



Case Summary for Appeal Hearing
December 6, 2017
2016-C-0407/2017-X-0007

INVESTIGATION OVERVIEW

Involved persons

Appellant
Sergeant A
Witness Officer B
Witness Officer C
Witness Sergeant D
Witness Community Member E

Allegations

No.	Allegation summary	Category	Finding
2	Sergeant A improperly threatened to arrest Appellant for filming him.	Conduct	Not Sustained with Debrief

Incident/Complaint Summary

Appellant received a citation on November 30, 2016 while at a protest against Phillips 66. While Witness Officer B was issuing the citation, Appellant began filming an interaction with Sergeant A. Sergeant A advised Appellant that he needed to inform officers prior to filming them. Appellant told Sergeant A that he did not notify officers that he was filming them and that it was legal to film them. Appellant alleged that later in the protest he interacted with Sergeant A again and attempted to film the interaction. Appellant alleged that Sergeant A threatened to arrest him for filming him during this second interaction. Appellant indicated that he recorded this interaction but did not have the footage.

Summary of Appellant, Officers, and Witness Interviews conducted by the Independent Police Review (IPR)

Appellant

On November 30, 2016, Appellant stated that he had a second encounter with Sergeant A. During this second interaction, Sergeant A told him he would be arrested if he continued to film him or his officers. Appellant



stated that he told Sergeant A that Portland Police is “well aware” filming officers is not a crime. Appellant stated that he told the Sergeant A that “threatening to take me to jail is not okay”.

An IPR investigator conducted a second interview of Appellant to clarify whether Appellant had video footage of the Sergeant A threatening him with arrest. In response, Appellant stated that Sergeant A stated:

“if I continued to film him I would be arrested, and so I don’t know what happened to the film for that because I was filming that as well and taking photographs, but I don’t have film of that”.

Appellant said that this interaction occurred while he was filming the Railroad Police.

Sergeant A

Sergeant A stated that he was assigned to the protest on November 30, 2016 as the supervisor of the Traffic Unit. Sergeant A described the conversation he had with Appellant while Witness Officer B issued Appellant a citation. When asked if there was a secondary conversation between himself and Appellant, Sergeant A stated the following:

“I don’t – maybe. So this group went from what is essentially Front Avenue and Kittridge down to a location about, I don’t know, a quarter, half a mile further down Front Avenue where it was Chevron or one of the petroleum companies has their facility. So they would go down there. We would follow down there to make sure they’re not blocking traffic. And then they would move back and we kind of did this back and forth thing during the day until they finally dispersed.”

Sergeant A was interviewed a second time regarding allegation number 2. When specifically asked whether he threatened to arrest Appellant at any time on November 30, 2016, Sergeant A responded that he did not. When asked if he had a second interaction with Appellant, Sergeant A stated no. IPR investigator explained to Sergeant A that Appellant had alleged that there was a second contact between he and Appellant in which Appellant filmed the interaction, though video footage could not be found by Appellant. IPR investigator further explained that it was during this interaction that Appellant alleged that Sergeant A threatened to arrest him. Sergeant A responded, “That never happened.”

Witness Officer B

Witness Officer B stated that he did not call recall Sergeant A threatening to arrest Appellant and that he was not present during the second interaction with Appellant. Witness Officer B further stated that he did not “know anything about that interaction.”

Witness Officer C

After being shown the video of the interaction between Appellant and Sergeant A, Witness Officer C stated that he did not overhear Sergeant A threaten to arrest any of the protestors if they continued to film him. Witness Officer C recalled that he did hear Sergeant A tell Appellant that it was illegal to film and heard Appellant state that he knew his rights. Witness Officer C stated that “it never went to anything beyond that that I ever heard.”

Witness Sergeant D

Witness Sergeant D stated that he did not witness Sergeant A threaten to arrest Appellant for filming him.

Witness Sergeant D stated the following:

“I did have conversations with Appellant. He videotaped me extensively, and at one point I think he did say something about Sergeant A saying something about not filming him.”

Witness E

Witness E stated he was present at the protest on November 30, 2016. When asked if he heard any officers tell anyone that they were going to be arrested, Witness E stated that he was told by an unidentified officer that he would be arrested if he stepped off the sidewalk because he would be disobeying a direct order.

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.