**Summarize**

[**2011-10-27 Bias Comm124\_Derek\_Byrne\_IAD\_2015-0084\_case\_file\_Redacted.pdf**](https://casetext.com/api/ai-assistant/proxy/document-uploads/78f5483b8f6b89759969416bf2be02ae/content#page=1)

[**Pages 1-7**](https://casetext.com/api/ai-assistant/proxy/document-uploads/78f5483b8f6b89759969416bf2be02ae/content#page=1)

* The document contains correspondence related to disciplinary charges against Officer Derek Byrne.
* The Police Commission adopted a resolution to take the charges off the calendar due to Byrne's resignation.
* The resolution stipulates that the charges will be placed back on the calendar if Byrne falls within the jurisdiction of the Police Commission in the future.
* The Commission also directed the Department to maintain all discipline-related documents in Byrne's file indefinitely.
* There are multiple emails between Byrne and Human Resources Manager Benjamin Houston discussing Byrne's resignation.
* Byrne expresses regret in resigning, but thanks Houston for being "cool on the phone."
* Houston requests that Byrne provide a resignation email with an effective date, as well as complete forms related to turning in equipment.
* The Police Commission scheduled a hearing for Byrne's disciplinary charges to begin on May 2, 2019.
* The Commission outlined the time limits for the hearing, as well as instructions for both parties to follow in preparation for the hearing.

[**Pages 8-13**](https://casetext.com/api/ai-assistant/proxy/document-uploads/78f5483b8f6b89759969416bf2be02ae/content#page=8)

* The document begins with a letter from the Police Commission to Chief Scott, outlining the resolution that was adopted in response to Officer Byrne's motion to suppress evidence.
* The resolution denies the motion on two grounds: Byrne lacks standing to move to suppress the evidence, and the search warrant was properly issued and executed.
* The document then moves to the charges against Byrne, which include engaging in conduct unbecoming an officer, specifically making statements that show extreme bias and hatred.
* The document outlines the procedural history of the case, including the multi-agency investigation that led to the discovery of the text messages in question.
* The document also details the content of the text messages, which contain derogatory language and slurs directed at various groups of people.

[**Pages 14-27**](https://casetext.com/api/ai-assistant/proxy/document-uploads/78f5483b8f6b89759969416bf2be02ae/content#page=14)

* The document contains correspondence related to the disciplinary charges against Officer Derek Byrne.
* It includes a resolution to take the charges off the calendar due to Byrne's resignation, as well as emails between Byrne and the human resources manager discussing his resignation.
* Additionally, there is a letter from the Police Commission outlining the process for a hearing in the matter of Byrne's charges.
* Key individuals mentioned include Officer Derek Byrne, Human Resources Manager Benjamin Houston, and Police Commission President Robert Hirsch.
* The document contains numerous text messages exchanged between Byrne and another officer, referred to as "#5," which contain racist, homophobic, and sexist remarks.
* Byrne admits to exchanging these messages, but claims they were meant as terms of endearment.
* The document argues that Byrne's conduct is inexcusable and that he should be terminated from his position as a police officer.

[**Pages 28-33**](https://casetext.com/api/ai-assistant/proxy/document-uploads/78f5483b8f6b89759969416bf2be02ae/content#page=28)

* The document begins with a letter from Matthew Lee to Jayme Campbell, both of whom work for the City of San Francisco, regarding a hearing in the matter of Officer Derek Byrne.
* The letter includes contact information for Julia Fox and Nicole Pifari, attorneys for Byrne, as well as their law firm, Rains Lucia Stern St. Phalle & Silver, PC.
* The document then outlines the case against Byrne, including the motion to suppress evidence under Penal Code § 1546.4.
* The document argues that federal agents exceeded the scope of their warrant when they seized text messages between Byrne and "#5" that were not described in the warrant application.
* The document argues that the seizure of these texts constituted an overbroad, unconstitutional search, and that the evidence should be suppressed.
* The document also includes a memorandum of points and authorities, which argues that cell phone data should be afforded special protection under the Fourth Amendment.
* The document argues that the Department had no warrant and was not otherwise authorized to search #5's data, and that the warrant that led to the seizure of #5's data was executed in a way that made it more like a "general warrant."

[**Pages 34-37**](https://casetext.com/api/ai-assistant/proxy/document-uploads/78f5483b8f6b89759969416bf2be02ae/content#page=34)

* The document discusses the Fourth Amendment and the problem with general warrants, which allow the government to search and seize whatever they please.
* It references cases that highlight the invasiveness of cell phone searches, and the danger of over-seizing private data.
* The document argues that the federal agents violated the Fourth Amendment by conducting an overbroad search and seizing the Byrne #5 exchanges.
* It argues that the San Francisco Police Department has no independent right to access the cell phone data, as the federal agents did not obtain it lawfully.
* The document calls for the suppression of the evidence and the dropping of disciplinary proceedings against Byrne.

[**Pages 38-100**](https://casetext.com/api/ai-assistant/proxy/document-uploads/78f5483b8f6b89759969416bf2be02ae/content#page=38)

* The document begins by outlining the government's responsibility to only search for information it has probable cause to collect, and to destroy or return any nonresponsive data.
* It references the Comprehensive Drug Testing, Inc. case, which established guidelines for the government to follow when conducting searches.
* The document argues that the federal agents violated these guidelines by overstepping the parameters of their warrant, and that they should have never disclosed the Byrne #5 exchanges to investigators.
* It argues that the San Francisco Police Department could not have obtained a warrant to search the cell phone data on its own, as the language in the exchanges is not criminal.
* The document references cases that establish the privacy rights of police officers, and argues that the search of a cell phone is more intrusive than the search of a home.
* It argues that the San Francisco Police Department had no right to search the cell phone data, and that the evidence should be suppressed under Penal Code § 1546.4.

[**Pages 101-108**](https://casetext.com/api/ai-assistant/proxy/document-uploads/78f5483b8f6b89759969416bf2be02ae/content#page=101)

* The document begins by referencing a request for an Internal Affairs Division investigation into three unidentified SFPD officers based on text messages exchanged with #5.
* It provides excerpts of the text messages, which contain racial epithets and derogatory language.
* The document identifies two of the three officers by their cell phone numbers, but does not know the identity of the third officer.
* It expresses concern about the pervasiveness of racist, homophobic, anti-Semitic, and sexist conduct within the SFPD, and requests that the Chief of Police initiate an investigation into the officers involved.
* The document also requests a meeting to strategize about police training to address the conduct exposed in the text messages.

[**Pages 109-114**](https://casetext.com/api/ai-assistant/proxy/document-uploads/78f5483b8f6b89759969416bf2be02ae/content#page=109)

* The document discusses the disciplinary charges against Officer Derek Byrne, and the resolution to take the charges off the calendar due to his resignation.
* It includes emails between Byrne and the Human Resources Manager, Benjamin Houston, discussing his resignation.
* The document also contains a letter from the Police Commission President, Robert Hirsch, outlining the process for a hearing in the matter of Byrne's charges.
* The document argues against Byrne's motion to suppress evidence, asserting that he lacks standing under section 1546.4(c) because he was not the target of the warrant nor the recipient of the warrant.
* It also argues that the Department did not violate Byrne's privacy rights under the Fourth Amendment, and that the text messages were obtained through a lawful search warrant.
* Lastly, the document argues that the Byrne texts are in the possession of the SFPD as the result of a lawfully executed search warrant.

[**Pages 115-120**](https://casetext.com/api/ai-assistant/proxy/document-uploads/78f5483b8f6b89759969416bf2be02ae/content#page=115)

* The document discusses the validity of a search warrant used to obtain text messages from #5's cell phone, which revealed evidence of criminal activity by Officer Byrne.
* The document argues that the search warrant was not overbroad, and that the text messages were in plain view during the execution of the warrant.
* The document also argues that the SFPD is lawfully in possession of the cell phone data obtained from #5's phone.
* The document argues that the California Electronic Communications Privacy Act does not apply in this matter, as it only applies in criminal cases.
* The document concludes by requesting that the Commission deny Officer Byrne's motion to suppress the text messages.

[**Pages 121-125**](https://casetext.com/api/ai-assistant/proxy/document-uploads/78f5483b8f6b89759969416bf2be02ae/content#page=121)

* The document begins with a proof of service, detailing the delivery of the Department's Memorandum of Points & Authorities in Opposition to Defense Motion for Suppression of Evidence to two attorneys.
* The document then discusses the Police Commission's role in deciding the appropriate discipline for Officer Byrne, and argues that the Department's investigation is based on evidence obtained through unconstitutional means.
* The document argues that the Department misleads the Commission by referring to the warrant as "valid" or "lawfully executed," and that the execution of the warrant was unlawful.
* The document argues that the Department illegally obtained access to evidence it had no probable cause to collect itself, and that the Department is wrong when it claims no case law requires it to get its own warrant to search another agency's evidence.
* The document cites several cases to support its position that the Department's search violated the Fourth Amendment.

[**Pages 126-129**](https://casetext.com/api/ai-assistant/proxy/document-uploads/78f5483b8f6b89759969416bf2be02ae/content#page=126)

* The document begins by referencing two cases, United States v. Wey and United States v. Hulscher, to argue against the government's right to continually review and use documents seized under a warrant.
* The document argues that the government's conduct in this case is even worse, as it handed off unresponsive data to a separate agency for use in a non-criminal matter.
* The document argues that the government should have obtained a new warrant to search the data, and that the proper remedy for the violation is suppression.
* The document then argues that the Department's claim that it could seize the texts under the "plain-view exception" is incorrect, as the Department was not lawfully in the place where it saw the evidence, the incriminating character of the evidence was not immediately apparent, and the Department did not have a lawful right of access to the evidence.
* Finally, the document argues that CalECPA applies to this case, as it is not limited to criminal matters and provides a remedy for any person to suppress evidence seized in violation of the Fourth Amendment.

[**Pages 130-142**](https://casetext.com/api/ai-assistant/proxy/document-uploads/78f5483b8f6b89759969416bf2be02ae/content#page=130)

* The document discusses the Ninth Circuit's ruling in Comprehensive Drug Testing, Inc. that the government must destroy or return nonresponsive data.
* The document argues that CalECPA was written to prevent the type of situation that Byrne is facing.
* The document argues that the warrant in this case was not limited to the seizure of information used to obtain the warrant's objective.
* The document argues that the Commission should suppress the illegally-seized data and dismiss the case against Byrne.
* The document argues that CalECPA applies to the administrative appeal proceedings, even though the events occurred before the law was enacted.
* The document concludes by requesting that the Commission suppress the texts and dismiss the disciplinary matter against Byrne.
* The document includes a proof of service, detailing how the document was served to various individuals.
* The document also includes a series of email exchanges between various individuals, discussing the settlement conference for Byrne's case.

[**Pages 143-152**](https://casetext.com/api/ai-assistant/proxy/document-uploads/78f5483b8f6b89759969416bf2be02ae/content#page=143)

* The document begins with a series of email exchanges between Rachael Kilshaw, Ashley Worsham, and Julia Fox, discussing the possibility of a settlement conference for Officer Derek Byrne.
* The email exchanges mention potential dates for the settlement conference, with February 27, 2019 being the agreed upon date.
* The document then includes a letter from the Police Commission to Officer Byrne, informing him of a status conference and/or possible hearing on disciplinary charges.
* The letter instructs Byrne to attend the meeting unless excused by the Commission Secretary.
* The document then includes another series of email exchanges, this time discussing the decision to take Byrne's case off the November 7, 2018 Police Commission calendar.
* The email exchanges mention that Byrne's employment status is more complicated than initially thought, and that it is best to keep the case on the calendar.

[**Pages 153-160**](https://casetext.com/api/ai-assistant/proxy/document-uploads/78f5483b8f6b89759969416bf2be02ae/content#page=153)

* The document begins with a letter from the Police Commission to Officer Derek Byrne, outlining the process for a hearing on disciplinary charges.
* The letter instructs Byrne to attend the meeting unless excused by the Commission Secretary.
* The document then includes a letter from the Police Department to the Police Commission, requesting that the Commission postpone scheduling a status conference until after the Court of Appeal's opinion becomes final.
* The letter argues that the Court of Appeal's decision is not yet final, and that further proceedings may be necessary in the Superior Court.
* The document then includes two orders from the Superior Court, one denying the City's motion to vacate the order staying administrative proceedings, and the other granting the stay order.

[**Pages 161-168**](https://casetext.com/api/ai-assistant/proxy/document-uploads/78f5483b8f6b89759969416bf2be02ae/content#page=161)

* The document begins with contact information for Alison Berry Wilkinson, the attorney for plaintiff-petitioner Rain O. Daugherty.
* The document then references a proposed order granting a motion for writ and extraordinary relief.
* The order grants the petition for writ of mandate and extraordinary relief, citing the one-year statute of limitations period for investigating officer misconduct.
* The order argues that the San Francisco Police Department failed to conduct the investigation in a timely manner, and that the tolling exception did not apply in this case.
* The order also argues that even if the department was prevented from conducting an administrative investigation, the record still shows that the petitioner is entitled to relief.
* The document then includes a lead sheet for scanning the document, and a proposed order staying administrative proceedings pending further hearing.
* The order grants the ex parte application for a stay order, and orders that all administrative proceedings be stayed.
* The order also requires that the petitioner and any joined subject officers be placed on paid administrative leave.
* The order sets a hearing date for further discussion of the court's jurisdiction, provisional relief, and protective orders.

[**Pages 169-174**](https://casetext.com/api/ai-assistant/proxy/document-uploads/78f5483b8f6b89759969416bf2be02ae/content#page=169)

* The document begins with a letter from the San Francisco Police Department to Officer Derek Byrne, informing him that his paid administrative leave is ending.
* The letter references the discovery of racist and homophobic text messages that Byrne exchanged with another officer.
* The letter details the content of the text messages, which include derogatory terms and slurs.
* Byrne is informed that he will be placed on unpaid interim suspension pursuant to Department General Order 2.07(C)(8).

[**Pages 175-181**](https://casetext.com/api/ai-assistant/proxy/document-uploads/78f5483b8f6b89759969416bf2be02ae/content#page=175)

* The document continues with a letter from the San Francisco Police Commission to the attorneys representing both the Department and Officer Byrne.
* The letter outlines the process for a hearing on Byrne's disciplinary charges, including deadlines for filing motions and oppositions.
* The letter also sets a date for the taking of evidence and provides instructions for the parties to follow in preparation for the trial.
* The document concludes with a resolution from the Police Commission assigning Commissioner Suzy Loftus to conduct the taking of evidence in Byrne's case.

[**2011-10-27 Bias Comm124\_Redaction\_Index\_for\_SFPD\_Portal\_Byrne.pdf**](https://casetext.com/api/ai-assistant/proxy/document-uploads/0ad9529ae4e154c61132b603cabf27c8/content#page=1)

[**Pages 1-2**](https://casetext.com/api/ai-assistant/proxy/document-uploads/0ad9529ae4e154c61132b603cabf27c8/content#page=1)

* The San Francisco Police Commission has identified records related to an incident involving Officer Derek Byrne exchanging racially derogatory text messages from October 2011 through August 2012.
* Redactions have been made to these records based on various California laws.
* Redaction #1 and #2 are based on California Penal Code § 832.7(b)(5)(A), which protects personal data or information of peace and custodial officers.
* Redaction #3 is based on California Penal Code § 832.7(b)(5)(B), which preserves the anonymity of complainants and witnesses.
* Redaction #50 is based on California Penal Code § 832.7(b)(5)(D), which protects the physical safety of the peace officer, custodial officer, or another person.
* Redactions #6, #7, and #8 are based on California Penal Code §§ 11076, 11105 (b) and California Law Enforcement Telecommunications System Policies, Practices and Procedures and Statutes, Section 1.6.4, which restrict access to information from the CLETS.
* Redaction #9 and #10 are based on California Government Code § 6254(a) and § 6254(f), which exempt preliminary drafts, notes, and investigatory or security files from disclosure.
* Redaction #11 is based on California Code of Civil Procedure § 129, which protects photographs of a deceased person taken by the coroner.
* Redaction #12 is based on California Government Code § 6254(c) and Cal. Govt. Code section 6254(k), which protect against unwarranted invasions of privacy.
* Redactions #13 and #14 are based on California Welfare & Institutions Code § 5328 and § 827, which protect mental health and juvenile records.
* Redaction #15 is based on California Government Code §§ 254(k), 6254.25, 6276.04, and Evidence Code § 954, which protect attorney-client privilege.
* Redaction #16 is based on California Evidence Code 1040(b)(2), which allows a public entity to refuse to disclose official information.
* Redaction #17 and #18 are based on California Penal Code § 832.7(g) and § 832.7(h), which clarify the applicability of this section to other laws.

[**2017-07-31 Bias Comm118\_part\_2\_Redacted.pdf**](https://casetext.com/api/ai-assistant/proxy/document-uploads/575739540812fd5400c0f092ab4e675d/content#page=1)

[**Pages 1-7**](https://casetext.com/api/ai-assistant/proxy/document-uploads/575739540812fd5400c0f092ab4e675d/content#page=1)

* Alison Berry Wilkinson is the attorney for the accused, Sergeant Sherry Hicks.
* Ashley L. Worsham is the attorney for the San Francisco Police Department.
* The motion to dismiss charges against Sergeant Hicks argues that the procedures being used are not compliant with the Public Safety Officers' Procedural Bill of Rights Act (POBR).
* The memorandum in opposition argues that the motion to dismiss is premature and unsupported.
* The motion to dismiss cites the case of Morgado v. City and County of San Francisco, which found that the disciplinary procedures for San Francisco Police Officers involve "punitive action" as defined by POBR.
* The motion to dismiss argues that Sergeant Hicks has not been provided an opportunity for administrative appeal as mandated by Government Code section 3304(b).
* The memorandum in opposition argues that the motion to dismiss is premature because the initial filing of Commission charges is just one of many steps in the disciplinary process.
* The memorandum in opposition also argues that the Morgado case does not call for an administrative appeal at every step in the disciplinary process, but rather that the right to an administrative appeal is triggered by the final disciplinary action by the Commission.

[**Pages 8-15**](https://casetext.com/api/ai-assistant/proxy/document-uploads/575739540812fd5400c0f092ab4e675d/content#page=8)

* The Department requests that the Commission deny Sgt. Hicks' motion to dismiss.
* Sgt. Hicks argues that the lack of an administrative appeal procedure significantly prejudices her, as she cannot evaluate how strategically to present her case.
* Sgt. Hicks contends that her rights under the Public Safety Officers' Procedural Bill of Rights Act have already been violated, and that the charges should be dismissed.
* Sgt. Hicks also files a motion for discovery under Pitchess/Stiglitz, requesting records related to any sustained allegation of misconduct and/or disciplinary action for the use of derogatory or offensive words.
* Sgt. Hicks argues that the records are relevant to her disparate treatment defense, as she believes that others who have engaged in similar conduct received lesser disciplinary penalties.
* The memorandum of points and authorities in support of the motion for discovery argues that the California Supreme Court has authorized discovery of confidential personnel records in administrative disciplinary matters.
* The memorandum argues that good cause to produce the records exists, as they are material to the subject matter of the pending litigation.

[**Pages 16-22**](https://casetext.com/api/ai-assistant/proxy/document-uploads/575739540812fd5400c0f092ab4e675d/content#page=16)

* Sgt. Hicks' attorney, Alison Berry Wilkinson, argues that the recommended penalty of termination is overly harsh and excessive, and violates the principles of progressive discipline.
* Wilkinson argues that evidence relevant to this defense should exist in the files of the San Francisco Police Department and the police Commission.
* Sgt. Hicks requests the production of any and all records related to any sustained allegation of misconduct and/or disciplinary action that was stipulated by, agreed to, or imposed upon any member of the San Francisco Police Department.
* Wilkinson submits a declaration in support of the motion for discovery, arguing that the records are relevant and material to the action, and necessary to ensure a fair hearing.
* Wilkinson cites several examples of other officers who have used derogatory language but were not terminated.
* The San Francisco Police Department opposes the motion for discovery, arguing that it is premature and that Sgt. Hicks has failed to show good cause.

[**Pages 23-29**](https://casetext.com/api/ai-assistant/proxy/document-uploads/575739540812fd5400c0f092ab4e675d/content#page=23)

* The San Francisco Police Department (SFPD) argues that Sgt. Hicks' motion to dismiss should be denied for two reasons: it is premature and she has not shown good cause.
* SFPD argues that the motion is premature because Sgt. Hicks has not had an evidentiary hearing and ruling by the Commission, and there is no basis to seek personnel records of other officers.
* SFPD argues that Sgt. Hicks has not shown good cause because she has not demonstrated how the materials would be relevant to her defense.
* SFPD also argues that the request for records beyond five years is unsupported by law, citing the California Supreme Court's decision in City of Los Angeles v. Superior Court (Brandon).
* If the Commission finds good cause for production of the materials, SFPD requests an in camera review to determine relevance and limit disclosure.
* Ashley L. Worsham, attorney for the SFPD, requests that the motion be denied.
* Alison Berry Wilkinson, attorney for Sgt. Hicks, argues that good cause for the discovery was shown and that the motion is not premature.
* Wilkinson argues that the records are relevant to Sgt. Hicks' defense of disparate treatment, and that the motion complies with the Police Commission's Procedural Rules.

[**Pages 30-33**](https://casetext.com/api/ai-assistant/proxy/document-uploads/575739540812fd5400c0f092ab4e675d/content#page=30)

* The document discusses the relevance and propriety of Pitchess/Stiglitz material to the determination of misconduct charges.
* The document argues that the statutory scheme permits Pitchess/Stiglitz motions in Police Commission proceedings, and that the San Francisco Police Commission is an administrative body.
* The document argues that the Department's contention that the filing of such motions is limited to administrative appeals is incorrect.
* Sgt. Hicks requests that the hearing officer grant her motion, conduct an in camera hearing, and produce records relevant to her defense.
* The document also contains a transcript of a hearing in which the Commission discusses the motion to dismiss.
* The Commission questions why the motion to dismiss is necessary, and argues that the Morgado decision does not require the entire department to have an appellate procedure in place.
* Wilkinson argues that the lack of an administrative appeal procedure significantly prejudices Sgt. Hicks, as she cannot evaluate how to present her case.

[**Pages 34-35**](https://casetext.com/api/ai-assistant/proxy/document-uploads/575739540812fd5400c0f092ab4e675d/content#page=34)

* The document discusses the importance of establishing an administrative appeal procedure in order to comply with the Public Safety Officers' Procedural Bill of Rights Act (POBR).
* Alison Berry Wilkinson, attorney for Sgt. Sherry Hicks, argues that the motion to dismiss should be granted because the procedures being used are not compliant with POBR.
* Ashley L. Worsham, attorney for the San Francisco Police Department, argues that the motion to dismiss is premature and unsupported.
* Wilkinson argues that the lack of an administrative appeal procedure prejudices her client, as she cannot evaluate how to present her case.
* The Commission questions whether the motion to dismiss is necessary, and argues that the Morgado decision does not require the entire department to have an appellate procedure in place.
* Wilkinson argues that the lack of an administrative appeal procedure significantly prejudices her client, as she cannot evaluate how to present her case.
* The Commission discusses the importance of limiting cumulative evidence, and argues that the ruling to limit the number of character witnesses is appropriate.
* Wilkinson argues that the ruling is prejudicial to her client, as it prevents her from presenting valuable testimony.

[**Pages 36-38**](https://casetext.com/api/ai-assistant/proxy/document-uploads/575739540812fd5400c0f092ab4e675d/content#page=36)

* The document begins with a discussion between Commissioner DeJesus and Ms. Berry Wilkinson, in which the Commissioner questions why the defense needs to know the process in order to determine whether to put on a full hearing.
* Ms. Berry Wilkinson argues that the statute requires an opportunity for an administrative appeal before proceeding with a hearing.
* Commissioner DeJesus questions why the defense would not put on their best case at this level, rather than waiting for an appellate process.
* Ms. Berry Wilkinson argues that the lack of an administrative appeal process invalidates any procedures moving forward with Sgt. Hicks.
* Ms. Worsham argues that there is nothing in the Government Code that prohibits the Department from moving forward with the case.
* Commissioner Hirsch questions whether the Commission should hold off on the evidentiary hearing until an appeal process is in place.
* Ms. Worsham argues that the Department is prepared to move forward regardless of the Commission's decision.
* The Commission denies the motion to dismiss and agrees to implement the same appeal process as in the Morgado case.

[**Pages 39-40**](https://casetext.com/api/ai-assistant/proxy/document-uploads/575739540812fd5400c0f092ab4e675d/content#page=39)

* The document references various legal terms and concepts, such as "demurrer," "dismissal," and "evidentiary."
* The document mentions several individuals, including Alison Berry Wilkinson (attorney for the accused), Ashley L. Worsham (attorney for the San Francisco Police Department), and Sergeant Sherry Hicks (the accused).
* The document references the Public Safety Officers' Procedural Bill of Rights Act, which is at the center of the motion to dismiss.
* The document discusses the importance of adhering to proper procedures, with the defense arguing that the procedures being used are not compliant with the Public Safety Officers' Procedural Bill of Rights Act.
* The document also discusses the memorandum in opposition to the motion to dismiss, which argues that the motion to dismiss is premature and unsupported.
* The document references various court cases and legal proceedings, such as the Morgado case.
* The document also references various agencies and organizations, such as the San Francisco Police Department and the Commission.

[**Pages 41-42**](https://casetext.com/api/ai-assistant/proxy/document-uploads/575739540812fd5400c0f092ab4e675d/content#page=41)

* The document references a number of legal terms and concepts, such as "motion," "order," "litigation," and "penalty."
* The document mentions several individuals, including John, Petra, Kilshaw, and Hall.
* The document references the Public Safety Officers' Procedural Bill of Rights Act (POBR) multiple times, as well as the importance of adhering to proper procedures.
* The document discusses the motion to dismiss, which argues that the procedures being used are not compliant with the POBR, and the memorandum in opposition to the motion to dismiss, which argues that the motion to dismiss is premature and unsupported.
* The document references various court cases and legal proceedings, such as the Morgado case, and discusses the importance of following proper procedures.
* The document also references various agencies and organizations, such as the San Francisco Police Department (SFPD) and the Police Officers Association (POA).

[**Pages 43-46**](https://casetext.com/api/ai-assistant/proxy/document-uploads/575739540812fd5400c0f092ab4e675d/content#page=43)

* The document begins by referencing the Police Commission of the City and County of San Francisco, as well as the San Francisco Police Department (SFPD).
* The document discusses the case of Sergeant Sherry Hicks, who is accused of misconduct.
* The document references a motion to dismiss charges against Hicks, as well as a memorandum in opposition to that motion.
* The motion to dismiss argues that the procedures being used are not compliant with the Public Safety Officers' Procedural Bill of Rights Act (POBR), while the memorandum in opposition argues that the motion to dismiss is premature and unsupported.
* Key parties mentioned include Sergeant Sherry Hicks (the accused), Alison Berry Wilkinson (attorney for the accused), and Ashley L. Worsham (attorney for the SFPD).
* The document also references various legal terms and concepts, such as "subpoena," "testimony," "trial," and "termination."
* The document contains numerous references to specific page numbers and line numbers, which may be important for referencing specific passages.

[**Pages 47-56**](https://casetext.com/api/ai-assistant/proxy/document-uploads/575739540812fd5400c0f092ab4e675d/content#page=47)

* The document begins by listing the individuals in attendance at the hearing, including the commissioner, attorneys, and police officers.
* The commissioner discusses the timeliness of the motion to dismiss, and expresses his desire to proceed with the hearing.
* The attorneys for both sides raise housekeeping matters, including the submission of an amended complaint and the provision of transcripts.
* The commissioner questions the attorney for the accused about the Daugherty case, which is relevant to the current case.
* The attorney for the accused argues that the new chief of police cannot change the disciplinary standard without providing notice to employees.
* The attorney for the SFPD argues that the chief has established a zero tolerance policy for racist text messaging.

[**Pages 57-66**](https://casetext.com/api/ai-assistant/proxy/document-uploads/575739540812fd5400c0f092ab4e675d/content#page=57)

* The discussion begins with a clarification about which cases occurred under which chief of police.
* Ms. Worsham (attorney for the San Francisco Police Department) argues that the motion to dismiss is premature and that the sergeant is not entitled to discovery on any of the cases.
* Commissioner Hirsch expresses his inclination to review two cases in camera and determine whether the sergeant should be allowed to view them.
* Ms. Berry Wilkinson (attorney for Sergeant Hicks) argues that her client is entitled to information about the final disciplines that were issued in similar cases.
* Commissioner Hirsch questions why a settlement between the Department and an individual officer should be permissible as precedent.
* Ms. Berry Wilkinson argues that the chief's endorsement of the settlement is relevant because it demonstrates that he does not always adhere to a zero tolerance policy.
* The parties discuss the mechanics of getting the documents to Commissioner Hirsch for review.

[**Pages 67-73**](https://casetext.com/api/ai-assistant/proxy/document-uploads/575739540812fd5400c0f092ab4e675d/content#page=67)

* A certified shorthand reporter, Anna C. Greenley, certifies that she reported the hearing and transcribed it.
* The Police Commission reschedules the taking of evidence in the matter of Sergeant Sherry Hicks to Thursday, July 19, 2018.
* The Commission sets time limits for each side and instructs the parties on how to prepare for the trial.
* The Commission denies a motion to dismiss filed in the matter of Sergeant Sherry Hicks.
* The Commission agrees to calendar a discussion to adopt rules of administrative appeal.
* The Commission notifies Sergeant Hicks that the decision to accept or reject the settlement agreement will be on the calendar for the meeting on Wednesday, October 10, 2018.

[**Pages 74-83**](https://casetext.com/api/ai-assistant/proxy/document-uploads/575739540812fd5400c0f092ab4e675d/content#page=74)

* Sergeant Rachael Kilshaw proposes a settlement agreement in the matter of Sergeant Sherry Hicks.
* Commissioner Hirsch is asked to put the settlement agreement on the October 10th agenda.
* Alison Berry Wilkinson, attorney for Sergeant Hicks, submits a stipulated protective order to the Police Commission.
* Commissioner Hirsch requests additional language in the stipulated protective order to ensure that all covered documents will be destroyed after the matter is concluded.
* The stipulated protective order is updated and approved by Commissioner Hirsch.
* Sergeant Kilshaw forwards the updated protective order to Commissioner Hirsch for review.

[**Pages 84-100**](https://casetext.com/api/ai-assistant/proxy/document-uploads/575739540812fd5400c0f092ab4e675d/content#page=84)

* Sergeant Kilshaw confirms a status conference for Sergeant Sherry Hicks.
* Commissioner Hirsch accepts the invitation to the status conference.
* Commissioner Hirsch requests that the parties hold off on submitting a protective order until he has a chance to discuss it further.
* Alison Berry Wilkinson updates the protective order as requested and sends it to Sergeant Kilshaw.
* Sergeant Kilshaw asks Commissioner Hirsch if he wants to discuss the protective order during the status conference.
* Rose Melendez, a retired San Francisco Police Officer, writes a letter in support of Sergeant Hicks, detailing her professional accomplishments and character.
* A phone call takes place between Alison Berry Wilkinson, Ashley Worsham, and Commissioner Hirsch, in which they discuss a settlement agreement and the protective order.

[**Pages 101-109**](https://casetext.com/api/ai-assistant/proxy/document-uploads/575739540812fd5400c0f092ab4e675d/content#page=101)

* Alison Berry Wilkinson requests a settlement conference by phone on 8/22.
* Sergeant Ware informs her that the Chief is unavailable that day, and requests alternative dates.
* Alison Berry Wilkinson proposes a settlement conference at 1:30pm on 8/22.
* Commissioner Hirsch offers to meet before or after his 10:00am meeting on 8/22.
* Ashley Worsham expresses interest in another settlement conference.
* Sergeant Kilshaw informs the parties that Commissioner Hirsch will make some records available, but requests a signed protective order before releasing them.
* Alison Berry Wilkinson agrees to wait for the Commissioner's availability.

[**Pages 110-117**](https://casetext.com/api/ai-assistant/proxy/document-uploads/575739540812fd5400c0f092ab4e675d/content#page=110)

* Ashley Worsham requests a settlement conference with Sergeant Kilshaw.
* Alison Berry Wilkinson responds, suggesting a further settlement conference at 1:30pm.
* Bob Hirsch offers to meet before or after his 10:00am meeting on 8/22.
* Ashley Worsham expresses interest in another settlement conference.
* Sergeant Kilshaw informs the parties that Commissioner Hirsch will make some records available, but requests a signed protective order before releasing them.
* Risa Tom sends a resolution denying the motion to dismiss in the matter of Sergeant Sherry Hicks.
* Alison Berry Wilkinson sends a reply memorandum in support of Sergeant Hicks's motion to dismiss.

[**2017-07-31 Bias Comm118\_part\_1\_Redacted.pdf**](https://casetext.com/api/ai-assistant/proxy/document-uploads/7206f26fa8930bd221b75508b9309b4c/content#page=1)

[**Pages 1-7**](https://casetext.com/api/ai-assistant/proxy/document-uploads/7206f26fa8930bd221b75508b9309b4c/content#page=1)

* The document is a resolution from the San Francisco Police Commission regarding a disciplinary matter involving Sergeant Sherry Hicks.
* Hicks was charged with violating the Rules and Procedures by using a racial epithet in a text message.
* Hicks contends that she intended to use a Japanese term, not a racial epithet, and has provided statements to support her claim.
* The parties engaged in settlement discussions, with the Department expressing concern about the seriousness of the offense, and Hicks explaining the context of her message.
* The stipulated agreement includes: Hicks admitting to the violation and accepting responsibility for not proofreading the message. A 30-day suspension without pay. Mandatory retraining. Waiver of appellate rights.
* The Department's Brady Committee will determine if Hicks' conduct constitutes Brady material.

[**Pages 8-14**](https://casetext.com/api/ai-assistant/proxy/document-uploads/7206f26fa8930bd221b75508b9309b4c/content#page=8)

* The document is a settlement agreement between Sergeant Sherry Hicks and the San Francisco Police Department.
* Hicks was charged with Conduct Unbecoming an Officer for using a racial epithet in a text message.
* Hicks claims she intended to use a Japanese term, and the auto-correct feature on her phone changed the spelling.
* The parties engaged in settlement discussions, with the Department expressing concern about the seriousness of the offense, and Hicks explaining the context of her message.
* The agreement includes: Hicks admitting to the violation and accepting responsibility for not proofreading the message. A 30-day suspension without pay. Mandatory retraining. Waiver of appellate rights.
* The Department's Brady Committee will determine if Hicks' conduct constitutes Brady material.

[**Pages 15-21**](https://casetext.com/api/ai-assistant/proxy/document-uploads/7206f26fa8930bd221b75508b9309b4c/content#page=15)

* Sgt. Sherry Hicks is accused of using a racial epithet in a text message to #2, #3, #12.
* Hicks claims she intended to use a Japanese term, "chinkie," but the auto-correct feature on her phone changed the spelling.
* The Department filed charges against Hicks for Conduct Unbecoming an Officer.
* Hicks has provided statements to support her claim that the term she intended to use was of Japanese origin.
* The parties engaged in settlement discussions, with the Department expressing concern about the seriousness of the offense, and Hicks explaining the context of her message.
* The settlement agreement includes: Hicks admitting to the violation and accepting responsibility for not proofreading the message. A 30-day suspension without pay. Mandatory retraining. Waiver of appellate rights.
* The Department's Brady Committee will determine if Hicks' conduct constitutes Brady material.

[**Pages 22-29**](https://casetext.com/api/ai-assistant/proxy/document-uploads/7206f26fa8930bd221b75508b9309b4c/content#page=22)

* The document begins by mentioning the Department's work on revising disciplinary guidelines.
* A conference call was held to discuss a possible settlement.
* The agreement stipulates that Hicks admits to violating Rule 9 of Department General Order 2.01.
* Hicks acknowledges that she made an error in judgment by not proofreading the text message.
* Hicks waives her right to further administrative remedies, including a trial before the Police Commission, an administrative appeal, and a Writ of Administrative Mandamus.
* The agreement outlines the discipline to be imposed on Hicks, which includes a 30-day suspension without pay and mandatory retraining.
* The Department's Brady Committee will determine if Hicks' conduct constitutes Brady material, and Hicks has the right to appeal that decision.
* Hicks waives any right to judicial or administrative review of the agreement or its terms.
* If the Police Commission rejects the agreement, either party can rescind it and set the matter for trial.
* The agreement resolves all claims of misconduct against Hicks related to the incident.
* Hicks acknowledges that she has consulted with an attorney and understands the terms of the agreement.
* The agreement is signed by Hicks, her attorney, the Chief of Police, and the Department's attorney, and is approved by the Police Commission.
* The document also includes a letter from #2, #3, #12, who confirms that Hicks used the term "chinkie" in conversation with him.
* Finally, the document includes an email from Hicks' attorney requesting that the letter be included with the settlement agreement.

[**Pages 30-36**](https://casetext.com/api/ai-assistant/proxy/document-uploads/7206f26fa8930bd221b75508b9309b4c/content#page=30)

* The document begins by identifying the parties involved in the case: the San Francisco Police Department (SFPD) and Sergeant Sherry Hicks.
* The document outlines the charges against Sgt. Hicks, specifically that she used a racial epithet in a text message exchange with #2, #3, #12.
* Sgt. Hicks defends herself by arguing that she used the term "chink" as a Japanese colloquialism meaning "small," and that she did not intend to offend anyone.
* The document also includes the Department's recommended penalty for Sgt. Hicks, which is termination.
* The document contains a verification statement from the Chief of Police, William Scott, attesting to the accuracy of the charges.
* The document also includes a proof of service statement from Commander Gregory B. Yedelag, confirming that he personally served the charges to Sgt. Hicks.
* Finally, the document contains the Department's pretrial case statement, which outlines the Department's position, the undisputed and disputed facts, and the documents that both sides have agreed to admit into evidence.

[**Pages 37-42**](https://casetext.com/api/ai-assistant/proxy/document-uploads/7206f26fa8930bd221b75508b9309b4c/content#page=37)

* The document begins by outlining the Department's list of witnesses and expected testimony, including Sgt. Christopher Beauchamp, Sgt. Jamie Hyun, and #2.
* The Department also lists the exhibits it plans to introduce during the case, including the formal charges against Sgt. Hicks, Department General Order 2.01, and Department Bulletin DB 15-249.
* The Department makes a motion in limine, requesting that all witnesses not under examination be excluded from the commission room, that the Department be allowed to review and object to any documents used by defense witnesses, and that the Department be allowed to introduce hearsay statements.
* The document concludes with the Department's pre-trial case statement, which outlines the Department's position, the undisputed and disputed facts, and the documents that both sides have agreed to admit into evidence.

[**Pages 43-48**](https://casetext.com/api/ai-assistant/proxy/document-uploads/7206f26fa8930bd221b75508b9309b4c/content#page=43)

* The document begins by recounting a series of text messages between Sgt. Hicks and #2, #3, #12.
* It then discusses two interviews conducted by IAD-Admin with #2 and Sgt. Hicks, noting that one was not recorded while the other was.
* The document outlines the stipulation regarding the admissibility of certain documents, including Department Bulletin 15-249 and Department General Order 2.01.
* Sgt. Hicks' pre-hearing statement is then presented, which discusses the standards for discipline, the burden of proof, and the inadmissibility of hearsay evidence.
* The statement also discusses the principles of "just cause" and the seven elements that must be met in order for discipline to be justified.

[**Pages 49-58**](https://casetext.com/api/ai-assistant/proxy/document-uploads/7206f26fa8930bd221b75508b9309b4c/content#page=49)

* The document discusses the criteria for determining whether a disciplinary penalty is reasonable, including the seriousness of the offense and the employee's record.
* It lists the exhibits that Sgt. Hicks will enter into evidence, which include the San Francisco Police Department Disciplinary Penalty and Referral Guidelines, the Harassment-Free Workplace Policy, and evidence concerning the use of the Japanese word "chinke" or "chinkie" to mean small.
* The document also lists the witnesses that may be called, and requests that the Commission secure the attendance of three specific witnesses.
* It outlines the anticipated testimony of Sgt. Hicks, as well as the three witnesses, who will speak to her character and lack of bias or prejudice.
* The document also requests subpoenas for four additional witnesses, who will testify about Sgt. Hicks' background, use of Japanese terms, and commitment to cultural sensitivity.
* Finally, the document includes the San Francisco Police Department Disciplinary Penalty and Referral Guidelines as an exhibit.

[**Pages 59-65**](https://casetext.com/api/ai-assistant/proxy/document-uploads/7206f26fa8930bd221b75508b9309b4c/content#page=59)

* The document lists various types of misconduct, divided into four classes (A, B, C, and D) based on severity.
* Class A misconduct includes the most serious offenses, such as excessive use of force, making false statements on police reports, and arresting someone without probable cause.
* Class B misconduct includes less serious offenses, such as failing to report another officer's use of unnecessary force, conducting searches without lawful authority, and bringing discredit to the department.
* Class C misconduct includes offenses such as failing to obey orders, using unnecessary force that results in minor injury, and violating the department's crowd control policy.
* Class D misconduct includes minor offenses, such as failing to devote attention to police business while on duty, disrespecting a superior officer, and failing to treat members of the public with courtesy and respect.
* For each type of misconduct, the document outlines the penalties that will generally be imposed for first, second, and third offenses.

[**Pages 66-75**](https://casetext.com/api/ai-assistant/proxy/document-uploads/7206f26fa8930bd221b75508b9309b4c/content#page=66)

* The document begins by outlining disciplinary penalties and referral guidelines for various types of misconduct, including violations of department general orders, unnecessary use of force, and improper use of information.
* The document then moves on to a harassment-free workplace policy, which prohibits harassment on the basis of sex, race, age, religion, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, gender identity, or other protected category.
* The policy defines sexual harassment and prohibits retaliation against employees who report harassment or discrimination.
* The policy also outlines the responsibilities of supervisors and employees in responding to and reporting harassment, as well as the complaint procedures.
* Finally, the document includes two exhibits: one about the meaning or usage of the word 'chinkie' in old Japanese language, and the other about Japanese slang terms for body shapes.

[**Pages 76-93**](https://casetext.com/api/ai-assistant/proxy/document-uploads/7206f26fa8930bd221b75508b9309b4c/content#page=76)

* The document begins by discussing Sergeant Sherry Hicks' background and qualifications, noting her commitment to community policing and her experience as a P.O.S.T. certified instructor.
* It then describes her various roles within the San Francisco Police Department, including as a lead instructor for the Community Policing component of the Basic Recruit Academy Training Program, as well as her work with the Vicious and Dangerous Dog Unit.
* The document expresses shock at the recommendation to terminate Sergeant Hicks, and argues that she has never displayed any racial bias or animosity.
* It urges the Police Commission to review her record and consider her contributions to the department.

[**2017-07-31 Bias Comm118\_part\_3\_Redacted.pdf**](https://casetext.com/api/ai-assistant/proxy/document-uploads/5a732e8b21929b1fdeb6acab6556d039/content#page=1)

[**Pages 1-9**](https://casetext.com/api/ai-assistant/proxy/document-uploads/5a732e8b21929b1fdeb6acab6556d039/content#page=1)

* Sgt. Sherry Hicks is the subject of a legal matter involving various motions and filings.
* Rachael Kilshaw (Sergeant, San Francisco Police Department) is in communication with various individuals regarding the case, including Bob Hirsch (Commissioner), Ashley Worsham (Legal Counsel, Internal Affairs Division), and Alison Berry Wilkinson (Attorney).
* On July 17, 2018, Worsham sent a response to a Pitchess motion filed by Hicks.
* On July 16, 2018, Hirsch informed Kilshaw that a dispositive motion would need to be considered by the full Commission.
* On July 13, 2018, Worsham sent the Department's opposition to a motion to dismiss filed by Hicks.
* On July 3, 2018, Hirsch and Kilshaw discussed whether the motions filed by Hicks were dispositive and needed to be heard by the full Commission.
* On June 29, 2018, Wilkinson sent pre-hearing filings to Kilshaw, including two motions.
* On July 5, 2018, Wilkinson was out of the office and unavailable to respond to messages.
* On July 4, 2018, Hirsch inquired whether the City Attorney had been provided with a copy of the motion to dismiss.

[**Pages 10-19**](https://casetext.com/api/ai-assistant/proxy/document-uploads/5a732e8b21929b1fdeb6acab6556d039/content#page=10)

* Rachael Kilshaw (Sergeant, San Francisco Police Department) is in communication with various individuals regarding the case of Sgt. Sherry Hicks.
* On June 29, 2018, Alison Berry Wilkinson (Attorney) sent pre-hearing filings to Kilshaw, including two motions.
* Kilshaw asks Bob Hirsch (Commissioner) if the motions need to be calendared before the full Commission, which would require scheduling them on either August 1st or August 8th.
* Ashley Worsham (Legal Counsel, Internal Affairs Division) sends the Department's pre-hearing statement in response to Wilkinson's filings.
* Kilshaw later asks Worsham if Sgt. Jamie Hyun is available for the hearing, and Worsham confirms that he is.

[**Pages 20-33**](https://casetext.com/api/ai-assistant/proxy/document-uploads/5a732e8b21929b1fdeb6acab6556d039/content#page=20)

* Ashley Worsham requests to subpoena three individuals for the Hicks trial.
* Rachael Kilshaw informs Bob Hirsch that the hearing for Sgt. Sherry Hicks has been rescheduled for August 9, 2018.
* Hirsch is unavailable for the hearing, and requests that it be rescheduled for late September.
* Kilshaw and Hirsch discuss the motion to dismiss, which will be heard at the August 8, 2018 Commission meeting.
* Kilshaw and Worsham discuss the witnesses for the Hicks trial.
* A motion for discovery is scheduled for August 9, 2018.

[**Pages 34-42**](https://casetext.com/api/ai-assistant/proxy/document-uploads/5a732e8b21929b1fdeb6acab6556d039/content#page=34)

* Alison Berry Wilkinson inquires about the status of the discovery motion for Sgt. Hicks, scheduled for August 9, 2018.
* Wilkinson suggests rescheduling the discovery motion until after the motion to dismiss is heard.
* Rachael Kilshaw informs Wilkinson that Commissioner Hirsch wants to proceed with the hearing as scheduled.
* Wilkinson thanks Kilshaw for the information.
* Walter Ware informs Wilkinson that the August 8, 2018 Police Commission meeting has been cancelled.
* Wilkinson asks if the discovery motion should be postponed as a result.

[**Pages 43-53**](https://casetext.com/api/ai-assistant/proxy/document-uploads/5a732e8b21929b1fdeb6acab6556d039/content#page=43)

* Risa Tom sends a message to various individuals, including Bob Hirsch, Ashley Worsham, and Alison Berry Wilkinson, attaching three documents related to the case of Sgt. Hicks.
* Wilkinson responds to Worsham, thanking her for the department's response to the Pitchess motion.
* Wilkinson and Kilshaw discuss deadlines for filing oppositions and replies to motions.
* Kilshaw confirms the rescheduled hearing for Sgt. Hicks, and requests that the parties agree on dates for filing oppositions and replies.
* Wilkinson and Kilshaw agree on deadlines for filing oppositions and replies.
* Kilshaw thanks Wilkinson and Ashley for the information and says the Commission Office will send out an updated scheduling letter.

[**Pages 54-63**](https://casetext.com/api/ai-assistant/proxy/document-uploads/5a732e8b21929b1fdeb6acab6556d039/content#page=54)

* Kilshaw, Hirsch, and Worsham discuss the hearing for Sgt. Sherry Hicks, including potential dates and locations.
* Kilshaw confirms the rescheduled hearing date and location, and reminds the parties that motions, pre-trial statements, and witness lists are due by the end of the week.
* Kilshaw and Ware discuss the need to find an alternate room for the hearing due to a scheduling conflict.
* Wilkinson and Kilshaw discuss the possibility of moving the hearing date, with Wilkinson expressing concern about the timing of oppositions and replies.
* Hirsch and Kilshaw discuss whether two motions submitted by Wilkinson are "dispositive" and need to be heard by the entire Commission.

[**Pages 64-74**](https://casetext.com/api/ai-assistant/proxy/document-uploads/5a732e8b21929b1fdeb6acab6556d039/content#page=64)

* Wilkinson requests a continuance of the hearing for Sgt. Sherry Hicks, as well as a continuance of the pre-hearing submission dates, in order to facilitate the agreement reached at the Early Resolution Conference.
* Hirsch grants the request and sets a phone conference call for 6/25, with the hearing rescheduled for 7/19.
* Wilkinson confirms that both items have been added to her calendar.
* Kilshaw confirms the status conference and hearing dates, and provides her contact information.

[**Pages 75-88**](https://casetext.com/api/ai-assistant/proxy/document-uploads/5a732e8b21929b1fdeb6acab6556d039/content#page=75)

* Wilkinson requests a continuance of the hearing and pre-hearing submission dates for Sgt. Sherry Hicks in order to complete an agreed factual statement.
* Hirsch grants the request and sets a phone conference call for 6/25 and the hearing for 7/19.
* Ware confirms the settlement conference is still on schedule.
* Kilshaw confirms the status conference and hearing dates, and provides her contact information.
* Worsham confirms her availability for the proposed hearing dates.

[**Pages 89-101**](https://casetext.com/api/ai-assistant/proxy/document-uploads/5a732e8b21929b1fdeb6acab6556d039/content#page=89)

* Kilshaw requests the cancellation of a hearing scheduled for 6/25/18, and asks for it to be rescheduled for 7/19/18.
* Ware confirms the hearing is scheduled for 6/25/18, but will send out a cancellation notice.
* Hirsch sets the taking of evidence for 6/25/18, and outlines the time limits and instructions for the parties involved.
* Worsham and Wilkinson discuss discovery issues, and agree to work together to resolve them.
* Ware schedules a settlement conference for 5/17/18.

[**Pages 102-114**](https://casetext.com/api/ai-assistant/proxy/document-uploads/5a732e8b21929b1fdeb6acab6556d039/content#page=102)

* Woeshow requests clarification on a brief paragraph on page 17 of a document.
* Aleson requests confirmation that a recording exists.
* Hirsch requests a conference to be scheduled on either 5/15 or 5/16, and also requests a hearing date.
* Kilshaw and Wilkinson discuss the status conference for Sgt. Sherry Hicks, with Wilkinson requesting to be contacted on her cell phone.
* The Police Commission adopts a resolution to assign Commissioner Hirsch to conduct the taking of evidence in the disciplinary charges against Sgt. Hicks.
* Kilshaw and Hirsch discuss possible dates for a status conference, with Kilshaw noting that 4/18 is only available until 3:00 pm.
* Wilkinson and Worsham discuss their availability for the status conference, with Wilkinson preferring 4/18 or 4/30.

[**Pages 115-122**](https://casetext.com/api/ai-assistant/proxy/document-uploads/5a732e8b21929b1fdeb6acab6556d039/content#page=115)

* Hirsch and Kilshaw discuss the assignment of a discipline case, with Hirsch noting that he may not be able to attend a Wednesday meeting due to travel.
* Kilshaw informs Hirsch that the case has been assigned to him, and that the attorney for the officer has been excused from the Wednesday meeting.
* Kilshaw and Turman discuss whether it is allowable for the attorney and her client to be excused from the assignment of the case.
* Berry Wilkinson requests that she and her client be excused from appearing at the meeting, or that the appearance be postponed.
* Kilshaw informs Berry Wilkinson that they are not required to attend the meeting, and that she will coordinate with the assigned Commissioner to set up a status conference.
* Kilshaw and Turman discuss the assignment of the discipline case, with Turman requesting that the case be assigned to Hirsch.
* The Police Commission notifies Sgt. Hicks of the assignment of a Commissioner on disciplinary charges, and requests her attendance at the meeting unless excused.

[**2017-07-31 Bias Comm118\_Redaction\_Index\_for\_SFPD\_Portal\_Hicks.pdf**](https://casetext.com/api/ai-assistant/proxy/document-uploads/8c5f46052f5d0d70542fedea28a176ce/content#page=1)

[**Pages 1-2**](https://casetext.com/api/ai-assistant/proxy/document-uploads/8c5f46052f5d0d70542fedea28a176ce/content#page=1)

* The San Francisco Police Commission has identified records related to an incident involving Sgt. Sherry Hicks using a racial epithet on July 31, 2017.
* Redactions have been made to these records based on various legal exemptions.
* Exemptions include: California Penal Code § 832.7(b)(5)(A) (redaction #1) which protects personal data or information of peace and custodial officers. California Penal Code § 832.7(b)(5)(B) (redaction #2) which preserves the anonymity of complainants and witnesses. California Penal Code § 832.7(b)(5)(C) (redaction #3) which protects confidential medical, financial, or other information. California Penal Code § 832.7(b)(5)(D) (redaction #50) which protects the physical safety of the peace officer, custodial officer, or another person. California Penal Code § 832.7(a) (redaction #6) which makes personnel records of peace officers and custodial officers confidential. California Penal Code § 832.7(b)(7) (redaction #7) which protects personal identifying information. California Penal Code §§ 11076, 11105 (b) (redaction #8) which restricts access to information from the California Law Enforcement Telecommunications System (CLETS). California Penal Code §§ 13300(b) (redaction #9) which restricts dissemination of criminal offender record information (CORI). California Government Code § 6254(a) (redaction #10) which exempts preliminary drafts, notes, or memoranda from disclosure. California Government Code § 6254(f) (redaction #11) which exempts records of complaints, investigations, intelligence information, or security procedures from disclosure. California Code of Civil Procedure § 129 (redaction #12) which protects photographs of a deceased person taken by the coroner. California Government Code § 6254(c) (redaction #13) which protects against unwarranted invasion of privacy. California Welfare & Institutions Code § 5328 (redaction #14) which protects confidential mental health records. California Government Code §§ 254(k), 6254.25, 6276.04, Evidence Code § 954 (redaction #15) which protects attorney-client privilege. California Evidence Code 1040(b)(2) (redaction #16) which allows a public entity to refuse to disclose official information.

[**2019-07-21 Bias SFPD274.pdf**](https://casetext.com/api/ai-assistant/proxy/document-uploads/f48e514847f0f20dd4cd938961b49617/content#page=1)

[**Pages 1-6**](https://casetext.com/api/ai-assistant/proxy/document-uploads/f48e514847f0f20dd4cd938961b49617/content#page=1)

* The document pertains to a disciplinary case against Officer Gordon Brown of the San Francisco Police Department (SFPD).
* The case revolves around allegations that Brown used a racial epithet in two text messages on his department-issued cell phone.
* The case is designated as MCD-2019-0201.
* Key individuals involved in the case include: Officer Gordon Brown (the accused) Ashley Worsham (managing attorney for the SFPD's internal affairs division) Scott Burrell (an attorney representing Brown)
* The case was reported on 10/21/2019 and closed on 10/10/2023.
* Brown was found to have violated the department's rule against "Improper Conduct."
* As a result, he received a 15-day suspension without pay (with 5 days held in abeyance for 2 years) and was required to undergo retraining.
* A settlement agreement was reached between Brown and the department, which was approved by the Police Commission on 9/20/2023.

[**Pages 7-12**](https://casetext.com/api/ai-assistant/proxy/document-uploads/f48e514847f0f20dd4cd938961b49617/content#page=7)

* The document begins by outlining the background of the case, including the charges against Officer Brown and his defense.
* The document then details the early settlement conference, where the parties discussed the facts of the case and potential settlement terms.
* The initial proposed settlement was rejected by the Police Commission, but the parties eventually reached a revised agreement.
* The agreement stipulates that Brown will admit to three specifications of misconduct, waive his right to further administrative remedies, and accept the recommended discipline.
* The discipline includes a 15-day suspension (with 5 days held in abeyance) and mandatory retraining.
* Brown also agrees to a waiver regarding the department's Brady Committee review and waives his right to judicial or administrative review of the agreement.
* The agreement is signed by the parties and approved by the Police Commission.

[**Pages 13-21**](https://casetext.com/api/ai-assistant/proxy/document-uploads/f48e514847f0f20dd4cd938961b49617/content#page=13)

* The document begins by outlining the terms of the settlement agreement between Officer Brown and the San Francisco Police Department (SFPD).
* The agreement stipulates that Brown will admit to three specifications of misconduct, waive his right to further administrative remedies, and accept the recommended discipline.
* The discipline includes a 60-day suspension (with 30 days held in abeyance) and mandatory retraining.
* Brown also agrees to waive his right to judicial or administrative review of the agreement.
* The agreement is signed by the parties and approved by the Police Commission.
* The document then includes a letter from the SFPD to Brown's attorney, providing materials related to similar cases.
* Finally, the document includes the SFPD's opposition to Brown's motion for discovery under Pitchess/Stigliz.

[**Pages 22-28**](https://casetext.com/api/ai-assistant/proxy/document-uploads/f48e514847f0f20dd4cd938961b49617/content#page=22)

* The document begins with a memorandum opposing Officer Brown's motion to discover police personnel records.
* The SFPD argues that the motion is premature and that Brown has not established good cause or materiality for the requested materials.
* The SFPD cites various cases and statutes to support their argument.
* The SFPD also argues that if the motion is granted, any records older than five years should not be produced, as they are not relevant under California law.
* If the motion is granted, the SFPD requests that the Commission conduct an in camera review of the records to protect the confidentiality of the officers involved.
* The document concludes with a request to deny Brown's motion.

[**Pages 29-36**](https://casetext.com/api/ai-assistant/proxy/document-uploads/f48e514847f0f20dd4cd938961b49617/content#page=29)

* The document begins by referencing policy violations that Officer Brown is accused of, including the use of racial epithets.
* The document then discusses the records that are being requested in relation to these charges.
* The document goes on to detail the motion for discovery of confidential personnel records, which is supported by a memorandum of points and authorities and a declaration from Scott Burrell, an attorney representing Officer Brown.
* The document argues that the records are necessary for Officer Brown to have a fair hearing and to establish a defense of disparate treatment.
* The document cites California law that authorizes discovery of confidential personnel records in administrative disciplinary matters.
* The document argues that good cause exists to produce the records, as they are relevant and material to the case.
* The document concludes with a request for an order requiring the Department to produce the records.

[**Pages 37-48**](https://casetext.com/api/ai-assistant/proxy/document-uploads/f48e514847f0f20dd4cd938961b49617/content#page=37)

* The document begins by outlining the need for the Department to maintain written records of investigative findings and disciplinary actions.
* Officer Brown argues that the records are in the exclusive possession of the Department and the City and County of San Francisco, and that he can only access them through the motion process.
* The document then discusses the allegations against Officer Brown, which are based on text communications in which he used the term "nigga."
* Officer Brown defends against the allegations by arguing that he did not violate Department General Order 2.01 Rule 9, and that the penalty sought is overly harsh.
* The document cites examples of other officers who were not terminated for similar or worse misconduct.
* Scott Burrell, an attorney representing Officer Brown, declares under penalty of perjury that the information in the document is true and correct.
* The document then includes an exhibit detailing the Commission Charges against Officer Brown, which allege that he used racial epithets in text messages.
* The document concludes with a proof of service of the charges and a motion for discovery under Pitchess/Stiglitz.

[**Pages 49-58**](https://casetext.com/api/ai-assistant/proxy/document-uploads/f48e514847f0f20dd4cd938961b49617/content#page=49)

* The document begins by outlining the charges against Officer Gordon Brown, which include five counts of misconduct, with the most serious allegation being that he used racial epithets in violation of Department General Order 2.01 Rule 9.
* Officer Brown argues that the recommended penalty of termination is overly harsh and excessive, and that it violates the principles of progressive discipline.
* He also contends that the recommendation is unfair and disparate, as other officers who have engaged in similar or worse conduct have not received termination recommendations or have received lesser penalties.
* Officer Brown seeks discovery of records related to other disciplinary cases in order to support his disparate treatment defense.
* The document discusses the legal framework for obtaining confidential personnel records in administrative disciplinary matters, including the Pitchess motion and the Stiglitz decision.
* Scott Burrell, an attorney representing Officer Brown, provides a declaration in support of the motion for discovery, arguing that the records are relevant and material to the case and that good cause exists for their production.
* The document concludes with a request for an order requiring the Department to produce the records requested.

[**Pages 59-68**](https://casetext.com/api/ai-assistant/proxy/document-uploads/f48e514847f0f20dd4cd938961b49617/content#page=59)

* The document begins by providing contact information for the San Francisco Police Department and the San Francisco Police Commission.
* The document then outlines the charges against Officer Gordon Brown, specifically mentioning that he is accused of using racial epithets in violation of Department General Order 2.01, Rule 9.
* The document provides details about the two text messages that Officer Brown sent which contained the word "nigga."
* Officer Brown admits to sending the messages, but argues that he did not intend for the word to be derogatory or negative.
* The document argues that regardless of Officer Brown's intent, the word is considered derogatory in many contexts and his use of it is considered conduct unbecoming of an officer.
* The Chief of Police recommends that the Police Commission terminate Officer Brown's employment.
* The document includes a verification statement from the Chief of Police, as well as a proof of service statement from Lt. Scott Heidohrn.

[**Pages 69-80**](https://casetext.com/api/ai-assistant/proxy/document-uploads/f48e514847f0f20dd4cd938961b49617/content#page=69)

* The document begins with a letter from the Chief of Police to Officer Gordon Brown, ordering him to be disarmed and reassigned to a non-public contact assignment.
* The letter also orders Officer Brown to surrender his department-issued handgun, identification card, and star.
* The letter states that the orders will remain in effect until the resolution of the matter.
* The document then includes a memorandum from Lt. Lynn Reilly, detailing the process of disarming Officer Brown and collecting his department-issued items.
* The document also includes a memorandum from Captain Christopher Woon, notifying Lt. Angela Wilhelm of the Chief's order to disarm and reassign Officer Brown.
* The document then includes a case evaluation from Lt. Angela Wilhelm, which recommends that Officer Brown be admonished and retrained on Department General Order 2.01, Rule 1 & 9.
* The document concludes with three forms related to the investigation: an interview notice, a commanding officer notification, and an accused member notification.

[**Pages 81-95**](https://casetext.com/api/ai-assistant/proxy/document-uploads/f48e514847f0f20dd4cd938961b49617/content#page=81)

* The document begins with a report summary detailing a complaint against Officer Gordon Brown for "Conduct Unbecoming an Officer."
* The report summary includes information on the case number, date reported, incident date, location, and status.
* The report summary also lists the complainant (SFPD) and the employee involved (Officer Gordon Brown).
* The document then includes a form detailing the complaint against Officer Brown, including the type of misconduct, the activity being performed, and the investigation assigned to Sgt. Hyun.
* The document then includes a memorandum from Lt. Angela Wilhelm to Sgt. Jamie Hyun, detailing the allegation against Officer Brown for using a bias word on two separate occasions.
* The document then includes two text message threads, both of which contain the bias word in question.
* The document then includes a memorandum from Lt. Angela Wilhelm to Chief of Police William Scott, summarizing the investigation into the complaint against Officer Brown.
* The document then includes a detailed synopsis of the case, identifying the involved parties, the investigation chronology, and the investigative findings.
* The document concludes with a summary of the statements made by Officer Brown during his recorded interview.

[**Pages 96-110**](https://casetext.com/api/ai-assistant/proxy/document-uploads/f48e514847f0f20dd4cd938961b49617/content#page=96)

* The document begins with a summary of an interview with Officer Brown, which is summarized in the "Investigative Findings" section.
* The document then concludes that Officer Brown violated Department General Order (DGO) 2.01 rule 9 by texting a bias word on two occasions.
* The document defines "Improper Conduct" and "Misconduct" according to the department's policies and procedures.
* The document then provides evidence that Officer Brown was on duty when he texted the bias word.
* The document is signed by Sergeant Jamie Hyun and Lieutenant Angela Wilhelm.
* The document then recommends that discipline be imposed according to department policy and guidelines.
* The document lists the attachments included with the report, which include a chronological record of the investigation, forms, text messages, transcripts, and a CD of the interview.
* The document then provides two chronological records of the investigation, detailing the dates, times, and activities of the investigation.
* The document concludes with a summary of the case, including the case type, case number, date reported, incident date, location, and status.

[**Pages 111-118**](https://casetext.com/api/ai-assistant/proxy/document-uploads/f48e514847f0f20dd4cd938961b49617/content#page=111)

* The document begins with a series of timestamps, checkmarks, and "X" marks, which may be related to the investigation.
* The document then transitions to a transcript of an interview with Officer Gordon Brown, conducted by Sergeant Hyun of the Internal Affairs Division (IAD).
* In the interview, Sergeant Hyun asks Officer Brown about his rank, assignment, and department cell phone number.
* Sergeant Hyun also asks Officer Brown about two phone numbers that appear in his call log, which Officer Brown identifies as belonging to old friends.
* The interview concludes with Sergeant Hyun reminding Officer Brown of the confidentiality of the investigation and the importance of not discussing it with anyone other than his representative.

[**Pages 119-125**](https://casetext.com/api/ai-assistant/proxy/document-uploads/f48e514847f0f20dd4cd938961b49617/content#page=119)

* The document continues with a transcript of an interview between Sergeant Hyun and Officer Gordon Brown.
* Sergeant Hyun asks Officer Brown about his relationship with "2," a person he has been in contact with.
* Officer Brown explains that he met "2" in college and that they have remained friends.
* Sergeant Hyun questions Officer Brown about why he used his department cell phone for personal reasons.
* Officer Brown explains that he was having issues with his personal phone and that he used his department cell phone to stay in touch with important people in his life.
* Sergeant Hyun asks Officer Brown about his use of the word "nigga" in text messages to "2" on two separate occasions.
* Officer Brown explains that he uses the word as a term of endearment and that it is not meant to be derogatory.

[**Pages 126-134**](https://casetext.com/api/ai-assistant/proxy/document-uploads/f48e514847f0f20dd4cd938961b49617/content#page=126)

* Sergeant Hyun questions Officer Brown about his use of the word "nigga" in text messages.
* Officer Brown explains that he uses the word as a term of endearment and that it is not meant to be derogatory.
* Officer Brown states that he does not use the word in public or in the presence of other people.
* Mr. Martin, an attorney representing Officer Brown, argues that the department should consider the context in which the word was used.
* Sergeant Hyun asks for Officer Brown's personal phone number.
* Sergeant Hyun reminds Officer Brown that the investigation is confidential and that he should not discuss it with anyone other than his representative.