



Case Summary for Appeal Hearing
2017-C-0210/2018-X-0002
March 7, 2018

INVESTIGATION OVERVIEW

Involved persons

Appellant
Officer A
Officer B

Allegations

No.	Allegation summary	Category	Finding
1	Officer A used inappropriate force when taking the Appellant into custody. (FORCE) (Directive 1010.00 – Use of Force)	Force	Exonerated w/ Debriefing

Incident/Complaint Summary

In May 2014, Officer A was dispatched to a bar and grill in Northeast Portland, after a 9-1-1 complaint that Appellant was refusing to leave the property. Bar staff stated to dispatchers that Appellant was intoxicated and refused multiple requests to leave. Officer A contacted Appellant and requested identification, which Appellant refused, stating he had not done anything wrong. Appellant began walking away, and Officer A then grabbed Appellant’s right arm to prevent Appellant from leaving. Appellant spun away from and then turned toward Officer A, and Officer A took Appellant to the ground. A requested cover officer, Officer B, arrived as Appellant went to the ground. Appellant was taken into custody by Officers A and B. Officer A struck Appellant multiple times in the torso while attempting to gain control of Appellant.

Appellant provided notice to IPR of this use of force complaint on July 17, 2017.

Summary of Appellant and Officer Interviews

Appellant

Appellant was interviewed by Internal Affairs. Appellant stated that he did not recollect what occurred on the incident date besides that Officer A “kicked and abused” him. Appellant stated that he went to the bar to use



the restroom but had been asked to leave for loitering. Appellant recalled the officer asking for his name, but felt that he did not have to provide it since he was leaving. Appellant felt that the involved officer was overly persistent in asking for his name. Additionally, Appellant wasn't even sure he was still on the bar property by the time the officer arrived.

Appellant remembers Officer A grabbing his wrist as he was walking away, but did not recall the officer giving any commands. Appellant does not recall how he ended up on the ground, but remembers Officer A saying repeatedly "quit resisting." Appellant attributed his inability to remember details of the incident to the lapse in time from the incident date and his interview. Appellant recalls that, when he went to the ground, his arms were underneath him. Appellant stated that he was kicked several times by Officer A prior to being placed in handcuffs.

Officer B

Officer B responded to the scene and recalled being dispatched to the bar due to an intoxicated person. Arriving, Officer B saw Appellant "...squared off like in a fighting stance with Officer A." Officer B saw Officer A take Appellant to the ground with an "arm bar take down" and assisted Officer A in handcuffing the Appellant.

Officer B said neither he nor Officer A slammed Appellant's head on the ground. Officer B recalled Appellant saying that he was injured but that Appellant did not specifically say where he was hurt.

Officer B described the Appellant as intoxicated based on a number of indicators such as slurred speech, aggressiveness, and an odor of alcohol.

Officer A

Officer A recalled being dispatched to the bar and speaking with a bar employee who requested that Appellant be removed from the property because Appellant was refusing to leave. Appellant was near the front door when Officer A encountered him. Officer A then approached Appellant and notified him that he was trespassed from the property and requested the Appellant's identification. Officer A stated that the Appellant then became verbally combative and did not want to identify himself.

Officer A notified Appellant that he was under arrest and grabbed Appellant's wrist to prevent him from walking away. Officer A said Appellant then pulled away and turned towards Officer A:

...[Appellant] crouched down, like he bent his knees slightly, one foot in front of the other. Both of his hands were clenched with his fists balled up and one arm. I believe it was right arm back like loading up ready to swing at me.

Officer A interpreted Appellant's actions as wanting to fight him and saw that he needed to gain control of the situation. Officer A took hold of Appellant's arm and swung him to the ground onto his stomach. Officer A explained his motivation for taking Appellant to the ground as wanting to "end the fight" quickly and to take him into custody.

Officer A recalled Appellant landing on his stomach with his hands underneath his body. Officer A said Appellant's hands being underneath his body presented an officer safety concern and ordered the Appellant several times to show his hands. Officer A then delivered several knee strikes to Appellant's

left rib cage. The knee strikes proved to be ineffective and eventually Officer A and B pried Appellant's hands from underneath his body. Appellant was then handcuffed.

Appellant had abrasions visible on his head and face and was checked by medical personnel who cleared Appellant to be transported to jail.

Complaint Received: 7/24/17
Investigation Completed: 9/07/17
Findings Completed: 10/12/17
Appeal Received: 11/27/17

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.