



Case Summary for Appeal Hearing
2016-C-0170/2018-X-0001
February 7, 2018

INVESTIGATION OVERVIEW

Involved persons

Appellant
Officer A
Officer B
Lieutenant 1
Deputy 1
Deputy 3
Deputy 4
Witness 1
Witness 2

Allegations

No.	Allegation summary	Category	Finding
1	Officer A called the Appellant a "faggot" while conducting a DUII investigation.	Courtesy	Not Sustained
2	Officer B used inappropriate force while detaining and arresting the Appellant	Force	Unfounded

Incident/Complaint Summary

On May 11, 2016, the Appellant drove a black Honda Civic down the exit ramp of the Multnomah County Detention Center (MCDC) located within the Justice Center at SW 2nd Avenue and Madison. The Police Bureau's Central Precinct and MCDC share the Justice Center. Officer B witnessed Appellant's vehicle enter the MCDC sally port exit ramp and eventually took Appellant into custody with assistance of several Multnomah County Sheriff's Office jail personnel. Officer A was requested to respond due to suspicion that Appellant was under the influence of a controlled substance.

Summary of Appellant and Officer Interviews

Appellant



The Appellant originally contacted IPR by submitting a complaint form which stated, "I was wrongfully arrested, detained, placed in custody, fictitious charges were brought on me by [Officer A]." Appellant indicated he was "beat and assaulted" by jail staff, who then summoned Officer A to press charges against Appellant.

Appellant intended to file a theft report due to missing property that he believed to have been stolen during a recent move. Appellant explained his entry onto the MCDC sally port exit ramp as a mistake due to confusion:

My situation was that I arrived at the said location and basically what I saw, there was two Portland Police Bureau cop cars that were outside of this – it looked like a parking deck or parking ramp so I was like well, the door is open on one of those autos. Like I'll put on my emergency flashers, I'll pull in, I'll get out of my car and I'll approach and ask somebody how do I get in to the Portland Police Bureau because there was a lot of construction going on during this time, I'm sure you're familiar with, and so there was a lot going on out in this particular area where it made it difficult to know or how to get, you know, into the Portland Police Bureau. Maybe it was just me but nonetheless, I pulled down what appeared to be, like I said, a parking area or parking garage but I came later find out it was the exit ramp and so I was like oh god.

Appellant recalled encountering Officer B in the Justice Center garage but assumed he was not a police officer because he was dressed in jeans and a t-shirt. Appellant remembered being told to stop by Officer B which he disregarded because of the officer's attire and Appellant previously seeing the officer come out of a van that Appellant did not believe to be a Police Bureau vehicle but rather a City of Portland utility van.

Appellant provided the following description of how Officer B grabbed him:

This individual immediately grabbed me very vigorously by my arm. He threw me up against his van and started yelling stop resisting, stop resisting and I was like what is going on, I am simply here to report a crime, let go of me and, you know, I don't fight back, you know.

Appellant also stated that Officer B kicked his legs apart during the altercation.

Appellant stated that Officer A called him a "faggot" while he was being placed in a cell while at MCDC.

Internal Affairs conducted the full administrative investigation in this case, including multiple law enforcement witnesses. Below are relevant portions of the interviews.

Officer B

On the incident date, Officer B was assigned to the Central Precinct front desk due to an on-duty injury. Officer B volunteered to return a Police Bureau Dodge van to the Central Precinct parking garage, located in the basement of the Justice Center. Officer B witnessed Appellant drive down the exit and hit the jail doors. Officer B identified himself as a police officer and requested that Appellant stop. Officer B stated he had a concern that a bulge in Appellant's pocket possibly indicated a weapon. Officer B grabbed Appellant's "wrist or hand" and held on to him in front of his van until he received assistance from MCDC personnel.

Several Multnomah County correction staff assisted Officer B, with two staff members on each side of the Appellant. Officer B recalled being behind Appellant. Appellant grew more agitated as he was taken into

custody. Officer B remembered Appellant kicking backwards hitting him in the “upper thigh/groin.” Appellant was brought to the ground by Multnomah County Sheriff’s Office staff. Officer B denied using any inappropriate force on the Appellant.

When the Appellant was on the ground, Officer B recalled, “grabbing his pant leg, so [Appellant] could no longer kick.” Officer B searched Appellant’s pants pocket and did not find a weapon. Appellant was handcuffed by Multnomah County Sheriff’s Office personnel and taken into the facility.

Officer B requested a traffic officer respond to his location, due to his concern that Appellant was possibly intoxicated.

Officer B did not witness Officer A’s interaction with Appellant.

Deputy 1

Deputy 1 witnessed Officer B hold Appellant against the Police Bureau vehicle until jail personnel arrived to assist. Deputy 1 stated that deputies took Appellant to the ground. Deputy 1 stated Appellant “seemed to be under the influence of something or having some kind of a mental issue.” He stated that Appellant was “hard to manage” and “squirrely” while being taken into custody.

Deputy 1 did not hear Officer A call Appellant a faggot.

Officer A

Officer A was inside Central Precinct when Appellant drove into MDCD. Officer A recalled listening to Officer B take Appellant into custody. Officer A discussed with Officer B what had occurred due to his curiosity, “since someone had actually driven down the wrong way to the actual jail where there’s an exit only sign.”

Officer A was requested to respond to the jail, due to concerns that Appellant was intoxicated. Officer A is trained to conduct Field Sobriety Tests and other methods to detect impaired drivers.

When Officer A contacted Appellant, he had already been placed in an isolation cell by jail staff. Officer A and the Appellant were separated by a glass partition during their interaction. Officer A denied calling the Appellant a “faggot.”

Officer A stated he was told by Officer B that when Appellant was taken into custody he tried kicking those present and was taken to the ground.

Lieutenant 1

Lieutenant 1 responded to the incident after hearing a radio call about a vehicle being driven down the exit ramp. He arrives as MCSO deputies and Officer B were taking Appellant into custody. He recalled that Appellant was yelling and screaming and believed he was either under the influence of narcotics or in a mental health crisis. He said that Appellant was “generally struggling the whole time” and was not complying with officers’ objectives.

Lieutenant A did not go into the booking area or hear Officer A’s interaction with the Appellant.

Lieutenant A stated he did not see anything “unreasonable, excessive, or questionable” related to force used by the deputies.

Witness 1

Witness 1, an MCSO Facility Services Officer (FSO) responded to the exit ramp from her office. Appellant was already in custody when she arrived. Based on her observations, she believed that the Appellant “was under the influence of either alcohol or some sort – kind of drug and basically having a mental health crisis.”

Witness 2

Witness 2 was monitoring the entrance and exit ramps via TV monitors and alarms when Appellant drive down the ramp. An alarm sounded when the Appellant entered the exit ramp. Witness 2 notified Master Control and other Facility Security Officers by radio. He had no other observations or interactions with the Appellant.

Deputy 3 & Deputy 4

Deputy 3 and Deputy 4 did not observe the Appellant until after he was in custody. Neither deputy recalled anyone making disparaging comments to the Appellant.

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.

