

Appeal Summary
2016-C-0090
April 5, 2017

Involved persons

Appellant
Sergeant A
Officer B

Allegations

1. Sergeant A was unprofessional when he grabbed Appellant's arm to escort him to the sidewalk. (CONDUCT) (Directive 310.00 – Conduct, Professional)
2. Sergeant A unlawfully told Appellant to move to the sidewalk away from the cleanup area. (CONDUCT) (Directive 315.30 – Satisfactory Performance)

Incident/Complaint Summary

On March 23, 2016, Appellant walked into IPR to report a complaint. He stated that the incident occurred on January 20, 2016 at a homeless encampment cleanup. Appellant stated that he was filming the cleanup when Sgt. A approached him and told him he would have to film on the sidewalk because of the inmate cleanup crew.

Location of Incident: Triangle shaped grassy area in between North. Greeley Avenue and Interstate Avenue.

Summary of Appellant, Officer and Witness Interviews

Appellant

Appellant stated during his interview that Sgt. A grabbed his arm and walked Appellant away from the inmate cleanup area. Appellant stated that Sgt. A should have not grabbed him by the arm and just told him to get on the sidewalk. Appellant stated that he was about 75 to 150 feet away from the work inmate crew. Appellant described Sgt. A as unreasonable in asking him to move further away while he was trying to videotape the cleanup. Appellant believed that Sergeant A was unprofessional by touching.

Appellant during his interview described prior interactions between him and Sergeant A

Sergeant A

Sergeant stated during his IA interview that Appellant could film but not where he was. Sergeant A stated that he gave the Appellant the option of either the side walk or the bike path. Sergeant stated that he was concerned about the Appellant's proximity to the Multnomah County inmate work detail and a work away that had large trucks and dumpster moving through. Sergeant stated that he, "guided" the appellant to where he wanted him to be on the sidewalk.

Sergeant A stated that he felt his actions were both lawful and professional. He explained to the need for the inmate work crew to have space to work.

Officer B

Witness Officer B stated that the area where the clean-up occurred was City of Portland property and the process was initiated by the Mayor's office. Officer B expressed concern that the Appellant was in the inmate work area. Officer B stated that he gave the Appellant a verbal warning. Officer B recalls that he had Appellant's left arm and that Sergeant A was on the right side of Appellant and they directed him up to the sidewalk. Officer B recalled that Appellant was moved 20 -30 feet. He stated that he felt no resistance while moving the Appellant to the sidewalk.

Video

IPR was able to retrieve a video titled "Cop assaults Appellant" and lasts one minute and twenty-seven seconds which captures the incident.

The video begins with Sgt. A walking towards Appellant. Officer B is behind Sgt. A on his right. Appellant is holding the camera from the first-person perspective. Sgt. A tells Appellant, "I'm gonna give you one warning. You can't be down here because this is an inmate crew and this is a work area. You can film from the sidewalk." Officer B tell Appellant to go to the sidewalk. Appellant is on a grassy area and workers in orange shirts and yellow vests can be seen in the background. Sgt. A is walking towards the sidewalk next to Appellant. Appellant says, "Stop touching me though. You have a history of touching me." Appellant tells Sgt. A to stop touching him multiple times. The video only shows Sgt. A holding onto Appellant for about one second at 00:19. Sgt. A's left hand is holding the right bicep of Appellant. Appellant says, "I was about 150 feet away from them." At that point, Appellant is on the sidewalk and Sgt. A and Officer B walk away. Officer B is closer to the camera with Sgt. A further away. Appellant says, "I have no problem staying on the sidewalk." Officer B responds, "Perfect. Thank you sir." Appellant zooms in on Sgt. A and says, "But I do kind of have a problem with you touching me because you've actually drawn blood before. Last time you touched me remember." Sgt. A turns away and Officer B steps into the screen. Officer B says, "Stay back. You can film all you want. Just let these guys work. That's all we ask." Appellant says, "I was never impeding their work. I was fifty to seventy five feet away."

CHRONOLOGY OF CASE PROCESSING	DATE
Date complaint filed with IPR	03/23/16
Date IPR Initial Intake Investigation completed	04/04/16
Date IA Investigation initiated	04/28/16
Date IA investigation completed	06/13/16
Date completed IA investigation assigned to IPR for review	06/13/16
Date completed IA investigation assigned to RU Manager for recommended findings	06/22/16
Date RU Manager's recommended findings to Branch Chief for recommended findings	07/06/16

Date recommended findings received by IA Captain for recommended findings	07/08/16
Date recommended findings sent to IPR for recommended findings	07/08/16
Date of IA recommended findings	07/15/16
Date of IPR of recommended findings	07/11/16
Police Review Board Held	n/a
Date of IA Disposition Letter	07/22/16
Date of IPR closing cover letter	07/26/16
Date appeal request received	08/03/16

TIMELINESS OF CASE PROCESSING	TIME ELAPSED (Calendar Days)	BENCHMARK (Calendar Days)
Time from date complaint received in IPR to the date case referred for an administrative investigation (03/23/16 – 04/04/16)	12	14
Time necessary for completion of investigation (04/28/16 – 06/13/16)	46	60
Time from date IPR investigation sent to RU Manager to date of RU's recommended findings received by Branch Chief for recommended findings (06/22/16 – 07/06/16)	14	14
Time from date recommended findings received by Branch Chief to date referred to IA Captain for recommended findings (07/06/16 – 07/08/16)	2	7
Time from date recommended findings received by IA to date IA made recommended findings (concurrent with IPR review) (07/08/16 – 07/15/16)	7	7
Time from date recommended findings received by IPR to date IPR made recommended findings (concurrent with IA review) (07/08/16 – 07/11/16)	3	7
Time from date of completed findings recommendations to mailing of the disposition letter (07/15/16 – 07/22/16)	7	14
Totals	91	123

Time from date complaint received to date Disposition Letter sent to Complainant (03/23/16 – 07/22/16)	121	141
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Findings and Definition of Findings

Finding: A determination of whether an allegation against a member is unfounded, exonerated, not sustained or sustained. These findings have the following meanings:

Unfounded: The allegation was false or devoid of fact or there was not a credible basis for a possible violation of policy or procedure.

Exonerated: The act occurred, but was lawful and within policy.

Not Sustained: The evidence was insufficient to prove a violation of policy or procedure.

Sustained: The evidence was sufficient to prove a violation of policy or procedure.

Any of these findings could be accompanied by a debriefing, which would involve the superiors of an involved officer talking about the incident and providing instruction as to how the situation might have been handled better.

No.	Allegation summary	Category	Finding
1	Sergeant A was unprofessional when he grabbed Appellant's arm to escort him to the sidewalk. (CONDUCT) (Directive 310.00 – Conduct, Professional)	CONDUCT	Exonerated
2	Sergeant A unlawfully told Appellant to move to the sidewalk away from the cleanup area. (CONDUCT) (Directive 315.30 – Satisfactory Performance)	CONDUCT	Exonerated

Options Available to the CRC

At the appeal, the CRC has the following options available to it:

1. The CRC can affirm the finding, meaning that it believes that a reasonable person can make the same decision based on the available information, whether or not the committee agrees with the decision; or
2. It can challenge the finding; meaning that the committee believes a reasonable person would have reached a different finding based on the available information. The CRC can recommend a debriefing as part of any challenged finding; or
3. It can refer the case to the Independent Police Review or Internal Affairs for further investigation.