



Case Summary for Appeal Hearing –  
2016-C-0374/2017-X-0005

**INVESTIGATION OVERVIEW**

**Involved persons**

Appellant  
Officer A  
Officer B  
Officer C  
Officer D

**Allegations**

No	Allegation summary	Category	Finding
1	Officer A used inappropriate force by pushing Appellant multiple times.	Force	Not Sustained
2	Officer A grabbed Appellant and pushed him to the ground.	Force	Not Sustained
3	Officer B grabbed Appellant and pushed him to the ground.	Force	Not Sustained
4	Officer C improperly handcuffed Appellant by applying flex cuffs too tightly.	Procedure	Not Sustained
5	Officer D improperly handcuffed Appellant by applying flex cuffs too tightly.	Procedure	Not Sustained



## **Incident/Complaint Summary**

On October 12, 2016, Appellant went to Portland City Hall to protest the City's proposed collective bargaining agreement with the Portland Police Association. Appellant went to City Council Chambers until the Council Session was moved to the third floor. Appellant continued to protest with others on the second floor of City Hall. Eventually officers ordered the protestors to leave City Hall. Roughly 15 to 20 minutes later, the officers inside City Hall formed a line and moved to have all remaining non-city employees leave the building through the SW 5<sup>th</sup> Avenue exit. Appellant interlocked arms with others as they walked backwards towards the SW Fifth Avenue exit. Appellant stated that Officer A jabbed three fingers into his chest three or four times. Then, Officer A used his knuckles and pushed it into Appellant's throat. Appellant turned around and left City Hall.

Appellant continued to protest on SW 5<sup>th</sup> Avenue. Appellant and other protestors were in the street for about twenty-five minutes before police officers arrived. Then, Appellant got onto the sidewalk by the City Hall MAX station. A line of officers in hard gear confronted the protestors at the MAX station. Appellant was taken into custody by Officer A and Officer B. Appellant stated that he was pulled and pushed to the ground. After landing on his stomach, the officers had Appellant stand up and walk across the street. Appellant stated that the handcuffs (later determined to be flex cuffs) were too tight. He was transported to East Precinct. Appellant stated that he was released with a citation for theft of a backpack. He denied that he stole a backpack.

## **Summary of Appellant, Officer and Witness Interviews conducted by Independent Police Review**

### **Appellant**

Appellant stated that he did hear officers say that City Hall was closed under order of the Mayor. Appellant did not leave at that point. About two to three minutes later, officers started to move forward to have people leave City Hall onto SW 5th Avenue. Appellant described the movement of the officer as;

"They formed a – they formed a column. And then they had those officers that were on the sides of moved up to the threshold of where the staircases aligned with the sides of the door exit there and made a uniformed kind of U column around."

Appellant and the other protestors were facing the officers and walking backwards towards the exit. Appellant stated that he was walking backwards because he saw a large group of people on the stairs. Appellant stated that he was unable to move down the stairs because of these people. Appellant stated that he only looked back towards the stairs one time. Appellant stated that he and the other protestors interlocked arms because the officers started to push them out of City Hall. Appellant stated that Officer A jabbed three fingers into his chest three or four times. Then, Officer A used his knuckles and pushed it into Appellant's throat.

After leaving City Hall, Appellant continued to protest on 5th Avenue by the MAX platform. Appellant was arrested by Portland police officers in hard gear. He stated the following:

"And people started to like, get out of the street. I mean, there's people Maced and there's paramedics there and fire and stuff helping people. They started to get out of the street and go onto the sidewalk and eventually everybody was on the sidewalk including me and they advanced. The – this column came in. huge flow of riot police came in and formed a Long column all the way down the street and advanced. The – some sergeant or something like, yelled advance and they started taking measured steps towards us and – until they got face to

face with us and when they got face to face like, flush all the way down the line, two of the officers like, pulled me out of the crowd. It happened really quick and took me to the ground.”

Appellant stated that his knee was injured from hitting the ground. Appellant stated that the officers pulled him up after he was handcuffed. Appellant stated the following:

During his IPR interview, Appellant alleged that handcuffs were applied too tightly. Appellant described this by stating the following:

“They walked me across the street in plastic cuffs. The left one was very tight to the point that even when I was at Southeast Precinct they were afraid they were going to cut my skin trying to cut them off because they couldn’t fit a scissors. They were like, really difficult. They had to try three different pairs of scissors other than the ones they usually try. To find one that was thin enough that it could fit under. That’s how like, bad it was...

### **Officer A**

Officer A stated that officers announced to the protestors that City Hall was closed and everyone would have to leave. According to Officer A, the announcements were made for about twenty to thirty minutes prior to officers moving to expel the protestors. Officer A described the officers moving forward by stating:

“Oh, so what we would do in a line is we would slowly walk, and I was just in the same uniform you see today. I didn’t have a stick or anything like that. And so, I would just walk up with my fellow officers on both sides of me and tell people, “Okay, let’s get going. It’s time to leave. You know, announcements were made. You need to exit City Hall. City Hall is closed.” And when they decided not to exit, I put my hands on them and kind of pushed them, not really pushed them, but try to guide them towards the door, and that’s when I started getting a lot of pushback.”

Officer A stated that the protestors had enough time to leave and there was no one stopping them from leaving. Some protestors were leaning and holding onto each other preventing the officers from moving them towards the exit. Some of the protestors were interlocking arms. Officer A stated that at one point, he thought that Appellant was going to punch him. Appellant stormed at the line of officers and balled up his fist but stopped “at the last second.”

Officer A recalled pushing Appellant but denied using knuckles in pushing Appellant towards the exit.

Officer A wrote in his police report:

“Later in the afternoon at approximately 1500 hours we responded out to the area of SW 5<sup>th</sup> Ave and Jefferson St. Protesters had taken over the street and were preventing the MAX and vehicular traffic from passing through. I received direction that there was probable cause to arrest Appellant and to take him into custody if possible. Announcements were given to exit the street. Almost everyone abided and got onto the sidewalk except for Appellant. RRT advanced to clear the street and Appellant got up onto the sidewalk at the last second. Appellant was only a couple feet in front of me. I signaled with another officer and together we grabbed onto Appellant and pulled him through the line. Appellant fell down once through the line and was taken into custody by officers.”

## **Officer B**

Officer B was interviewed about the arrest of Appellant. Officer B did not recall most of his interaction with Appellant. He stated that he and another officer grabbed Appellant and pulled him through the line of officers. Officer B did not recall helping with picking up Appellant since he would still be at the line.

## **Officer C**

Officer C was interviewed about the arrest of Appellant. Officer C and Officer D walked Appellant across to the street SW 5<sup>th</sup> Avenue in front of City Hall. Officer C stated the following:

“And then we walked him back over towards City Hall more, and at some point in time, he was flex cuffed. I remember that Appellant was having some issue with the flex cuffs as far as, I mean, they’re wire tight-type things, and so she was kind of trying to manipulate, and he was – like I say, he was rather a bigger gentleman. So, I know we put on multiple to make him a lot more comfortable than trying to pull his hands together with just one set of them. So, she was separating some out and putting those on, and so anyway, ultimately, he was flex cuffed.”

## **Officer D**

Officer D recalled the following about using flex cuffs on the appellant:

“Officer C had two flex cuffs looped. He [Appellant] was a large man. We decided two was not going to work so it took a minute. I actually pulled another set of flex cuffs out to loop it through so that we could use three flex cuffs on him and I would have been on his left arm and assisted Officer C with placing the flex cuffs on him. He had a backpack at that point in time which we took off of him and sat at his feet before we put the flex cuffs on.”

“Well, they were put on. That's why we used a third set so, yes, we checked it but flex cuffs are not made for comfort so they're made of hard plastic so they're not going to be comfortable. We actually asked for a larger van for him and not using one of the SUVs because he was a larger person so it took a few minutes for them to actually drive a van around so that he would be more comfortable in the van.”

## **Video:**

During the course of this investigation, IPR recovered video evidence from a variety of sources, videos most relevant to the current allegations are summarized below:

### **PPB Forensic Evidence Division (Inside City Hall)**

PPB FED was present at City Hall and captured video of the incident. The video is eight minutes and forty-six seconds long. At the beginning, numerous protestors, including Appellant, are on the second floor of City Hall. Officers start to form a skirmish line from the east side of City Hall and move westward while announcing that City Hall was closed. At 00:30, Appellant is standing in front of the officers and with his back to the exit doors. An officer places his hand on Appellant’s chest. At 00:48, Appellant moves from the south side of the line

towards the north side and can be heard yelling. Appellant is seen pushing past officers. An officer pushes Appellant back at 00:58.

Appellant continues to stand in front of the officer and does not appear to move back. Officers are pointing towards the exit and telling protestors to leave City Hall. A large group of protestors slowly moves towards the exit but stop moving right in front of the doors.

### **City Hall Surveillance Video (2<sup>nd</sup> Floor)**

The surveillance video from inside City Hall is about eight minutes and thirty-seven seconds long. The camera is above the exit doors on the SW 5<sup>th</sup> Avenue side pointing towards the City Council chambers. The camera pivots, points and zooms in and out during the video. From the beginning, Appellant is walking around the second floor wearing a blue sweater and a black backpack. A line of officers walks towards the camera with protestors right in front of them. At 2:05, Appellant is looking away from the doors at the officers.

At 2:12, Appellant interlocks arms with the individuals around him and continues to look towards the officers. At 2:35, Appellant is still interlocking arms with other demonstrators and standing in front of the officers. The camera pans towards the exit which is right behind Appellant.

At 2:49, the camera pans across the crowd and Appellant can be seen interlocking arms with others around him. Appellant's body moves back and forth. The officers in front of him appear to be pushing against his chest. The two officers directly in front of Appellant appear to be Officer E on his left and Officer A on the right.

### **Forensic Evidence Division (Appellant's arrest on SW Fifth Avenue)**

The PPB Forensic Evidence Division (FED) captured video during the incident. There is a video lasting about five minutes and eleven seconds which captures the arrest of Appellant. The video begins with the camera facing towards the west side of SW 5<sup>th</sup> Avenue City Hall MAX station. Appellant is standing on the MAX tracks off the curb. A line of officers is in front of the camera walking west towards the MAX station.

At 00:18, Appellant remains off the curb in the street until the officers are within a lane of traffic from him. Appellant steps onto the MAX platform. At 00:23, two officers in hard gear, who have been identified as Officer A and Officer B, grab onto Appellant's arms and pull him off the curb.

The camera moves quickly and is briefly blocked by the backs of other officers. Appellant says that he was on the sidewalk and asks to let them take off his backpack. Appellant is face down on the ground and an officer takes off his backpack. Appellant says, "I'm getting up. I'm getting up." Appellant appears to be pushing himself off the ground with his hands to stand up. The camera is pointing towards the lower body parts of the officers. Appellant is walked across the street in front of City Hall.

## **Forensic Evidence Division Video (Appellant's handcuffing)**

PPB FED Video:

At about 00:45 in the video, Appellant is walked across the street to City Hall by multiple officers. Flex cuffs are placed on Appellant on the sidewalk in front of City Hall. At 00:56, at least three officers, including Officer C and Officer D, appear to be around Appellant while he is being handcuffed.

At 1:04, Officer D is directly behind Appellant placing flex cuffs onto him.

At 1:22, the camera moves to the side and Appellant is still being handcuffed.

At 2:02, Appellant screams loudly but it cannot be heard what he says. Officer D on the left side of Appellant checks the flex cuff on his left hand. Officer C is on the right of Appellant. There appear to be multiple flex cuffs used on Appellant.

For the rest of the video, Appellant is standing next to Officer C and Officer D.

## **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.

## **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.