



Case Summary for Appeal Hearing –
2016-C-0414/2017-X-0006

INVESTIGATION OVERVIEW

Involved persons

Appellant
Officer A
Witness Officer B
Witness A

Allegations

No.	Allegation summary	Category	Finding
1	1. Officer A failed to make an arrest involving a domestic violence assault on Appellant.	Procedure	Not Sustained with Debrief
	2. Officer A was unprofessional when conducting his investigation involving a domestic violence assault on Appellant.	Conduct	Not Sustained

Incident/Complaint Summary

On December 10, 2016, at approximately 9:54pm, Officer A and Witness Officer B were dispatched to an assault call at the residence of Appellant and her husband. Upon arrival, the officers contacted Appellant and her husband. Officer A’s report indicates that he spoke with Appellant’s husband who described that he and Appellant got into an argument. Appellant’s husband further described that Appellant spat on him, engaged in a pushing match and he was then scratched on the neck by Appellant. When Appellant spoke with Officer A, Appellant stated that she scratched her husband because he put both his hands around her throat and that was the only way to have him let go of her. Upon further inquiry from Officer A, Appellant stated that she did not lose consciousness and did not remember whether she could breathe when her husband choked her. Officer A determined that both parties were victims, did not arrest either party, provided both parties with a business card, Abuse Prevention Act Information form and contact information for the District Attorney office. Officer A then gave Appellant’s husband a ride to his friend’s house. Appellant filed a complaint with IPR for Officer A not arresting her husband and behaving unprofessionally.



Summary of Appellant, Officers, and Witness Interviews conducted by Internal Affairs (IA)

Appellant

Appellant describes that she heard Officer A laughing with her husband in the other room but was unable to hear what Officer A was saying to her husband. When asked by the IA investigator if Officer A said anything inappropriate concerning the call, Appellant stated that when Officer A spoke with her he asked her what she did to provoke this.

Appellant further described that she and her husband got into a very heated argument and accidentally spit on him. Appellant stated that she did not ask the officer why he was not making an arrest. Appellant further stated that Witness A, her landlord, witnessed the interaction with Officer A who believed him to be unprofessional. Appellant stated that Witness Officer B took photos of her face and neck but that she did not have any bruising at the time.

Officer A

Officer A described that upon arrival he spoke with Appellant's husband while Witness Officer B spoke with Appellant. Officer A described Appellant's husband's account of their altercation starting from the verbal argument to how the argument became physical. When Officer A spoke with Appellant to provide her account, she confirmed that she intentionally spat on her husband and that's when she was pushed by her husband.

Officer A stated that to understand whether Appellant was choked he asked her if she lost consciousness and if she could breathe and Appellant stated that she could not recall. Officer A described examining Appellant for injuries but did not see any injury that would result from choking. Officer A stated that he provided parties with his business card, case number, District Attorney's contact information and the Abuse Victim's Right's form. Officer A stated that he told Appellant that he was going to have her husband go to a friend's house.

Officer A said that Appellant told him that she thought he was rude but he did not feel as though he made rude remarks or behaved unprofessionally. Officer A did not recall joking and laughing with Appellant's husband. Officer A denied asking Appellant what she did to deserve this.

When asked why he did not make an arrest, Officer A stated that he determined the case did not arise to the level of an assault that would be mandatory arrest based on PPB's directive on domestic violence. Officer A stated that Appellant did not have injuries to corroborate her version of events but she admitted to spitting on and scratching her husband.

Witness (Officer B)

Officer B stated that when he responded to the call as a cover officer he remained outside with Appellant while Officer A spoke with Appellant's husband. Officer B stated that he could hear Officer A speaking with Appellant's husband but was unable to hear the details of what was being said. When asked, Officer B stated that he did not hear Officer A make any disparaging comments towards Appellant nor could he hear Officer A and Appellant's husband joking and laughing together. When asked, Officer B stated that he went into the

apartment with Appellant's husband when Officer A went to out to speak with Appellant and could not hear the details of that conversation either.

When asked, Officer B stated that Officer A was not unprofessional when interacting with Appellant and believes that Officer A took Appellant's complaint seriously. When asked, Officer said he never heard Officer A ask Appellant what she did to deserve this nor hear Officer A say that he needed to remain a neutral party.

When asked if Officer A discussed with him how he was going to handle the call, Officer B stated that Officer A informed that he did not believe there was probable cause to make an arrest based on their statements and the information he collected and that Appellant's husband was going to leave the apartment for the night. Officer B stated that Officer A did not discuss with him any injury or mark on Appellant's neck but that Officer A would document it as he did not believe there was reason to make an arrest. Officer B stated that he did not observe Appellant's neck because during the time with her she was crying with her head in her hands. Also, Officer B stated that he was unable see any injury or marks of Appellant's husband's neck due to how he was sitting on the couch.

Witness A

Witness A, landlord, for Appellant and her husband, received a phone call from Appellant. Witness A stated that Appellant told her that her husband hit her and the police were at her home.

Witness A stated that she went up to Appellant's apartment and asked the officers if Appellant's husband could sign himself off the lease. Witness A said that the officers laughed and told her that was not going to happen. Witness A thought the officers' response was "a little bit unprofessional".

When asked if she felt the officers were rude to Appellant in any way, Witness A replied the following: "I wouldn't say they were rude. I mean they were kind of short on the situation, but I mean that's the type of situation I feel like it is. Like you can't take sides, and she was kind of upset that - I personally feel like she was of (sic) upset they weren't taking her side...But they weren't personally, in my opinion, taking his side either".

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.