EXECUTIVE SUMMARY
This memorandum outlines the administrative inquiry into the actions of officers involved in the September 17, 2021, arrest of Claimant [redacted] in Napa Police Department (NPD) case # NPD21-003996. [redacted] subsequently filed a claim against the City of Napa related to the use of force and an injury he reportedly sustained during the arrest. This administrative investigation comports with both NPD policy §1012 and Government Code §7286(b)(21). After a thorough review of related documents and materials, I determined the actions, use of force, and rendering of aid by NPD personnel in this case were proportional to actual resistance, necessary, lawful, objectively reasonable, and within policy (§ 300, et seq.).

Officer Brandon Smith, Sergeant Garrett Smith, and Officer Brandon Browne were exonerated of any wrongdoing.

PARTIES INVOLVED
COMPLAINANT: [redacted]
ACCUSED: Officer Brandon Smith, Sergeant Garrett Smith, Officer Brandon Browne
WITNESSES/INVOLVED: Sergeant Pete Piersig, Officer Nathan Kistner, Officer Tony Martignoni

ALLEGATIONS
Excessive Use of Force (NPD §300) and Failure to Render Medical Aid (NPD §306).

INVESTIGATION
My investigation consisted of the background of complaint, materials reviewed, summary of event, authority to enter premises, de-escalation techniques, use of force, tactics & techniques used to effect arrest, and rendering of medical aid.

BACKGROUND:
On January 04, 2022, the City of Napa received claim # 22-01 filed by [redacted] alleging personnel with the Napa Police Department (NPD) broke his arm.
On January 13, 2022, Assistant City Attorney David C. Jones, Chief Jennifer Gonzales and I, Captain Gary Pitkin, discussed the claim.

MATERIALS REVIEWED
On Thursday, January 20, 2022, I met with Captain Fabio Rodriguez (NPD) and briefed him on the claim. Captain Rodriguez and I then reviewed the entirety of the incident report and supporting documentation available in I/LEADS under case # NPD21-003996; the CAD card; and policies §300, et seq., related to the use of force and rendering medical aid and §1012 - Personnel Complaints.

Additionally, Captain Rodriguez and I reviewed Body Worn Camera (BWC) footage from the following officers involved in this incident:
- Sergeant (then Lead Officer) Garrett Smith: GS-1 BWC of Arrest
- Officer Brandon Browne: BB-1 (multiple videos)
- Officer Brandon Smith: BS-1 BWC Footage
- Officer Tony Martignoni: TM-1 BWC Footage
- Sergeant Pete Piersig: PP-1
- Officer Nate Kistner: Axon Body 3 Video 2021-09-17 1054

SUMMARY OF EVENT
On September 17, 2021, at approximately 0947 hours, Napa Police Officers Brandon Browne (2X22) and Brandon Smith (2X2) were dispatched to an “Unwanted Guest” at the Best Western, 100 Soscol Avenue in Napa. On the same date, at approximately 0955 hours, Officer Nathan Kistner (2X1) was dispatched as a 3rd officer to the same event.

On arrival, hotel management requested the Napa Police Department (NPD) remove the occupant of room 227 from the premises. The occupant was identified by hotel management as [REDACTED], who was known to NPD officers from prior police contacts and was known to be on felony and misdemeanor probation with a search clause.

Officers unsuccessfully attempted to contact [REDACTED] via telephone and knocking on his motel room door. [REDACTED] hung up when called, then refused to pick up subsequent phone calls, and refused to answer his door when officers knocked & announced their presence.

[REDACTED] was known to have a firearm registered to him, have a history of unstable mental behavior, and had been the prior subject of an NPD SWAT “barricaded subject” call out where Central Nervous System (CNS) gas had been deployed to safely effect the arrest of [REDACTED]
At this time, officers had probable cause to arrest [REDACTED] for trespassing in violation of Penal Code (PC) 602(O) (misdemeanor), violating terms and conditions of his felony and misdemeanor probation orders in violation of PC 1203.2 (felony and misdemeanor), and delaying/resisting an officer in violation of PC 148(A) (misdemeanor). After conferring with Sergeant (then-Lead Officer) Garrett Smith and exhausting reasonable efforts, Officers formulated a plan to breach and hold the hotel room door and give commands to [REDACTED] in an effort to secure his cooperation. Upon doing so, [REDACTED] remained defiant and noncompliant.

After [REDACTED] refused to cooperate, Officers entered the hotel room and employed an NPD-approved handcuffing technique to safely arrest [REDACTED] handcuff him, and remove him from the premises. While employing the handcuffing technique, [REDACTED] reportedly resisted Officer B. Smith and Sergeant G. Smith’s physical efforts to handcuff him. Both Officer B. Smith and Sgt. G. Smith used strength and technique to overcome [REDACTED] resistance, during which time [REDACTED] right arm was reportedly heard to pop and resistance in that arm immediately ceased.

Officers handcuffed [REDACTED] and immediately summoned medical aid “Code 3.” Napa Fire Department arrived on scene, evaluated [REDACTED] and medically cleared him.

At approximately 1122 hours, after being medically cleared by NFD, Officer B. Browne transported [REDACTED] to the Napa County Department of Corrections (NCDC) for booking related to the aforementioned offenses. During the transport, and while awaiting booking, [REDACTED] complained to Officer B. Browne of pain in his right arm.

At approximately 1136 hours, Officer B. Browne left NCDC and transported [REDACTED] to the Queen of the Valley Medical Center (QVMC) for higher level medical treatment.

At approximately 1617 hours, after [REDACTED] was medically cleared, Officer B. Browne transported him from QVMC to NCDC, where [REDACTED] was booked.

ANALYSIS:
During the review of materials, emphasis was focused on the following areas.

AUTHORITY TO ENTER PREMISES
- Officers relied on their authority to enter the hotel room to conduct a probation search of [REDACTED] who was on active probation for felony stalking (PC 660.4) and misdemeanor offenses of violating a protective order (PC 138.7).
• Had probable cause to arrest [redacted] for PC 148 - delaying a peace officer in the performance of their duties, a misdemeanor; and PC 1203.2 - violation of terms & conditions of probation for refusing to obey lawful orders of a peace officer, a misdemeanor.

• Acted at the request of property management to remove and arrest [redacted] from the hotel room and premises for PC 602(O)(2) - trespassing, a misdemeanor.

DE-ESCALATION TECHNIQUES (NPD §300.3.6)
• Hotel Management’s requests for Claimant [redacted] to vacate the premises.
• In depth pre-event discussions with hotel management confirming their desire to have [redacted] arrested and removed from the premises for PC 602(O)(2), were aware that their property may be damaged and force may have to be used against [redacted] to accomplish the legitimate law enforcement objective.
• Confirmed [redacted] identity, probation status with search terms, history including prior a standoff with NPD requiring the use of our Special Weapons and Tactics (SWAT) Team and deployment of chemical munitions (“gas”) to successfully resolve, and that [redacted] had a handgun registered to him.
• Were aware of [redacted], mental health status and used time and distance to create a plan and attempt contact with [redacted].
• Attempted telephone contact with [redacted], who hung up on Officer Browne after he identified himself as being a part of NPD. [redacted] refused to answer subsequent calls from Officer Browne.
• Requested our Mental Health Specialist, [redacted], attempt telephone contact with [redacted].
• Knocked on [redacted] hotel door in an unsuccessful effort to gain compliance and initiate dialogue.
• Formulated a plan with Sergeant G. Smith and Sergeant P. Piersig using a “Contact Team” with officers assigned to carry a shield, lethal cover, less lethal (beanbag shotguns) and two officers assigned to handcuff [redacted].
• Knocked on the door a second time and gave verbal commands to no avail.
• Forced entry into the hotel room after being denied entry and held at the front door using time and verbal commands in an unsuccessful effort to negotiate with, and gain compliance from, [redacted].
• The officer giving commands clearly instructed [redacted] that force may be used if he failed to comply and gave him reasonable time to comply.

USE OF FORCE (NPD §300, et seq.)
BWC videos show Sergeant G. Smith and Officer B. Smith approach [redacted] as he remained noncompliant while seated on a couch. Sergeant G. Smith and Officer B. Smith each
took control of one of arms and initiated a team handcuffing technique both approved and taught by NPD.

Based on the information outlined in the reports, and footage available from the involved officers’ BWC videos, both Officer B. Smith and Sergeant G. Smith use a reasonable and necessary amount of force to move arms behind his back for handcuffing. Videos appear to support Officer B. Smith’s account that tensed up and physically resisted Officers’ attempts to move his arms to the rear so he could be handcuffed.

TACTICS & TECHNIQUES USED TO EFFECT ARREST (§300.3.1)

On the same date, we requested Lead Officer and NPD Defensive Tactics & Handcuffing Instructor Marcus Martinez review Officer Martignoni’s BWC video (TM-1) in our presence.

Lead Officer Martinez is a Use of Force Subject Matter Expert (UOF/SME). After reviewing the BWC video, Lead Officer Martinez opined that the handcuffing techniques employed by Officer B. Smith and Sergeant G. Smith are departmentally approved and taught by NPD. Lead Officer M. Martinez further opined that the application of the techniques and amount of force used, based on what was depicted in the BWC footage, was appropriate and proportional to effect an arrest given the totality of the circumstances.

MEDICAL AID (NPD §300.6)

In reviewing BWC footage, almost immediately after Officers sensed may have been injured, they immediately requested medical aid via the police radio. Upon being handcuffed, made no mention of pain in his right arm. Officer B. Browne felt right arm, which was covered by a sleeve and felt no obvious break or fracture.

On arrival, Napa Fire Department Paramedic assessed and the possibility that he sustained an injury to his right arm. made no complaint of pain to Paramedic. Paramedic conducted a physical assessment of and did not report any findings of injury. Paramedic used a blood pressure cuff on right bicep area to check blood pressure with no complaint.

On January 25, 2022, I spoke with . reviewed NFD’s incident reports related to event # E210906342 and confirmed NFD assessed and obtained vitals including blood pressure from his right arm during which time the denied any medical or traumatic complaints. NFD’s incident report was not released to us because of HIPPA concerns. The report is available to the City Attorney’s Office, if requested.
OPINIONS & CONCLUSIONS
After reviewing related incident reports, BWC videos, details from the call for service, related policies, and seeking an opinion of a current department Subject Matter Expert (SME), I determined the force used by Officer B. Smith and Sergeant G. Smith was proportional to actual resistance, necessary, lawful, objectively reasonable, and within policy (§ 300, et seq.).

I further determined officers requested medical aid immediately upon sensing a potential fracture or bone break. Napa Fire responded and medically evaluated [redacted] who made no medical or traumatic complaints. Later, when [redacted] complained of pain, Officer B. Browne transported [redacted] to QVMC for medical care. Accordingly, medical aid was requested and rendered as required by policy (§ 300.6).

FINDINGS
Officer Brandon Smith  Use of Force  NPD policy §300, et seq.  Exonerated
Sergeant Garrett Smith  Use of Force  NPD policy §300, et seq.  Exonerated
Officer Brandon Browne  Medical Aid  NPD Policy §300.6  Exonerated

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CLAIM AGAINST CITY OF NAPA

Please return to: City Clerk, 955 School Street, Napa, CA 94559 / Tel. (707)927-9500 Fax: (707)927-9534

CLAIM FORMS MUST BE FILLED OUT COMPLETELY. DO NOT LEAVE ANY BLANK SPACES. ADD ADDITIONAL SHEETS AS NECESSARY.

1. CLAIMANT’S NAME (PRINT): [Redacted]

2. CLAIMANT’S ADDRESS: [Redacted]
   (Street or P.O.Box Number)
   (City, State, Zip Code)

3. HOME PHONE: [Redacted] WORK PHONE: [Redacted]

   IF YOUR CLAIM IS FOR UNDER $10,000, STATE THE TOTAL ESTIMATED AMOUNT HERE $______, AND SET FORTH THE CALCULATIONS SUPPORTING THE TOTAL AMOUNT OF YOUR CLAIM.

   IF YOUR TOTAL CLAIM IS ESTIMATED AT $10,000 OR MORE, CHECK THE BOX INDICATING WHETHER YOUR CLAIM WOULD BE □ A LIMITED CIVIL CASE ($25,000 OR LESS), OR □ AN UNLIMITED CIVIL CASE.

4. ADDRESS TO WHICH NOTICES ARE TO BE SENT: [Redacted]
   (STREET or P.O. BOX NUMBER)
   (CITY, STATE, ZIP CODE)

5. DATE OF INCIDENT: 9/1/21 TIME OF INCIDENT: [Redacted]
   LOCATION OF INCIDENT: 100 Soscol Ave, Napa 94559

6. DESCRIBE THE INCIDENT OR ACCIDENT INCLUDING YOUR REASON FOR BELIEVING THE CITY IS LIABLE FOR YOUR DAMAGES: The city police exercised poor judgement and broke my arm while putting me under arrest.

7. DESCRIBE ALL INJURIES AND DAMAGES WHICH YOU BELIEVE YOU HAVE INCURRED AS A RESULT OF THE INCIDENT: I want $100,000.00 for pain and suffering, otherwise I will seek $1,000,000.00 or other.

8. NAME(S) OF PUBLIC EMPLOYEE(S) CAUSING THE DAMAGES YOU ARE CLAIMING (IF APPLICABLE): Officer Browne

9. WITNESS: Police bodycam footage 233-7451
   (NAME) (ADDRESS) (TELEPHONE) (SIGNATURE)
   [Redacted]

Any person who, with intent to defraud, presents any false or fraudulent claim may be punished by imprisonment, fine, or both.

Note: Most claims must be filed within 180 days of incident. See Government Code Section 900 et seq.

Revised 08/11/2015
January 6, 2022


On January 4, 2022 via hand delivery the City of Napa received the above-referenced claim. Claim documents received by the City include an original one-page City of Napa Claim Form, a copy of which is attached.

On the Claim Form, you requested correspondence to be sent to an alternate address, [REDACTED] If you are represented by counsel, please have your attorney contact us to provide direction regarding future notices to you. Until we receive that communication, we will continue to mail all correspondence to your address at [REDACTED]

The City has transmitted the claim documents, for review by the City’s claims administrator, George Hills Company, Inc. If you wish to contact the claims administrator directly, the relevant contact information is:

[REDACTED]

Sincerely,

[Signature]

Justine Leuthold
Administrative Support Associate
I declare that I am employed in the City and County of Napa, California, over the age of 18 years and am not a party to the within action. My business address is 955 School Street, Napa, CA 94559. I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence, which is placed for collection, is deposited with the United States Postal Service on the same day it is placed for collection.

On January 06, 2022, I served the following documents:

Letter dated January 6, 2022; Acknowledging receipt of claim of [redacted] against the City of Napa Claim No. 22-01.

on the parties in this matter by having sealed and placed the envelope with first class mailed postage, fully prepaid, for collection and mailing on this date in accordance with the ordinary business practices and addressed as follows:

I declare under penalty of perjury, pursuant to the laws of the State of California, that the foregoing is true and correct, and that this Declaration was executed on January 06, 2022, in Napa, California.

[Signature]

Mistine Leuthold
Administrative Support Associate