted] said there were no distinguishing characteristics between the two officers.

[redacted] said the officer told her that she had an outstanding warrant, but said that he did not care about it. [redacted] said she did not know how the officer knew she had a warrant. She did not remember providing her full name and birthdate, nor did she remember either officer checking for warrants on their radio or vehicle computer. [redacted] said the officer then left it up to her to either find shelter elsewhere immediately or stay the night before leaving. [redacted] believed the officer did not arrest her and allowed her to stay because he felt compassionate about her situation. Refer to [redacted] DAR recorded interview for further details.

After shutting off the DAR and while I was waiting to be released from the jail interview room, [redacted] admitted to me that she did not remember other details of January 11 because she was high at the time. [redacted] then told me that she knew the officer who spoke to her had blue eyes. I examined the CalPhoto images and told [redacted] that neither of the officers had blue eyes. [redacted] disagreed and picked up the image of Officer Mitchell and examined it closely. [redacted] then told me she did not know which officer spoke to her.

Sergeant Klaus Interview

I interviewed Sergeant Klaus on February 10, 2015. The interview was DAR recorded. In summary, Sergeant Klaus stated that during the early morning of January 12, 2015, he went to the scene of a domestic violence arrest by [redacted] and [redacted] at [redacted] Sergeant Klaus said that as the arrestee, [redacted] was being escorted into a patrol vehicle, she asked him if they could just let her go and added that the two officers that contacted her less than twelve hours earlier on the previous night, let her go. [redacted] told Sergeant Klaus that the two officers advised her that she had an outstanding $5000 warrant for her arrest, but they did not arrest her. Sergeant Klaus said that up until that point, [redacted] and [redacted] arrested [redacted] for domestic violence only, and it was not known to them yet that [redacted] had an outstanding misdemeanor warrant. Sergeant Klaus said that this information angered [redacted] and [redacted] when they realized that the domestic violence may

have been avoided if [redacted] had been arrested the previous night for the warrant.

Sergeant Klaus said that he did not have a chance to verify with [redacted] at the scene what [redacted] had told him. Sergeant Klaus said he started to look into the matter by confirming that [redacted] still had an active warrant in the Automated Warrant System. He also found that there was a restraining order prohibiting [redacted] from contacting the father of her child at [redacted] Sergeant Klaus then checked dispatch records for previous calls to the [redacted] location. Sergeant Klaus found that Officer Mitchell and Officer [redacted] responded to that location the previous night, January 11, 2015, for incident #162, a disturbance call. Sergeant Klaus requested the dispatch recordings of this incident to get further details and to confirm that the officers were advised of [redacted] restraining order. Sergeant Klaus said he learned from the dispatch recordings that neither Officer Mitchel nor Officer [redacted] requested a warrants check of [redacted] over the radio, but they were advised during the dispatched call that [redacted] had an active restraining order on file. Sergeant Klaus said he then pulled the incident card for the call. Sergeant Klaus said he looked over the incident card to verify the date and time of the incident and that it was Officer Mitchell's incident card. Sergeant Klaus said he read the narrative and saw that one of the listed parties in the disturbance was "GOA", however, it did not register to him as anything unusual at that time. Sergeant Klaus said that he still wasn't sure whether [redacted] had lied to him in an attempt to get out of her arrest, and he wanted to give the officers the benefit of the doubt. Sergeant Klaus said that because of the inexperience of the two officers, he felt that they may have misunderstood the procedures regarding arrest warrants and their discretion. Sergeant Klaus said he intended to talk to each of the officers and conduct training sessions with them. Sergeant Klaus said that due to the officers' different days off and his scheduled vacation, he was not able to conduct any training sessions with the officers for a couple weeks.

Sergeant Klaus said he called Officer [redacted] into his office on January 26, 2015 and questioned him about this incident. Sergeant Klaus said Officer [redacted] told him that he responded to the call from the west end of town and did not remember whether any restraining order information was dispatched with the call. Officer [redacted] said that when he arrived, Officer Mitchell was talking to [redacted] and [redacted]. [redacted] was upset because she was transient with drug abuse problems. Sergeant Klaus said Officer [redacted] told him that Officer Mitchell had him stay with [redacted] and [redacted] while Officer Mitchell went to his patrol vehicle and checked [redacted] for warrants on his MDT. Officer [redacted] then went over to Officer Mitchell's patrol vehicle a few minutes later, had a discussion with Officer Mitchell, and learned that [redacted] had a $5000 misdemeanor arrest warrant. Officer [redacted] said he did not remember Officer Mitchell mentioning the restraining order or whether it had come up in his computer check. Sergeant Klaus said Officer [redacted] told him that he and Officer Mitchell discussed the warrant and felt that it might be in [redacted] best interest to send her on her way with information regarding women's shelters and substance abuse programs in the area. Sergeant Klaus said that when Officer [redacted] was confronted with the dangers of leaving [redacted] at the scene, he was visibly upset with himself and his part in that decision making process. Sergeant Klaus said Officer [redacted] recognized his mistake

and assured him that he would seek advice from an FTO or sergeant if he had any questions in the future.

Sergeant Klaus said he then spoke to Officer Mitchell about this incident on January 31, 2015. Sergeant Klaus said Officer Mitchell told him that he contacted both [redacted] and [redacted] when he arrived. Officer Mitchell did not recall whether any restraining order information was given during the dispatch of the call. Sergeant Klaus said he asked Officer Mitchell whether there was an arrest warrant for [redacted] and Officer Mitchell confirmed that he found a $5000 misdemeanor arrest warrant for [redacted] while checking on his MDT. Sergeant Klaus said Officer Mitchell explained that he thought that he had some discretion on whether to make the warrant arrest. Officer Mitchell said he discussed the warrant with Officer [redacted] and they decided it was in [redacted] best interest to send her on her way with some social services referrals. Sergeant Klaus said he started to explain to Officer Mitchell the department's procedures regarding warrant arrests when Officer Mitchell interrupted him saying, "I wrote on the IC that she wasn't there to make it cleaner." Sergeant Klaus said that he was surprised by the comment because he did not mention anything about the incident card, nor did he have a copy of it with him when talking to Officer Mitchell. Sergeant Klaus said Officer Mitchell's comment was unsolicited and he recognized that Officer Mitchell may have just divulged an issue regarding truthfulness and honesty. Sergeant Klaus said he stopped and redirected the conversation back to warrant arrest procedures without asking Officer Mitchell any questions about his comment or the incident card. Sergeant Klaus said that when Officer Mitchell was presented with the dangers of leaving [redacted] at the scene, Officer Mitchell was more concerned that Officer [redacted] would get into trouble and told Sergeant Klaus that Officer [redacted] shouldn't get into any trouble because it was his call. Sergeant Klaus said he then told Officer Mitchell that he was going to look into the matter further and instructed him not to say anything about the matter to anyone. Sergeant Klaus said he also returned to Officer [redacted] and told him not to discuss the matter with anyone. Sergeant Klaus then reported the incident to his lieutenant.

Sergeant Klaus said that during his talk with each officer, neither Officer [redacted] nor Officer Mitchell provided a clear understanding of when they could release someone with an active warrant without making an arrest. Sergeant Klaus said that he did not have any indication from Officer [redacted] that he had any influence or involvement in what Officer Mitchell eventually wrote on the incident card.

Sergeant Klaus said that during the current watch period, since September 21, 2014, Officer [redacted] and Officer Mitchell have worked on a shift that overlaps his. Sergeant Klaus worked with Officer [redacted] approximately 15 hours per week, and with Officer Mitchell, approximately 10 hours per week, during this watch period. Sergeant Klaus is aware that Officer [redacted] and Officer Mitchell are both very new officers, still within their probationary periods. Sergeant Klaus said that based on his observations of their field performance and work product, Officer [redacted] is progressing satisfactorily and is approximately where he should be in his professional development, but Officer Mitchell is not. Sergeant Klaus said that he believes Officer Mitchell needs to improve his

organizational skills, investigative skills, and decision making skills.

Sergeant Klaus added that he believed the officers made their decision not to arrest [redacted] out of compassion for her situation because she was homeless and dealing with substance abuse. Refer to Sergeant Klaus' DAR recorded interview for further details.

[redacted] Interview

After I left numerous messages with [redacted] mother by phone and in person at their residence to have her son contact me, [redacted] finally called and left a message late in the evening on February 12, 2015. I called [redacted] on February 17, 2015 and DAR recorded the conversation. [redacted] was suspicious and evasive during the conversation. He sounded very lethargic and was not forthcoming with information. In summary, [redacted] said that he called the police on the evening of January 11, 2015 because he was having an argument with [redacted]. [redacted] said that he was inside his residence when the officers first arrived so he did not know which officer arrived first. [redacted] said he went outside to talk to the officers for some time. [redacted] said [redacted] was not outside and he did not remember getting her. [redacted] confirmed that the officers did eventually talk to [redacted] and told her that they were not trying to arrest her, but just trying to get her some help. [redacted] said the officers told [redacted] that she could leave instead of being arrested. [redacted] also confirmed that there was a restraining order in place against [redacted] and he believed the officers talked to [redacted] about it. [redacted] said he is unsure of whether the officers talked to [redacted] about her warrant. [redacted] said the officers eventually left without arresting [redacted]. [redacted] said he did not remember which officer did the talking and he was reluctant to identify the officers in photographs. Refer to [redacted] DAR recorded interview for further details.

Officer [redacted] Interview

Officer [redacted] was given notice of this Administrative Investigation as a Subject Officer. He was interviewed on February 27, 2015 with his legal representative, Alison Berry-Wilkinson, present. In summary, Officer [redacted] stated that he was hired by the Alameda Police Department in [redacted] Officer [redacted] confirmed that he received instruction regarding laws of arrest and warrants in the academy. Officer [redacted] said he completed the Alameda Police Department Field Training Program before working as a solo patrol officer and confirmed that he received further training on laws of arrest, warrants, and warrant arrests during field training.

Officer [redacted] said that on January 11, 2015, he just finished a call at the Bladium Sports & Fitness Club when he was dispatched as a cover officer for a disturbance call at [redacted] He said that it was loud and windy outside of the Bladium when he received the call and this prevented him from hearing the complete call details. He said he did not remember hearing anything during the dispatch regarding a restraining order.

Officer [redacted] said he was familiar with the location on [redacted] and did not request a re-broadcast of the details or call in to dispatch for them. Officer [redacted] also said that the MDT in his patrol vehicle was malfunctioning and shutting down intermittently so he was not able to read any details of the call.

Officer [redacted] said that when he arrived on [redacted], he joined Officer Mitchell who was speaking with [redacted] outside on the north side of the residence. He said [redacted] told them that he got into an argument with [redacted] because of her involvement in prostitution and heroin use. Officer [redacted] said [redacted] was concerned for [redacted] safety and wanted her arrested for her outstanding warrant. Officer [redacted] said he and Officer Mitchell discussed the situation and Officer Mitchell checked [redacted] for warrants on his patrol vehicle MDT. Officer [redacted] said Officer Mitchell then told him that [redacted] had an active misdemeanor warrant, but he did not say anything about an active restraining order. Officer [redacted] said they discussed the situation further, both believing that they had discretion with the misdemeanor warrant. Officer [redacted] said they considered arresting [redacted] but Officer Mitchell then decided it was better to counsel [redacted] and provide her with referral resource material rather than arrest her. Officer [redacted] said he agreed with Officer Mitchell's decision and went along with it because this was Officer Mitchell's call. Officer [redacted] said [redacted] went inside the residence and brought [redacted] outside to them. He said they talked to [redacted] for ten or fifteen minutes, telling her that they knew about her warrant and wanted to help her. Officer [redacted] said they gave referral information and pamphlets to [redacted] advised her to clear up her warrant, and then cleared the call, leaving [redacted] at the scene.

Officer [redacted] said he was not present when Officer Mitchell completed the incident card for this call. Officer [redacted] said he did not provide any input or have any knowledge of what was to be written on the incident card. Officer [redacted] said he did not learn of what was written on the incident card until several weeks later, on the day before Sergeant Klaus spoke to him about this incident. He explained that he had heard rumors that this incident was going to be looked into, so he called Officer Mitchell. He said that during the phone conversation, Officer Mitchell told him what he wrote on the incident card. Officer [redacted] said he was stunned by the information and their phone conversation quickly ended.

Officer [redacted] said that Sergeant Klaus talked to him about the incident the next day [redacted] Officer [redacted] said Sergeant Klaus told him not to discuss the incident with anybody because it was being looked into further. Officer [redacted] added that he did not report Officer Mitchell immediately because he was stunned by the information and because he heard that the matter was already being investigated. Refer to Officer [redacted] DAR recorded interview for further details.

Officer Mitchell Interview

Officer Mitchell was given notice of this Administrative Investigation when he was placed on Administrative Leave status on February 5, 2015. He was later given notice for an interview as a Subject Officer. I interviewed Officer Mitchell on February 27, 2015, with his legal representative, Alison Berry-Wilkinson, present. In summary, Officer Mitchell told me that he started in law enforcement with the Los Angeles Police Department (LAPD), attending their police academy in 2012 and then going through their Field Training Program. He acknowledged learning about the laws of arrest, warrants, and warrant arrests in the academy, as well as receiving additional training on those topics in the LAPD Field Training Program. Officer Mitchell said that he resigned from the LAPD before completing the Field Training Program and was hired by the Alameda Police Department in December, 2013. He said he completed the Alameda Police Department Field Training Program and received further training on warrants and warrant arrests. Officer Mitchell said that the practice regarding arrest warrants at the LAPD was different than at the Alameda Police Department. He explained that at the LAPD, arrests were always made on felony warrants, but discretion was used on misdemeanor warrants. In addition, arrests were only made on LAPD misdemeanor warrants. Subjects stopped with outside agency misdemeanor warrants had to be picked up in the field by the outside agency or released. Officer Mitchell said at the Alameda Police Department, he recently learned as a result of this incident, that in general, he did not have discretion in regards to arrest warrants as he had thought.

Officer Mitchell said he did not review any materials in preparation for the interview, but he remembered the details of the incident very well. He added that he did not use his DAR to record the incident and did not know whether Officer [redacted] recorded any part of this incident with his DAR.

Officer Mitchell said that on January 11, 2015, he was dispatched to a disturbance at the [redacted] address. He only heard that there was a verbal dispute and did not hear anything about a restraining order. He knew that the occupants on [redacted] had a history of arguing. When he read the details of the call on his patrol vehicle MDT, he only read the initial call details and did not read the premise history entries or supplemental dispatch entries. Officer Mitchell said that as a result, he did not know about a restraining order until Sergeant Klaus talked to him about the incident several weeks later.

Officer Mitchell said that when he arrived on [redacted], he contacted [redacted] mother first outside of the residence and she knew nothing about a disturbance, so she had [redacted] come outside. Officer Mitchell said [redacted] told him that [redacted] was in the back room and there was no fighting or arguing. Officer Mitchell said he then learned from [redacted] that he was concerned about [redacted] drug problem and her involvement in prostitution in Oakland. Officer Mitchell said [redacted] expressed that he wanted [redacted] arrested to get her off the streets so she could get clean. Officer Mitchell said he told [redacted] that he could not arrest [redacted] without observing any prostitution activity and

[redacted] then told him that [redacted] had an active warrant for her arrest. Officer Mitchell said he obtained [redacted] identifying information from [redacted] and checked her for warrants on his patrol vehicle MDT. He found that [redacted] had an active misdemeanor warrant for a fraudulent bus pass and did not read any further information. He said he did not look for or see any probation status information or restraining order information. He said he thought the warrant was minor and he could possibly offer [redacted] some help. Officer Mitchell said Officer [redacted] had arrived on scene and he discussed [redacted] warrant with him. He said they both felt that they had discretion with the misdemeanor warrant. Officer Mitchell said he decided to give [redacted] some brochures and see if she was willing to enter a facility because he thought that it was a more permanent solution than arresting her. Officer Mitchell said that [redacted] came outside and he told her about her warrant and offered help. He said [redacted] accepted the referral resources. Officer Mitchell said he cleared the call without arresting [redacted] after giving her the referral pamphlets. Officer Mitchell said that with what he knew at the time, there was no need for [redacted] to leave the residence and he saw no problem with letting her stay.

Officer Mitchell then explained the writing on the incident card by stating, *"When I was filling out my IC card, I didn't quite know how to put it all down. Like, I didn't want to write a huge story so in my mind, I'm thinking, okay it's just, in my mind, I'm thinking okay, I'm just gonna, it's like an advice call, so in my mind, I'm thinking, I don't know if it's that big of a deal…I just put her if she wasn't there since I spoke with her at the very end. I don't know, I mean it was the most simplest way at the time that I could think of…just leaving her out of it in a way, and just putting down 'gave them advice' or 'him advice' and that she happened to be gone. Looking back now, I can see how it looks like I'm trying to hide something, when in fact, I was just lazy, in a sense, and not trying to fill out exactly what happened. I see how it looks, I mean, this whole department is based on integrity and by me putting down that she wasn't there when she was, y'know I'm lying right there. It wasn't my intent to try and hide anything. When Officer Klaus asked me about what happened, I told him exactly what happened, and told him about the IC card before he even asked about the IC card because it's just what happened. So, at the time, that's what I put. I didn't try to deceive anyone about the call or anything like that. It just seemed like the simplest answer at the time."*

Officer Mitchell said he did not speak to anyone about this incident until Officer [redacted] called him several weeks later and told him that he heard this incident was being looked into for some reason. Officer Mitchell said he told Officer [redacted] that he probably made a mistake by writing that [redacted] was GOA on the incident card. Officer Mitchell said Officer [redacted] remarked before ending their phone conversation, *"Oh well, it's okay."* Officer Mitchell said that Sergeant Klaus contacted him a day or two later to discuss the incident. Officer Mitchell said he then volunteered what he had written on the incident card. He said Sergeant Klaus did not question him about the incident card before or after he divulged what he had written. Officer Mitchell said Sergeant Klaus did not say this matter would be investigated further, but he advised him he would write something up and have him sign it. Officer Mitchell said he has not seen or signed any documents related to this incident.

I then showed Officer Mitchell a copy of Incident Card #162 from January 11, 2015. Officer Mitchell said he recognized the incident card and verified that it was only his writing on the incident card. Officer Mitchell said he completed the incident card sometime after leaving the scene on [redacted] He said he did not discuss the incident card with Officer [redacted] before completing it.

The interview concluded with Officer Mitchell adding, *"...during this call, I wasn't trying to hide what I did, wasn't trying to be deceitful. It does appear that way on this incident card, but it was never my intent to hide anything that I had done. It may have been just rush doing it, lazy, I suppose, but I wasn't trying to hide anything that I had done....I realize that I did was very wrong. I've learned a lot from this incident, but other than that, I mean, you just gotta...I made that decision to write that. I could see that what I did was wrong and uh, I'm willing to accept any consequences that...that I made."* Officer Mitchell said that he has not done anything similar in the past. Refer to Officer Mitchell's DAR recorded interview for further details.

Findings:

1. Violation of Policy 205.2.1 GENERAL CONDUCT:

Officer [redacted] stated in his interview that he had no input or knowledge of what was to be written in Incident Card #162 for January 11, 2015. Officer Mitchell corroborated this in his interview, stating that he did not speak to Officer [redacted] about the incident card before he completed it. The incident card had only Officer Mitchell's handwriting on it.

Officer Mitchell admitted that he lied when he wrote on the incident card that [redacted] was GOA. [redacted] was in fact, at the scene, and contacted by the officers. Whether this was done out of expediency or laziness, as Officer Mitchell alluded to in his interview, or done to lend support to the fact that [redacted] was not arrested even though she had an outstanding warrant, it was still untruthful.

In regards to Officer [redacted] the allegation of violating general conduct, specifically violating Policy 340.3.5(i) (Falsification of Work-Related Records), is **UNFOUNDED**.

In regards to Officer Mitchell, the allegation of violating general conduct, specifically violating Policy 340.3.5(i) (Falsification of Work-Related Records), is **SUSTAINED**.

2. Violation of Policy 205.2.6(d) Performance of Duty:

Officer [redacted] and Officer Mitchell both stated that at the time of this incident, they believed they had discretion in regards to misdemeanor warrants. [redacted] Officer Mitchell attributed this belief to the different practices he was exposed to while in field training at the Los Angeles Police Department, prior to coming to the Alameda Police Department. Each admitted to receiving instruction and training on laws of arrest, warrants, and warrant arrests during

their academies and in the Alameda Police Department Field Training Program. Their academy instruction and field training taught them that warrants are judge issued commands to peace officers to take a named person into custody and bring them before a judge or magistrate.

As a result of their erroneous belief, the officers did not perform their duties as directed by law and departmental practice. The officers failed to arrest [redacted], knowing that she had an outstanding misdemeanor arrest warrant.

For both Officer [redacted] and Officer Mitchell, the allegation of violating performance of duty, specifically in regards to Policy 340.3.5(q) (Failure to Take Reasonable Action), is **SUSTAINED**.

Recommendation:

Neither Officer [redacted] nor Officer Mitchell has any prior disciplinary history. Sergeant Klaus started individual training sessions with Officer [redacted] and Officer Mitchell regarding their understanding of warrant arrests. The training sessions precipitated this internal investigation and they were cut short due to the investigation. It is recommended that Sergeant Klaus complete and document the training session with Officer [redacted].

Officer Mitchell's conduct in this incident did not reflect favorably upon himself or the Alameda Police Department. His deliberate untruthfulness as a police officer brought dishonor to the law enforcement profession. As a result of his actions, Officer Mitchell's name must now be disclosed to the Alameda County District Attorney's Office for placement on their Brady List. All future prosecutions of cases involving Officer Mitchell as an arresting officer or witness officer will be highly scrutinized, if not dismissed, because of his undermined credibility and potential to be easily impeached as a witness. This will continue to bring discredit to the Alameda Police Department as long as Officer Mitchell remains an employee.

Officer Mitchell's probationary period as an employee ends in December, 2015. It is recommended that Officer Mitchell be released from probation immediately and separated from service with the Alameda Police Department.

Referred to Disciplinary Review Panel

Attachments:
Personnel Complaint Report
Incident History
Warrant Abstract
Incident Card

Unit History
MDT Transaction Log
Regular Basic Course Minimum Hourly Requirements
Field Training Guide excerpts

WG 5-1