Case #: 1701-1572

Incident Data

1340 Treat Blvd Walnut Creek, CALIFORNIA 94597

Location Description:	Paid Area
Date/Time Occurrence (From):	01/28/2017 19:40:00
Date/Time Occurrence (To):	01/28/2017 19:47:00
Date/Time Reported:	01/28/2017 19:40:00
Report Queue:	Zone 2C
Zone:	Zone 2C
Report Type:	INITIAL
Case Summary:	At PHS I responded to a report of a fight. Upon my arrival I detained and involved party who was determined to be a victim. The victim did not wish to pursue charges. Sergeant Rafanan advised he used force on the suspect. The suspect was arrested for the above listed charges. The suspect had a broken Ulna bone which he received a splint for at Martinez Hospital. The suspect was then booked at Martinez Detention facility.
UCR Status:	All Other
PC 293 Sex Crime:	No
Evidence Collected:	No
Incident Routng:	PATROL OFFICER TO FOLLOW UP/VIDEO REQUESTED
Disposition:	CLEARED BY ARREST
CHP 180:	No
Domestic Violence:	No
Gang Related:	No
Hate Crime:	No
Serialized Property:	No

Case #: 1701-1572

Suspect Data (1)

S[redacted], J[redacted] M[redacted]

Address:	[redacted]
City:	Concord
State:	CALIFORNIA
Zip:	94520
County:	2-Contra Costa
Suspect Number:	1
Arrested:	Yes
Related Offenses:	PC 148 (A)(1) OBSTRUCT/RESIST/ETC PUBLIC/PEACE OFFICER/EMERGENCY MED TECH (M) 26 All Other Offenses PC 148 (A)(1); PC 243.3 BATTERY ON TRANSPORTATION PERSONNEL/PASSENGER (M) 09 Other Assaults PC 243.3
Sex:	MALE
Date of Birth:	06/26/1991
Age (Age From):	25
Race:	Black
Ethnicity:	NON-HISPANIC
Complexion:	MEDIUM
Height:	64
Weight:	175
Build:	MEDIUM
Eye Color:	BROWN
Hair Color:	BLACK
Hair Style:	WAVY
Hair Length:	SHORT
Facial Hair:	GOATEE
Glasses Type:	NONE
License/ID State:	CALIFORNIA
License/ID Number:	[redacted]
SSN:	[redacted]
Resident Status:	RESIDENT
Marital Status:	UNKNOWN

Case #: 1701-1572

Victim Data (1)

D[redacted], N[redacted] J

Address:	[redacted]
City:	Martinez
State:	CALIFORNIA
Victm Number:	1
Zip:	94553
County:	2-Contra Costa
Victim Type:	PERSON / INDIVIDUAL (NOT A LAW ENFORCEMENT OFFICER)
Domestic Violence:	No
Related Offenses:	PC 243.3 BATTERY ON TRANSPORTATION PERSONNEL/PASSENGER (M) 09 Other Assaults PC 243.3
Relationship To Offender:	S[redacted], Stranger - Unknown
Injuries:	Apparent Minor Injury
Sex:	MALE
Date of Birth:	12/16/1971
Age (Age From):	45
Race:	White
Ethnicity:	NON-HISPANIC
Complexion:	LIGHT
Height:	58
Weight:	165
Build:	LIGHT
Eye Color:	HAZEL
Hair Color:	BROWN
Hair Style:	STRAIGHT
Hair Length:	SHORT
Facial Hair:	OTHER / UNKNOWN
Glasses:	OTHER / UNKNOWN
License/ID State:	CALIFORNIA
License/ID Number:	[redacted]
Resident:	RESIDENT
Marital Status:	UNKNOWN
Clothing:	Black Security jacket
Phone 1 Type:	Cell
Phone 1:	[redacted]

Case #: 1701-1572

Charge (2)

PC 243.3 BATTERY ON TRANSPORTATION PERSONNEL/PASSENGER (M) 09 Other Assaults PC 243.3

Victim to Suspect Ratio:	SINGLE VICTIM / SINGLE OFFENDER
UCR Class:	OTHER ASSAULTS
UCR Sub Class:	N/A
UCR Hierarchy:	90000
Bias Motivation Crime:	NONE
Counts:	1
Severity:	MISDEMEANOR
Attempted/Completed:	Completed
Time Of Day:	Night
Offense Location:	AIR / BUS / TRAIN TERMINAL
Location Type:	RAILROAD
Offender Suspected of Using:	Not Applicable
Cargo Theft:	No
Weapon Used:	Personal Weapon (hands, feet, teeth, etc.)
Premise:	MISCELLANEOUS
Crime Scene Processed:	No
Latent Prints:	No
Photos:	Yes

PC 148 (A)(1) OBSTRUCT/RESIST/ETC PUBLIC/PEACE OFFICER/EMERGENCY MED TECH (M) 26 All Other Offenses PC 148 (A)(1)

Victim to Suspect Ratio:	SINGLE VICTIM / SINGLE OFFENDER
UCR Class:	ALL OTHER OFFENSES
UCR Sub Class:	N/A
UCR Hierarchy:	89500
Bias Motivation Crime:	NONE
Counts:	1
Severity:	MISDEMEANOR
Attempted/Completed:	Completed
Time Of Day:	Night
Offense Location:	AIR / BUS / TRAIN TERMINAL
Location Type:	RAILROAD
Offender Suspected of Using:	Not Applicable
Cargo Theft:	No
Premise:	MISCELLANEOUS
Crime Scene Processed:	No
Latent Prints:	No
Photos:	Yes

Case #: 1701-1572

Property (2)

Mens bicycle

Jurisdiction:	Contra Costa BART
Related To:	S[redacted] J[redacted] M[redacted]
Evidence Obtained:	No
Related Offense:	PC 243.3 BATTERY ON TRANSPORTATION PERSONNEL/PASSENGER (M) 09 Other Assaults PC 243.3
Make:	Schwinn
Quantity:	1.0000
Serial:	[redacted]
Property Value:	100
Color:	Green
Type:	Bicycles
Property Class:	BICYCLES
Property Status:	SAFEKEEPING
Secured Location:	WCS PD OFFICE

backpack containing a cell phone

Jurisdiction:	Contra Costa BART
Related To:	S[redacted] J[redacted] M[redacted]
Evidence Obtained:	No
Related Offense:	PC 148 (A)(1) OBSTRUCT/RESIST/ETC PUBLIC/PEACE OFFICER/EMERGENCY MED TECH (M) 26 All Other Offenses PC 148 (A)(1)
Make:	Unknown
Model:	unknown
Quantity:	1.0000
Property Value:	0
Color:	Purple, White
Type:	MISC
Property Class:	OTHER
Property Status:	STOLEN
Secured Location:	other

Narrative Data (1)

Bahaduri, Hashmat 060720 **01/29/2017**

Initial Narrative Prepared By: H. Bahaduri #245

MVR Activated.

Video Request:

01/28/17 1920-1950 hours.

Pleasant Hill BART Station

Concourse, Both Platforms, Any stairwell areas in paid area.

Victim D[redacted] Injuries: Cut upper lip and bruising/swelling to lower lip.

Arrestee S[redacted] Injuries: Left arm bruised and Left leg bruised. Left arm (Ulna bone) is fractured per Martinez Hospital DR. R. Miller.

Evidence: Seven photos of D[redacted] were taken of his injuries

Four photos of S[redacted] were taken of his injuries

All photos were uploaded to evidence.com.

On 01/28/17 at about 1941 hours, I was on patrol driving a black and white fully marked BART Police vehicle #1008. I was dressed in full BART Police uniform. BART Police Dispatch advised via radio of a fight in progress at the Pleasant Hill BART Station. Involved parties were described as a White male who was later identified as N[redacted] J[redacted] D[redacted], (wearing a security guard jacket) and a Black male later identified as J[redacted] S[redacted], (wearing a fur hat, black jacket, jeans, and had a green bicycle). Sergeant N. Rafanan S44 advised that he was on scene and requested that the responding officers "Step up my cover". I responded from South bound Highway 680 near Walnut Creek, code 3, emergency lights and siren activated.

Upon my arrival, I observed Sergeant Rafanan holding S[redacted] down on the ground on the stairwell leading up towards platform 1, Pittsburg side. Sergeant Rafanan requested that I detain D[redacted] who was in front of the Station Agents booth. D[redacted] was identified to me by his California Commercial Driver License. I conducted a records check via BART Police Dispatch. D[redacted] was clear of warrants. I searched D[redacted] for weapons with negative results.

I asked D[redacted] what happened. In summary D[redacted] told me the following.

D[redacted] told me that he had to use the restroom before he boarded a train. At the Pleasant Hill BART stations there are two restrooms, one is closer to the east side of the station and the second is closer to the west side. If the restroom is occupied on the exterior of the door it reads “occupied,” in red letters. If there is no one in the restroom it reads “vacant,” in green letters. In this case, D[redacted] approached the west restroom and initially tried to enter, but the door was locked. S[redacted] was in the restroom and became agitated after D[redacted] tried to enter.

D[redacted] then approached the women’s restroom which is closer to the east side. D[redacted] girlfriend T[redacted] C[redacted] R[redacted] was in the restroom, the door was locked. D[redacted] asked T[redacted] to open the door and let him in so that he could use the restroom and get to work. D[redacted] entered the restroom and a short time later he could hear a male voice outside of the women’s restroom door say, "I ain't no punk, I'm waiting for him to come out."

When D[redacted] exited the restroom, he observed S[redacted] standing outside. D[redacted] believes S[redacted] was in the men’s restroom that he initially tried to enter on the east side. S[redacted] pushed D[redacted] with both hands causing D[redacted] to fall to the ground. After D[redacted] got up off the ground, D[redacted] attempted to get away from S[redacted] so he ran up the stairs towards the Pittsburg platform. While on the stairs S[redacted] elbowed D[redacted] in the face cutting his upper lip and bruising/swelling to his lower lip. D[redacted] did not

elaborate any further and kept his statement vague.

D[redacted] kept apologizing and stating this incident was his fault and that he should have been more patient with the restrooms. D[redacted] repeated that he did not wish to press charges and wished to leave so that he could get to work on time. I advised D[redacted] that he was a victim of a crime and I could call his supervisor so that he would not get in trouble. D[redacted] refused to cooperate or provide me with any further details. D[redacted] refused medical attention and left the scene.

Sergeant Rafanan advised me S[redacted] was under arrest for 148(a)(1)PC- Resisting, Obstructing, Delaying a Peace Officer and 243.3PC- Battery on Transportation Passenger. Sergeant Rafanan also told me that he observed S[redacted] punch D[redacted] multiple times while on the stairwell of the platform. Sergeant Rafanan advised me he ordered S[redacted] loudly to stop three times, S[redacted] did not stop. Sergeant Rafanan struck S[redacted] on his thigh twice with his baton as S[redacted] continued to strike and stay mounted on top of D[redacted]. It was later discovered that S[redacted] had been struck in the in the arm. Refer to Sgt. Rafanan's supplement for further information.

I read S[redacted] the Miranda admonition verbatim from my BART issued blue book. S[redacted] initially stated he did not wish to speak to me. S[redacted] then spontaneously stated, "I defended my property". I asked S[redacted] if he was willing to talk to me. S[redacted] said, "Yea". S[redacted] told me the following: S[redacted] and D[redacted] talked "Shit" to each other. The two exchanged "Bad words" and in the midst of it D[redacted] picked up S[redacted] bicycle and threw it in order to damage it. D[redacted] did not throw the bicycle at S[redacted]. D[redacted] then ran away. S[redacted] was angry and followed D[redacted] to hit him. While on the stairwell S[redacted] wrestled D[redacted] down on to the stairs. The Sergeant yelled at S[redacted] to stop, but S[redacted] threw a downward punch while mounted on top of D[redacted]. S[redacted] struck D[redacted] in the face one time with a closed right fist then S[redacted] stopped. S[redacted] was hit two times with the baton by the Sergeant. S[redacted] again stated he was protecting his property. S[redacted] later admitted that he needed to take an anger management class. Refer to my video recorded statement for further details.

I did not observe any damage to S[redacted] bicycle. S[redacted] was provided a property receipt for his bicycle which was held at Walnut Creek BART Police substation.

During the incident S[redacted] left his backpack on the Pittsburg platform. Sergeant Rafanan was unable to locate the backpack. S[redacted] refused to make a theft report regarding his backpack. S[redacted] refused to tell me the contents or value of the backpack. S[redacted] later mentioned he was angry because his phone was in his backpack.

S[redacted] refused to be transported to the Hospital by AMR 15 for his injuries. I signed an "Against medical advice" form on S[redacted] behalf with his permission since he was handcuffed. I did not remove S[redacted] handcuffs due to his recent violent confrontation. I relocated S[redacted] to the rear of my patrol car and transported him to the Martinez Detention Facility.

I transported S[redacted] to Martinez Jail where he was rejected by the Nurse. I took S[redacted] to Martinez County Hospital Emergency room. Dr. R. Miller ordered an x ray which revealed S[redacted] had a broken left ulna bone. S[redacted] received a splint. S[redacted] was cleared and booked at Martinez Jail without incident.

Case #: 1701-1572

Officer Data (2)

Reporting Officer:	Bahaduri, Hashmat (060720)	01/29/2017 03:10:00
Approving Officer:	Rafanan, Neil (062067)	01/30/2017 00:45:00

Contra Costa BART

Case #: 1701-1572

Incident Data

1365 Treat Blvd Walnut Creek, CALIFORNIA 94597

Location Description:	Paid Area
Date/Time Occurrence (From):	01/28/2017 19:40:00
Date/Time Occurrence (To):	01/28/2017 19:40:00
Date/Time Reported:	01/28/2017 19:40:00
Report Queue:	Zone 2C
Zone:	Zone 2C
Report Type:	SUPPLEMENT
Case Summary:	This report is a supplemental to Officer Bahaduri's original. See narrative.
UCR Status:	Cleared
Evidence Collected:	No
Incident Routng:	ROUTE TO DETECTIVES FOR FOLLOW UP OR FILING/VIDEO REQUESTED
Disposition:	CLEARED BY ARREST
CHP 180:	No
Domestic Violence:	No
Gang Related:	No
Hate Crime:	No
Serialized Property:	No

Suspect Data (1)

S[redacted] J[redacted] M[redacted]

City:	Concord
State:	CALIFORNIA
Zip:	94520
County:	2-Contra Costa
Suspect Number:	1
Arrested:	1
Related Offenses:	PC 243.3 BATTERY ON TRANSPORTATION PERSONNEL/PASSENGER (M) 09 Other Assaults PC 243.3
Sex:	MALE
Age (Age From):	Unknown
Race:	Black
Ethnicity:	NON-HISPANIC
Complexion:	MEDIUM
Build:	LIGHT
Eye Color:	BROWN
Hair Color:	BLACK
Hair Style:	AFRO
Hair Length:	SHORT
Facial Hair:	GOATEE
Glasses Type:	NONE
Resident Status:	UNKNOWN
Marital Status:	UNKNOWN

Witness Of Incident Data (1)

Case #: 1701-1572

R[redacted] T[redacted] C[redacted]

Address:	[redacted]
City:	Crockett
State:	CALIFORNIA
Zip Code:	94525
County:	2-Contra Costa
Person Number:	1
Sex:	FEMALE
Date of Birth:	02/22/1983
Age (Age From):	33
Race:	White
Ethnicity:	NON-HISPANIC
Complexion:	LIGHT
Height:	509
Weight:	210
Build:	LARGE
Eye Color:	BROWN
Hair Color:	BROWN
Hair Style:	STRAIGHT
Hair Length:	MEDIUM
Facial Hair:	NONE
Glasses Type:	NONE
License/ID State:	CALIFORNIA
License/ID Number:	[redacted]
Resident:	RESIDENT
Marital Status:	UNKNOWN

Charge (1)

PC 243.3 BATTERY ON TRANSPORTATION PERSONNEL/PASSENGER (M) 09 Other Assaults PC 243.3

Victim to Suspect Ratio:	SINGLE VICTIM / SINGLE OFFENDER
UCR Class:	OTHER ASSAULTS
UCR Sub Class:	N/A
UCR Hierarchy:	90000
Severity:	MISDEMEANOR
Attempted/Completed:	Completed
Bias Motivation Crime:	NONE
Cargo Theft:	No
Counts:	1

Narrative Data (1)

Rafanan, Neil 062067 **01/28/2017**

Supplemental Narrative Prepared By: N. Rafanan

MVR activated.

Station video requested.

This report concerns S-S[redacted] battering W-D[redacted] inside the Pleasant Hill BART Station and refusing my orders to stop.

On 01/28/2017 I was working as the patrol supervisor for Zone 2 in full police uniform identifiable via shoulder patches, chest badge and a badge in the center of my cold weather beanie.

On the listed date and time I responded to the dispatched call of a fight between two adult males at the Pleasant Hill BART Station. I arrived on scene and could hear the sounds of two males shouting angrily at each other coming from within the paid area of the station. I contacted RP-Y[redacted] H[redacted], the station agent, at the station agent's booth. H[redacted] saw me and pointed to the stairs leading to Platform 1 and the stairs leading to Platform 2. H[redacted] said the two males fighting had separated and are now on different platforms shouting at each other.

As I was speaking with H[redacted], a male coming from the Platform 2 side, later identified as J[redacted] M[redacted] S[redacted] was pushing a green bicycle and walking quickly to the stairs leading up to Platform 1. S[redacted] appeared to be upset and sweating. I attempted to stop S[redacted] to talk to him and determine whether or not he was involved in this incident. S[redacted] walked past me and said he did not want to talk to me, that he was going to do what he wanted to do and that he did not care whether I was here or not. S[redacted] then carried his bicycle and went quickly up the stairs.

Based on this information, I had reason to believe S[redacted] was one of the parties involved in the fight, so I followed him up the stairs onto Platform 1. S[redacted] reached the platform while I was still halfway up and S[redacted] laid his bicycle down and removed his backpack to put it on the floor. I could hear S[redacted] shouting on the platform. S[redacted] went south on the platform and I attempted to follow him. S[redacted] appeared to be looking for someone while shouting angry incoherent words. It appeared as if S[redacted] could not find who he was looking for and doubled back towards the stairs he just came up. I attempted to intercept S[redacted] and told him I did not want him fighting anyone. S[redacted] walked past me and said something I could not understand.

I then saw S[redacted] bicycle go flying towards the train that had just arrived on the platform and S[redacted] go chasing after someone down the stairs. I ran towards the stairs and radioed for cover units to step up their response. I looked down the stairs and saw S[redacted] was on top of another male, later identified as N[redacted] D[redacted] curled up on the ground in fetal position attempting to cover his head with his hands. S[redacted] and D[redacted] were on the stairs just past the second landing closest to the bottom. S[redacted] was completely mounted on D[redacted] and striking him with punches and an elbow to D[redacted] head and face. D[redacted] was screaming while S[redacted] was striking him.

I immediately shouted at S[redacted] to stop and to get off D[redacted] as I ran down the stairs towards them and drew my baton. S[redacted] stayed mounted on D[redacted] and ignored my orders. When I reached S[redacted] I continued my orders for S[redacted] to stop and get off D[redacted] To avoid striking D[redacted] I swung my baton at S[redacted] legs and struck him in the thigh. S[redacted] moved around, but stayed over D[redacted] I swung my baton two more times to the same area of S[redacted] body, striking S[redacted] in the thigh and, as I discovered

later, in the arm.

S[redacted] then stopped striking D[redacted] dismounted him and lay on his side looking at me. I ordered S[redacted] to lie face down on the ground and he complied. I then handcuffed S[redacted] At this point, D[redacted] uncovered his head and I ordered D[redacted] down the stairs to get him away from S[redacted] and off the stairway. Officer Bahaduri arrived, led D[redacted] away and called for paramedics to treat both parties.

S[redacted] made several spontaneous statements to me then. S[redacted] admitted going up the stairs to this platform to look for D[redacted] S[redacted] said he punched D[redacted] because D[redacted] threw his bicycle. S[redacted] said he only hit D[redacted] one time and the rest of the time he was just holding him. S[redacted] said he understood why I hit him. S[redacted] said, "I regret it all."

I spoke to D[redacted] girlfriend, T[redacted] R[redacted] who was on scene during the incident. R[redacted] told me the following in summary:

R[redacted] said there was an argument between D[redacted] and S[redacted] regarding the use of the station bathrooms. R[redacted] said she was in one of the two bathrooms when she heard D[redacted] say to her through the door, "Hurry up. This asshole is taking too long", referring to the patron in the other bathroom. The other patron was S[redacted] R[redacted] said she heard D[redacted] and S[redacted] arguing with each other through the door and walls of the bathroom. When S[redacted] exited the bathroom, he approached D[redacted] and pushed him to the floor. S[redacted] then told D[redacted] "You're lucky I don't beat your ass. This is a warning." R[redacted] is unsure what happened after that because she did not witness it. R[redacted] heard them shouting on the stairs, but did not look to see what was happening and did not witness it.

An unidentified female patron walked by and angrily berated S[redacted] for attacking D[redacted] I attempted to talk to this patron, but she waved me off and left the station.

I spoke to D[redacted] on scene regarding this incident. I asked D[redacted] if he saw what happened when I made contact with S[redacted] on the stairs. D[redacted] told me the following in summary:

D[redacted] said when S[redacted] knocked him to the ground, D[redacted] was facing the ground of the stairwell. D[redacted] heard shouting, but was not aware if it might have been me. D[redacted] did not see me, nor did he know I was there until S[redacted] stopped hitting him and D[redacted] looked up. D[redacted] told me, "Thank you for being there. If you hadn't been there it could have been a lot worse." When D[redacted] saw me, I was already holding S[redacted] D[redacted] said he did not see me strike S[redacted]

See Officer Bahaduri's report.

NFI

Officer Data (2)

SUPPLEMENTING Officer:	Rafanan, Neil (062067)	01/28/2017 23:42:00
Approving Officer:	Gorton, Gina (060716)	01/29/2017 22:21:16

BART POLICE DEPARTMENT
SUPERVISOR USE OF FORCE REPORT

Case No.
1701-1572

Were photographs taken of the subject?	☒ **Yes**	☐ **No (If no, explain)**	
Was subject interviewed?	☒ **Yes**	☐ **No (If no, explain)**	
Was interview recorded?	☒ **Yes**	☐ **No (If no, explain)**	
1) Was incident recorded on AXON Flex?	☒ **Yes**	☐ **No (If no, explain)**	
2) Was BART video of the incident available?	☐ **Yes**	☒ **No Unknown, video request made**	
3) Was video Hotline notified?	☒ **Yes**	☐ **No**	
4) Was external video available?	☐ **Yes**	☒ **No**	☐ **Unknown** ☐ **N/A**
5) Was a canvas for witnesses conducted	☒ **Yes**	☐ **No (If no, explain)**	
6) Describe injuries to others due to subject's actions			
No injuries to others			
7) Were photographs taken of involved officer?	☒ **Yes**	☐ **No (If no, explain)**	
Were witnesses interviewed?	☐ **Yes**	☒ **No (If no, explain) No witnesses**	
No witnesses were located			

BART POLICE DEPARTMENT
SUPERVISOR USE OF FORCE REPORT

SECTION IV

Supervisor's Analysis of the Incident:

Include comments on the original detention, witness statements and description of the subject's actions during/after the contact.

INTRODUCTION:

On 1/28/17, approximately 1942 hours, Sgt. Rafanan responded to the Pleasant Hill BART Station to investigate a possible fight involving two males at the Pleasant Hill BART Station. Sgt. Rafanan attempted to make contact with one of the males, but the male refused to stop and talk to him. Sgt. Rafanan then observed the suspect chase after the male victim before actively beating the victim in the stairwell separating platform 1 from the concourse. Sgt. Rafanan delivered two baton strikes to the suspect's body in an effort to get the suspect to stop beating the victim. The suspect sustained a slight bump and swelling to his left forearm as a result of a baton strike.

I responded from the Watch Commander's office and arrived at the Pleasant Hill Bart Station at approximately 2028 hours.

INVOLVED PERSONNEL:

Officers Involved in Use of Force:

Sgt. N. Rafanan (MVR activated in a timely manner and reviewed)

Witnesses:

A canvass for witnesses was conducted, but none were located.

SUSPECT INTERVIEW:

Upon my arrival, the suspect, J[redacted] S[redacted], was sitting in the rear of a marked BART patrol vehicle. I introduced myself to S[redacted] and explained to him the reason for my presence. I obtained S[redacted]' consent to interview him and audio record the interview. Before recording his statement, I advised him that the purpose of my interview was for administrative reasons regarding force used on him by Sgt. Rafanan. Although medical had already responded to the station, and S[redacted] had refused medical attention, I asked him if he was ok. S[redacted] said he was and only complained of pain to his left wrist and upper left thigh.

It is noted that on my recording that I inadvertently stated the date of the interview as being on 1/27/17, instead of 1/28/17.

S[redacted] told me the following (paraphrased):

S[redacted] said he was involved in a physical altercation at the station where he hit a man one time and was holding onto him. This happened on the stairs. When the Sergeant approached, he said, once or twice, to stop what I was doing, put my hands up, and turn over. S[redacted] said he stopped and then was hit on his left thigh and left wrist. S[redacted] said he was hit twice with a baton. S[redacted] said he put his hands behind his back and the sergeant cuffed him. S[redacted] told me that he had pain to both locations of where he was hit with the baton. S[redacted] said he followed every order the sergeant gave him, but still got hit. S[redacted] said he walked past the sergeant on the platform initially because he was mad. When the other guy threw his bike onto the platform that is when he went to defend his

property. S[redacted] said the Sergeant was peaceful, but should have not let him walk past him on the platform.

*****End of statement*****

VICTIM INTERVIEW:

The victim, N[redacted] D[redacted], was gone prior to my arrival. D[redacted] did not wish to wait for my arrival in order to speak with him. Sgt. Rafanan was able to obtain a brief statement from D[redacted] via his Axon Flex MVR. I reviewed Sgt. Rafanan's video of his interview with D[redacted] as he asked him if he had witnessed the use of force performed on S[redacted]. D[redacted] said that he did not witness any use of force by Sgt. Rafanan because his head was pinned down on the stairs. D[redacted] said he did not even know that Sgt. Rafanan was there until S[redacted] had stopped punching him and looked up to see Sgt. Rafanan holding S[redacted] on the ground.

OFFICER INTERVIEWS:

I interviewed Sgt. Rafanan who told me the following (paraphrased):

Sgt. Rafanan responded to the station on a report two people fighting near the agent's booth. Upon his arrival, he could hear shouting coming from platform 1. He also saw the agent pointing toward platform 1. When Sgt. Rafanan made it to the platform, he observed S[redacted] yelling at someone, and appeared highly agitated. S[redacted] was walking toward Rafanan when he asked S[redacted] what was going on. S[redacted] walked past Rafanan and said, "do you think I give a fuck you are here." Rafanan turned around to walk after S[redacted] when he saw a bike being thrown onto the platform from the area of the stairwell. S[redacted] then ran towards the stairwell. Rafanan believed S[redacted] was running to confront the person who threw the bike, so he shouted commands at S[redacted] to stop. S[redacted] ran down the stairwell and Rafanan followed. Rafanan deployed his straight baton from his baton ring in preparation for what he was about to encounter, a physical fight. As Rafanan made his way to the stairs, he continued to yell at S[redacted], who was now on top of the victim actively punching him. He could see that the victim was in a fetal position as S[redacted] was delivering elbows and punches to the victim's head. Rafanan yelled at S[redacted] to stop and to get on the ground. Rafanan said S[redacted] was in a dominant position on top of the victim and actively punching him. Because S[redacted] was ignoring commands to stop fighting, and he appeared to be inflicting harm on the victim, Rafanan delivered two Zone 1 (below the waist, not the groin or the kidneys) baton strikes to S[redacted] in an effort to get him to stop beating the victim. Rafanan said his first strike hit S[redacted] in the leg. As Rafanan was delivering the second strike, he said S[redacted] rolled off of the victim and the baton struck S[redacted] on the wrist. S[redacted] stopped fighting and Rafanan placed S[redacted] in handcuffs.

****End of statement****

SUPERVISOR RESPONSIBILITY:

I conducted a canvass of the station and surrounding area for additional witnesses, but did not locate any. Sgt. Rafanan advised that the on-duty station agent, Y[redacted] H[redacted], and system service worker M[redacted] J[redacted], may have witnessed the use of force. I attempted to locate them at the station, but they were no longer there.

About a week later, I was able to speak separately by phone with both H[redacted] and J[redacted]. H[redacted] told me that she did not witness Sgt. Rafanan use force, however she heard Rafanan yelling commands to "stop" and "get on the ground." H[redacted] said she could hear the commands from the agent's booth.

J[redacted] told me that he too did not witness the use of force by Sgt. Rafanan. He said he could hear Rafanan shouting commands to stop at least twice. J[redacted] said he was in the free area of the station.

BART POLICE DEPARTMENT
SUPERVISOR USE OF FORCE REPORT

I sent an e-mail to the police video hotline requesting that any recorded station video be retrieved and placed into evidence. I later received a disc from CSO A. Shaah and forwarded that disc to Internal Affairs to be attached with this investigation. All photographs and reports were attached to Blue Team. I obtained digital photos of Suspect S[redacted], S[redacted] left wrist and left upper thigh, and Sgt. Rafanan. All photos were attached to Blue Team.

VIDEO FOOTAGE:

I reviewed the MVR video captured by Sgt. Rafanan. The video captured was consistent with his statement. Sgt. Rafanan activated his MVR in a timely manner.

CONCLUSION:

After completing my investigation, I find that Sgt. Rafanan was justified at the time force was used, and the use of force was consistent with the provisions of Policy 300.

In my opinion, Sgt. Rafanan used only that amount of force that reasonably appeared necessary, given the facts and circumstances perceived by him at the time of the incident, to effectively bring the incident under control. Sgt Rafanan used good verbal commands prior to the use of force. The amount of force used was reasonable and only used in order to stop the attack of the victim by Suspect S[redacted].

Factors used to determine the reasonableness of force include the following:

- The suspect was visibly agitated and appeared to be preparing to fight the victim.
- The suspect was visibly agitated and walked past the Sergeant refusing to stop and talk with him.
- The suspect was observed on top of the victim in a dominate position actively punching the victim in the head.
- The suspect ignored the commands of Sgt. Rafanan to get off the victim and stop fighting.
- Sgt. Rafanan delivered two Zone 1 baton strikes to S[redacted] in order to stop his attack on the victim.

TRAINING POINTS:

There were no training points identified.

USE OF FORCE REPORT PROCEDURES:

- I was granted an extension to complete this UOF investigation by Acting DC Alvarez
- All available video and police reports are attached to this report.

Prepared by: **Lt. R. Gregson L17**
Name/Star