

COMPLAINT – City of Santa Clara and Santa Clara Police Department

Entity: City of Santa Clara
Santa Clara Police Department

Complainant: Garrett Bondaug
[Address Redacted]

Police Report: 11-12465

Please note that within two weeks from this incident a **filing of an official complaint was attempted but records of the incident and a complaint form were denied Mr. Bondaug by officer Steven Ernst** who was working the front records desk at Santa Clara Police Department. A letter from Records Manager, Gina McWilliam, on behalf of the acting Police Chief, Kevin Kyle, is attached to this complaint.

A Santa Clara County Grand Jury, in its 2012-2013 Final Report, found that the City of Santa Clara and its police department (1) did not provide Public Access to Complaint Procedure and (2) did not provide either online, in the lobby or by request Public Access to Complaint Form. Subsequently, it wasn't until **September 25, 2013** when Mayor Jamie Matthews, City Manager Julio Fuentes, and Police Chief Michael Sellers confirmed that the Grand Jury's findings were acknowledged and Grand Jury recommendations for remedy implemented. A copy of the City of Santa Clara's response to "2013-2013 Santa Clara County Civil Grand Jury, Law Enforcement Public Complaint Procedures" is attached to this complaint.

INCIDENT/TIME: Starting December 2, 2011 - Present

INCIDENT CASE NUMBER: 11-12465

INCIDENT LOCATION: [Redacted] Wilson Court, Santa Clara, CA 95051

EMPLOYEES INVOLVED (IF KNOWN): Officers Gregory Deger, Colin Stewart, Lauren Larsen (Eldridge), Derek Schneider, Tom Nelson, Cory Morgan, Kiet Nguyen, Rene-John Otico, Tyson Green, Chris bell, Jamie Ellis, Sergeant Derek Rush, Sergeant Nicholas Richards, Lieutenant Daniel Moreno, Captain Wahid Kazem, Chief Kevin Kyle, Chief Michael Sellers, Santa Clara City Attorney, Santa Clara City Manager, Santa Clara City IT managers.

Complaint against City of Santa Clara and Santa Clara Police Department

1. The City of Santa Clara Violated California Penal Code 832.5(a)(1)
2. The Santa Clara Police Department, and its supervisory officers, Intentionally Violated Department General Order section 1.5
3. The City of Santa Clara Violated California Penal Code 135PC
4. The City of Santa Clara and its Police Department Violated Departmental Rules and Regulations Established for Responding to Assaults
5. The City of Santa Clara and its Police Department Violated Santa Clara County Domestic Violence Protocol for Law Enforcement as Subscribed to in 2009 and Reestablished in 2014

6. Omission of Facts, Embellishment of a Police Report, False Testimony

THE FOLLOWING HAPPENED:

1. **The City of Santa Clara Violated California Penal Code 832.5(a)(1).** That code requires any entity that employs peace officers establish and maintains a procedure to investigate complaints from the public against entity employees and personnel contracted in employment and that a written description of the complaint procedure be made readily available to the public. The City of Santa Clara and the Santa Clara Police Department **Conducted Police Business in a Less Than Truthful Manner and was Uncooperative.** *I ask that an independent investigator consider the below facts in finding that the City of Santa Clara intentionally violated department policy and Penal Code 832(a)(1).*

- a) The City of Santa Clara has known for decades about Penal Code 832(a)(1). In the past, the City of Santa Clara and its Police Department (SCPD) did the following...
 - i. October 2001, accepted a citizen's complaint from Mr. Barrett.
 - ii. October 2001, officers within SCPD made record of misgivings about officer Rodriguez' actions and what had occurred during interactions with Mr. Barrett.
 - iii. July 2002, Sergeant Lane completed investigation and submitted a written report to police Chief Steven Lodge.
 - iv. Soon thereafter officer Rodriguez was fired from his position as a police officer with Santa Clara Police Department and as an employee of the City of Santa Clara.
- b) Mr. Bondaug attempted to make a citizens complaint in person but was denied that right.
 - i. SCPD officer's Greg Deger and Lauren Eldridge booked Mr. Bondaug on accusations of PC148 and HS11550. The HS11550 accusation was never sent from SCPD to the Santa Clara District Attorney on grounds that there was never any evidence to prosecute and the PC148 soon was dismissed by the Santa Clara County District Attorney's office in the interest of justice (IOJ).
 - ii. December 19, 2011, Mr. Bondaug and Mr. David [REDACTED] arrived at SCPD headquarters, requested police reports and a citizen's complaint form. The police reports and complaint form were denied to Mr. Bondaug by officer Steven Ernst.
 - iii. December 22, 2011, on behalf of acting Chief Kevin Kyle, records manager Gina McWilliam sent a letter denying a copy of the police reports and referring Mr. Bondaug to the court clerk at the Hall of Justice.

- c) Witnesses at the scene of Wilson Court attempted to make a complaint against Santa Clara police officers but were ignored and denied that right.
- i. In investigating actions to support the arrest of PC148 against Mr. Bondaug, officer **Tom Nelson interviewed Ms. [DANIELA] immediately at the scene** and noted in his report, “[DANIELA] stated she told officer Deger there was “no one’ yelling outside and there were no problems at her house...there was no one arguing or fighting.” Nelson would also note, “[DANIELA] then stepped behind her son and remained in the doorway, as her son and Ofc. Deger talked outside the residence.” Ms. [DANIELA]’s first hand witness account immediately contradicted officer Deger’s version and knowing this the City of Santa Clara, Santa Clara Police Department, and its responding officers refused to investigate the contradiction of occurrence between four witnesses and officer Deger. Officer Nelson never inquired as to why Mr. Bondaug needed to be assaulted or arrested by himself and Deger and never orally reported this contradiction of actions to his superiors.
 - ii. **Ms. [Sandra] asked to speak to a supervisor** and was provided a phone number and the name Sgt. Derek Rush. Ms. [Sandra] immediately called the phone number provided and left a message that she would like to file a complaint but her call was never returned.
 - iii. In response to the arrest of Mr. Bondaug, **Ms. [Tatiana] told officer Stewart at the scene, “Bondaug never lifted a hand to officer Deger.”** The City of Santa Clara, Santa Clara Police Department, and its responding officers refused to investigate the contradiction of occurrence between four witnesses and officer Deger. Officer Stewart inquired as to why Mr. Bondaug needed to be assaulted or arrested by himself and Deger but either refused to report this contradiction of actions to his superiors or he report it but then decided to help cover up the injustice.
- d) Following policy in making a claim for injury, the City of Santa Clara intentionally failed to supervise its vendor, George Hills Company, responsible for investigating claims of abuse, misconduct, and/or injury against the employing City or any of its subordinate departments.
- i. In a timely manner and through his attorney, Mr. Bondaug filed a claim against the City of Santa Clara, Santa Clara Police Department, and its officers.
 - ii. May 14, 2012: Rodger Hayton writes, “Would it be possible for us to interview him (Bondaug) and any witnesses he can product? We have requested the police report

but it typically takes up to 6 weeks for us to get it and we don't want to wait that long before beginning our assessment of the exposure to the City from this claim....**Given all these facts, however, we are going to recommend that the City reject the claim.**"

- iii. May 17, 2012: Attorney Bob Tennant responds: "If you need to investigate the Claim I suggest you utilize the not insignificant resource of the Santa Clara Police Department. I won't be calling because I have no questions and **your recommendation, before you have even read one word of the police reports, that the City reject the Claim, comes as no particular surprise.**"
- iv. May 18, 2012: Rodger Hayton responds by indicating that **the previous letter he sent was a reused template and they never reject a claim before completing an investigation. Neither Mr. Hayton, his staff, their investigators, the Santa Clara Police Department or the City of Santa Clara would go on to further investigate the claim or matter of 11-12465.**

2. **The Santa Clara Police Department, and its supervisory officers, Intentionally Violated Department General Order section 1.5: Reporting/Documenting the Use of Force. *I ask that an independent investigator consider the below facts in finding that the City of Santa Clara and SCPD intentionally violated department policy in not properly documenting Use of Force and retaining such records.***

- a) Section 1.5.3, Review of Force Reports, paragraph 3: "It is the **responsibility of the reviewing supervisor** to ensure that they **report complies with the requirements as found in General Order 1.5.2** and that the employee's use of force is consistent with Department policy, **based on the content of the report.**"
 - i. On scene, December 2, 2011, while officers were making note of witness statements were Sgt. Derek Rush and Sgt. Nicholas Richards, both supervisors at the time.
 - ii. Section 1.5.2, paragraph three, clearly states "An employee's failure to report his/her use of force, or that use of force, which he/she witnesses that is unreasonable, will subject that employee to disciplinary action." From statements documented in Nelson and Stewart's police reports, all witnesses stated to them that there was no problem at Ms. [DANIELA]'s home; no one in the residence had been threatened with, or was the victim of, violence; Mr. Bondaug never raised a hand or touched Deger, and that it was Deger who initiated contact with Mr.

Bondaug. Officer Stewart also documented and testified that he never saw Mr. Bondaug reach for or grab Deger and in fact it was Deger who Stewart testified was reaching for Mr. Bondaug. Stewart saw Deger striking Mr. Bondaug. Both officers Stewart and Nelson documented and testified they never saw Mr. Bondaug swing with hands or kick at any officer or persons that entire evening.

- iii. Santa Clara Police Department General Order 1.4, Less Lethal Force, and specifically section 1.4.5 states, "The police baton or expandable baton used by police officers is either a defensive or control weapon and shall be used in a manner consistent with training." Both Sgt's Rush and Richards knew at the scene that the officers they supervised and accumulated independent witness statements certifying that Mr. Bondaug had not threatened, touched, or moved towards Deger therefore his Deger's action of using an ASP baton should have immediately been called into question. Additionally, any allegation that Mr. Bondaug has done such things were never conveyed to other officers or supervisors at the scene, evidence of that absent detail is noticeable on each and every individual officer reports.
- iv. Based upon the independent statements that officers gathered from witnesses and from what they saw, it is reasonable to believe that Deger striking Mr. Bondaug with a baton and fist strikes to his head and torso is unreasonable.

3. The City of Santa Clara Violated California Penal Code 135PC, Destroying or Concealing Evidence in a Crime. Below is a list of chronological events proceeding, during, and after the intentional and negligent destruction of evidence. **I ask that an independent investigator consider the below facts in finding that the City of Santa Clara intentionally violated department policy in destroying or concealing evidence in a crime.**

- a) Both the City of Santa Clara and Santa Clara Police Department immediately knew there were questionable circumstances and events detailed in the police reports of officers Deger, Stewart, Nelson, Morgan, Larsen (Eldridge), and Schneider then destroyed evidence necessary to competently and completely investigate matter 11-12465.
- b) On February 3, 2011, **ten months prior to incident 11-12465**, officer **Deger had been notified in writing, and in person**, that the City of Santa Clara and its subordinate police department determined that Deger had **[REDACTED]**.

- i. The City of Santa Clara notified Deger of [REDACTED] on February 18, 2011 and that Deger [REDACTED]. Approving [REDACTED] were Kevin Kyle (Acting Chief of Police), [Redacted], and [Redacted].
 - ii. On February 18, 2011, in a [REDACTED] to Deger, acting police chief Kyle [REDACTED]."
- c) In the evening of December 2, 2011: There was no loud noise, voices, or signs of physical threat when officer Deger arrived and observed Wilson Court's street scene or as he stood on the porch of 621 Wilson Court. Santa Clara Police Department policy in the Field Training Guide for Assaults clearly states that a minimum of two officers are required. **Officer Deger had [REDACTED] willfully, intentionally, and with disregard to Santa Clara Police Department's Field Training Guide for Assaults: Minimum 2-officer response violated the City of Santa Clara's Departmental Rules and Regulations.**
- d) **Officer's Nelson, Morgan, and Stewart recorded statements from independent witnesses at the scene that immediately contradicted Deger's stated and reasoning** for his actions.
- e) At 01:26 AM on December 4, 2011 (approx 25 hours after incident) **Sgt. Derek Rush emailed** other SCPD supervisory sergeants Jake Malae, Steve Bures, Randy Bourbon, Nicholas Richards, and **Lt. Dan Moreno** requesting, *"Subject UOF Case #11-12465; Deger and Stewart were involved in a UOF case on Friday. I am still waiting 4 more supps to come in prior to printing off the case for Moreno's review. Please do not "SA" (supervisor's approval) any associated reports to case #11-12465. Thanks, Rush."* **Dan Moreno**, a sergeant back in October 2010, **was the supervisor [REDACTED]. Moreno was watch-commander the night of incident 11-12465 and was immediately aware that Deger had [REDACTED] broken City of Santa Clara Departmental Rules and Regulations and had a clear understanding that [REDACTED].**
- f) **December 19, 2011, Mr. Bondaug** and a friend, David [REDACTED], went to Santa Clara Police Department headquarters and **requested police reports specific to incident 11-12465 and information/forms to file a complaint. Mr. Bondaug was denied copies of reports pertaining to him specifically and complaint forms.**
- g) Sergeant Derek Rush would testify that on or near **Thursday December 8, 2012**, SCPD never sent the HS 11550 to the District Attorney's office as without physical narcotics evidence, no evidence of paraphernalia, or without a blood sample the DA won't prosecute an arrestee.

Santa Clara Police Department determines there was never any evidence to prosecute Mr. Bondaug for HS 11550.

- h) **Records Retention Schedule: Police No.'s PD-035, PD-036, and PD-038 through PD-040 state that crime reports are to be kept for 2 years at minimum.** A note to each Office of Record (OFR) directive states **"Retentions begin when the act is completed, and imply a full file folder** (e.g. last document +2 years) since destruction is normally performed by the file folder. Litigation, complaints, claims, public records act requests, audits and/or investigations suspend normal retention periods (retention resumes after settle or completion).
- i) **January 9, 2012 attorney Michelle Brenot** (CalBar #186911) drafted, mailed and confirmed receipt to the City of Santa Clara and Santa Clara Police Department 601 El Camino Real, Santa Clara, CA 95050-4307 a **DEMAND FOR PRESERVATION OF EVIDENCE** that clearly requested the preservation of all electronically stored information (ESI) giving notice that the City and its subordinate department, Santa Clara Police, *"take all steps necessary to prevent the destruction, loss, concealment, or alternation of any paper, document or electronically stored information and other data or information generated and/or stored on your computers and storage media, and email related to Garrett Bondaug, Agency Arrest Number 1112465 and the officers involved."* **More was written in this demand; a copy of the demand is attached to this complaint.**
- j) **January 12, 2012 Captain Wahid Kazem**, then a Lieutenant, constructed and sent an email to Janice Rivera (Ofc. SCPD), Greg Hill (Sgt. SCPD), Julie Freitas (Community Svcs. Ofc.), Gina McWilliam (SCPD Records Dept. Mgr.), John Mills (Comm. Ops. Mgr.) and CC to Mike Sellers (Police Chief) and Scott Fitzgerald (Sgt. SCPD). Kazem wrote **"The attorney is requesting that we retain all Electronic Stored Information (EDI) regarding this case and Mr. Bondaug. You're receiving this email and a copy of the notice because each of you may have a stake in this request.** A2 Sellers will have the city Attorney's Office review the request and advise up on our responsibilities. In the meantime, please retain any matter you deem relevant to this request. Thank you." **There were sufficient intra-departmental staff notified that all documents pertaining to this matter, to include UOF, and officer's personal cell phones, cell phone records, and audio recordings used or created in this matter are to be held that none of the items described in attorney Brenot's *Preservation of Evidence* letter should have been lost, misplaced, disposed of, or destroyed.** In addition to the above named

persons, the City Attorney, City Manager and Clerk of the City were all aware of the *Preservation of Evidence* Letter.

- k) **February 2, 2012 Mr. Mike Yorks**, a retired police officer, staff instructor at the South Bay Regional Public Safety Training Consortium (aka The Academy), and private investigator **completed an investigation regarding the matter involving Mr. Garrett Bondaug and SCPD** officers in case number 11-12465. The details of his investigation were forwarded to Mr. Bondaug's attorneys, Robert (Bob) Tennant and **Michelle Brenot, who in turned shared with the District Attorney's office** to defend against allegations made by Deger, Stewart, Eldridge (Larsen), et al. Findings in Mr. Yorks' report coincide with the statements made by witnesses Daniela [DANIELA], Sandra [Sandra] and Tatiana to officers Tom Nelson, Cory Morgan and Colin Stewart respectively: There was no loud noise, voices, signs of, or implied physical threat or injury when officer Deger walked down Wilson Court or as he stood on the porch of 621 Wilson Court.
- l) March 2012. Unknown to Mr. Bondaug or his attorneys and in response to attorney Brenot's *Preservation of Evidence* letter, the **City Attorney of Santa Clara had issued a directive to its IT manager to restrict email search parameters** to "Bondaug" and "11-12465." **The City of Santa Clara intentionally let all emails concerning this incident, that did not contain those specific two search parameters, to be destroyed.**
- m) March 2012. Unknown to Mr. Bondaug or his attorneys, acting chief Kevin Kyle had instructed Lieutenant Wahid Kazem to manage the execution of the *Preservation of Evidence* letter that Mr. Bondaug's attorneys had crafted and served upon the City. Kazem would testify that he in fact did not distribute the directive to all involved officers, supervisors, and police department management. He would also testify that he doesn't even know what an email server is. City of Santa Clara information technology services manager, Mr. Christopher Jackson, would testify that his department is separate from the police department and that it was up to the police department to manage, authenticate, preserve or destroy their own emails, computer files, and other such documents or evidence. **The Santa Clara Police Department and Captain Wahid Kazem intentionally and incompetently violated a directive to abide by the requests of the Preservation of Evidence letter and retain all devices, communication, records, reports and other tangible things related to incident 11-12465.**

- n) **May 8, 2012 attorney for Mr. Bondaug filed a Claim Against the City of Santa Clara.** A claim is typically a precursor to a law suit if the claim is not settled. A copy of this claim was provided to the Mayor, City Council, City Attorney's office, and respective departments within the City.
- o) **May 14, 2012** Mr. Rodger Hayton, Claims Administrator for George Hills Company, drafts a letter to Mr. Bondaug's attorney asking for the opportunity to interview the claimant and his witnesses. **At this time, the investigation into 11-12465 is still ongoing and memories of the incident are still fresh in the minds of witnesses.**
- p) **May 18, 2012** Mr. Rodger Hayton composes a follow up letter to Mr. Bondaug's attorney stating, "Both the City and myself fully understand that litigation is not the best way to resolve disputes and before we head down that path, we always explore alternatives starting with a good investigation of the facts and assessment of the evidence." **Neither the George Hills Company insurance administrators nor the City of Santa Clara ever contacted the claimant or independent witnesses to begin Mr. Hayton's investigation and assessment of evidence regarding case 11-12465. The matter was intentionally ignored and evaded by the City of Santa Clara, its agents, and representatives.**
- q) **July 9, 2012 the PC 148 charge against Mr. Bondaug is dismissed in the interest of justice (IOJ) by the Santa Clara County District Attorney's office.**
- r) December 19, 2012 attorneys for Mr. Bondaug files with the Superior Court of California and serves the City of Santa Clara with a Complaint for Damages. As stated above, any and all documents pertaining to a crime are to be retained for 2 years unless part of ongoing investigation or litigation, then 2 years minimum from the close of that action.
- s) Through to February 2015, neither the City of Santa Clara or the Santa Clara Police Department attempted to recover text messages, email, phone records, devices used for recording statements, or emails outside the narrow parameters of "Bondaug" and "11-12465" per the Demand for Preservation notice and in accordance with the City's own written and distributed document retention policy.

4. **The City of Santa Clara and its Police Department Violated Departmental Rules and Regulations Established for Responding to Alleged Assaults and Alleged Domestic Violence and Failed to Ensure that its Peace Officers were Properly Trained to Respond to Such Calls. *I ask that an***

independent investigator consider the below facts in finding that both the City and its Police Department allowed one or more of its officers to violate department policy.

- a) On December 20, 2014 officer Deger was deposed by retired police officer, and attorney, Steven Usoz. Deger testified that he was hired by SCPD September 2007.

Q: *“Have you ever received training that instructs you to wait for your backup unit prior to going into a call of this type absent exigent or eminent threats to the parties?”*

A: *“Not that I remember”*. (page 72, line 22 - page 73, line23)

Q: *“Is there a policy that the primary unit waits for the backup unit on these types of calls for officer safety reasons?”*

A: *“I guess under the most ideal and best of circumstances, yes.”* (page 74, lines 11-17)

- b) **Responding to Alleged Assaults:** minimum 2-officer response or officer safety. Deger knew Stewart and Nelson were en route. Upon arriving on scene he casually walked 80-100 yards towards 621 Wilson Court and heard no voices, no sounds, and saw no disturbance.

[REDACTED], supervisors never implemented measures to ensure Deger [REDACTED] guarantee a strict adherence to regulations and policy set forth by the City Manager and Chief of Police. In fact, [REDACTED] Deger intentionally, knowingly, and in disregard of [REDACTED] Police Department superiors willingly broke from policy and procedure.

- c) **Responding to Alleged Domestic Violence:** minimum 2-officer response or officer safety. Deger knew Stewart and Nelson were en route. Upon arriving on scene he casually walked

80-100 yards towards 621 Wilson Court and heard no voices, no sounds, and saw no

disturbance. **[REDACTED], supervisors never implemented measures to ensure Deger**

[REDACTED] guarantee a strict adherence to regulations and policy set forth by the City Manager, Chief of Police, and Santa Clara County District Attorney’s office. In fact,

[REDACTED] Deger intentionally, knowingly, and in disregard [REDACTED] Police Department superiors willingly broke Santa Clara County District Attorney and Police Chief’s Association established protocol, policy and procedure.

- i. First Priority: Assist victims in obtaining medical assistance, if needed. Deger never observed anyone with injuries nor did he convey to other officers on the scene that someone, other than Mr. Bondaug, might have sustained physical or emotional injury. The reporting party never stated that someone had been injured or threatened with injury. In fact, all witnesses independently testified that everyone including Mr. Bondaug was in a jovial mood and that there were no problems at Ms.

[DANIELA]'s residence. **Deger never had reason to believe someone was injured.**
(Schneider's complaint)

- ii. Officer Safety: A minimum two officer response. Deger never saw or heard anyone in need of immediate assistance, he knew other officers were on scene as he was at the door speaking with Ms. [DANIELA] and Ms. [Sandra]. **Deger never had reason to believe Ms. [Sandra] was in "imminent" danger from Mr. Bondaug and, although a complete falsity in Deger's report, in fact Deger claims he was the first person to touch or threaten violence against anyone else.**
- iii. SCPD General Order 91.1.3 states officers shall make an arrest when there is probable cause to believe...
 - that a felony had occurred
 - **a misdemeanor occurred in the officer's presence**
 - a violation of a court order occurred

In Deger's police report, he states, "As the front door swung open, a female subject, who I believed at the time could be a potential domestic violence victim...Garrett Bondaug interrupted my conversation with the female by pushing the female subject aside to her right." The City of Santa Clara's Domestic Violence field training guide also directs that "**any exceptions to the pro-arrest provision must be made by a supervisor present at the scene, and if allowed, the reasons documented in the investigating officer's report.**" If Deger's report were true, responding to a 415(d) call for service followed by a subject's pushing of a person whom the officer believes to be a victim of domestic violence would qualify as 243(e)(1)PC.

- Deger never conveyed to other officers or supervisors on scene that he witnessed a woman being pushed.
- Take notice in officer Nelson's report that he never asked Ms. [DANIELA] if she had been pushed.
- Officers Stewart and Morgan also were not told that Mr. Bondaug pushed anyone or they certainly would have asked Ms. [Sandra] and Ms. [Tatiana] about it.
- Sergeants Rush and Richards never directed that Domestic Violence Protocol be initiated, neither of them approached the women to offer assistance or make further inquiry.

- Lt. Moreno was never notified that Deger had witnessed a physical interaction between Ms. [Sandra], Ms. [Tatiana], or his mother Ms. [DANIELA].

d) After Mr. Bondaug has been assaulted and extracted from a private residence, no less than twelve officers, including at least two supervisory sergeants, arrived on the Wilson Court scene. Officers included Greg Deger, Colin Stewart, Lauren Larsen (Eldridge), David Scheider, Tom Nelson, Cory Morgan, Kiet Nguyen, Rene-John Otico, Tyson Green, Jamie Ellis, and sergeants Derek Rush and Nicholas Richards. Arriving at Valley Medical Center, and the thirteenth officer dispatched, was Chris Bell. **None of the officers evaluated, questioned or offered assistance to someone they believed were a victim of domestic violence.** Officer Larsen (Eldridge) surreptitiously recorded a conversation between her, Mr. Bondaug and officer Bell, none of them spoke about a potential domestic violence incident.

5. **The City of Santa Clara and its Police Department Violated Domestic Violence Protocol for Law Enforcement as Subscribed to in 2009 and 2014 by Santa Clara Police Chief Stephen Lodge. *Ask that an independent investigator consider the below facts in finding that both the City and its Police Department allowed one or more of its officers to violate the Domestic Violence Protocol of Santa Clara County.***

- a) *“When a misdemeanor domestic violence assault or battery has been committed outside the officer’s presence, and the victim is the suspect’s spouse, former spouse, cohabitant, former cohabitant, fiancée, parent of his or her child, or a person with whom the suspect has had or is having an engagement relationship or a current or prior dating relationship, a peace officer may arrest the suspect without the need of a private person’s arrest. This will also apply if the assault or battery involved a person age 65 or older where the elderly victim is related to the suspect by blood or legal guardianship (PC 836(d)). PC836(d) makes it possible for officers to arrest when the crime does not take place in their presence where both of the following circumstances apply. The peace officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.”*
- i. The peace officer makes the arrest as soon as probable cause arises to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

- ii. The peace officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.
 - b) On page 3, paragraph 2, of Deger's police report he writes, "***I began to suspect Bondaug was attempting to hide a crime...I also believed one of the female subjects in the house was a victim of domestic violence.***" Given Santa Clara County's and the City of Santa Clara's Domestic Violence Protocol for Law Enforcement and the statements in Deger's report, if true, Mr. Bondaug could have been arrested for misdemeanor domestic violence. We know today **from both Deger and Sgt. Rush's deposition that accusations of suspected domestic violence didn't surface on scene with a dozen other officers around** or on the arrestee booking sheet, **Deger's accusations only appeared in his report after he and other officers gathered together over the weekend to write them.**
 - c) In the ***Patrol Officer Response/Investigation*** section "***C***" ***Investigation of Domestic Violence Cases*** practice manual steps 1 through 12 are noticeably absent from any and all police reports concerning incident 11-12465. Contrary to claims in Deger's report, other officers on scene note statements from witnesses that there was never a disturbance at Ms. [DANIELA]'s home and they all three women, Ms. [DANIELA], Ms. [Sandra], Ms. [Tatiana], and Mr. Bondaug conveyed that to Deger.
 - d) At the scene, Ms. [Sandra] asked a officer for a name of a supervisor and phone number to report Deger's aggression, Deger's unwarranted assault upon and false arrest of Mr. Bondaug. The officer complied and provided Ms. [Sandra] with SCPD's main number and Sgt. Derek Rush's name. He, however, refused to tell Ms. [Sandra] that Sgt. Rush was already on scene along with supervisor Sgt. Richards. Neither sergeants Rush or Richards took steps to ensure a domestic violence investigation or follow up occurred not did they instruct others to do so. Lt. Moreno, also aware of the incident that night and approver of Deger's report and Use of Force report, never attempted to contact any of the witnesses or potential victims nor did he instruct anyone else to do so.
6. **Omission of Facts, Embellishment of a Police Report, False Testimony.** Throughout this entire ordeal, every police officer's report has been contradicted by the witnesses they purport to have interviewed. All officers intentionally and incompetently failed to distinguish facts from fiction in an attempt to seem credible. Even if independent from other acts of misconduct found in this complaint, the **City of Santa Clara's and the Santa Clara Police Department's failure to**

competently and accurately supervise reports - either orally or in writing as required by Santa Clara Police Department Policy – is grounds for termination. I ask that an independent investigator consider the below facts in finding that SCPD supervisors colluded to omit facts, embellished police reports, and knowingly testified falsely.

- a) **See attached *Complaint - Greg Deger***. In addition to Complaint – Deger: On or about May 3, 2012 Deger further lied to Deputy District Attorney, Tamalca Harris, by repeating his fictitious “sweeping of Ms. [Sandra]’s body as a protective motion.”
- b) **See attached *Complaint – Colin Stewart***
- c) **See attached *Complaint – Lauren Larsen (Eldridge)***
- d) **See attached *Complaint – David Schneider***
- e) **See attached *Complaint – Derek Rush***

There are so many troubling facts, omissions, embellishments, collusions the writing of police reports that one cannot possibly assume this is an isolated incident, this is in fact a very large, and serious, institutional problem. In addition to wide spread destruction of evidence and the intentional failure of police department supervisors and the City’s own risk management contractor to investigate this incident further is the undisputed fact that every single witness that appears in the police reports grossly contradicts what officers have written in them. Not only are the citizens who were physically, financially, and emotionally impacted during this incident concerned – the citizens who were merely awoken by this incident and engage by police are disturbed by the fallacies that police officers fabricated and then attributed to them. In reviewing all the complaints offered, the City of Santa Clara, the Santa Clara Police Department, and the Santa Clara District Attorney’s office will get a detailed account of what’s gone wrong, and here’s a synopsis of the negative impact upon the community.

Mr. Bondaug Never committed any threat or act of violence, battery, or assault. Never used drugs, was not drunk, and offered to introduce officer Deger to the neighbors he knew. Was betrayed by Deger, Stewart, the Santa Clara Police Department and unjustly charged with crimes he didn’t commit.

Ms. [DANIELA] At the time of the incident had lived in her home since 1955 When she was just seven years old. She told Deger that no one had called the police and that there were no problems at her home. Deger dismissed Ms. Demarree as a liar and illegally beat her son into a concussed state. Ms. [DANIELA] is now afraid to live in her home and the City of Santa Clara.

Ms. [Sandra] Deger has consistently lied and has made Ms. [Sandra] the unwilling scapegoat in falsely conjuring a scenario that didn’t exist. He fantasized about putting his hands on her and then perversely proclaimed he was doing so to protect her. Ms. [Sandra] attempted to

contact supervisors and tell them it was all a lie by Deger but Sgt. Rush ignored her, wouldn't call her back, and then assisted Deger and his team in covering up the lies.

Ms. [Tatiana] Ms. [Tatiana] had never been to Ms. [DANIELA]'s home or even met her. Ms. [Tatiana] testified that Mr. Bondaug had never done anything to Deger and didn't threaten anybody. Ms. [Tatiana] was brushed off and called a liar.

Ms. [CLAIRE] Ms. [CLAIRE] testified that officer Eldridge (Larsen) was attempting to put words in her mouth.

Mr. [TRISTAN] Mr. [TRISTAN] testified twice, and consistently, that statements attributed to him in Eldridge's (Larsen) report were not his words. He also adamantly refutes the Eldridge's accusation that he knows Mr. Bondaug when in fact the two have never met before.

Mr. [KRISTOPHER] Mr. [KRISTOPHER] testified that many of the words and phrases in officer Schneider's police report were not his, they're not even part of his normal syntax. Officer Schneider would testify that the words and phrases objected to were his own planting, not the actual words of Mr. [KRISTOPHER].

Officer Bell Ms. [Sandra] and Mr. Bondaug testified that Deger proclaimed he was arresting Mr. Bondaug for being drunk in public, a claim Deger would later deny. Years later SCPD's own evidence revealed that Deger and Stewart had originally attempted to arrest Mr. Bondaug for being drunk in public while he was at a private residence. They blamed that evidence as a mistake by 18 year department veteran Ofc. Chris Bell. Officer Bell testified that it was Deger and Stewart who told him to write that evidence down.

I ask that an independent investigator consider the above facts and all the police reports collective in finding that SCPD supervisors, officers, SCPD command-staff, and City of Santa Clara employees colluded to omit facts, embellished police reports, knowingly testify falsely, and wrongfully arrest a person for crimes that were never committed.

As guaranteed by Santa Clara Police Department's policy for responding to citizen Commendation, Inquires or Complaints policy: I expect to receive written notification every 30 days regarding the progress of the investigation all the way through completing a findings report.

Garrett Bondaug
Address Redacted