



Supplemental Case Summary for Appeal Hearing
2016-C-0170/2018-X-0001
June 6, 2018

INVESTIGATION OVERVIEW

Involved persons

Appellant
Officer A
Officer B

Allegations

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

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 B Interviews

Appellant

On 5/11/2016 Appellant went to the Justice Center intending to file a report about his car being broken into stating that he noticed a “vehicle that was stalking me at my storage unit.” Appellant stated that he observed two MCSO vehicles and indicated, “somebody’s got to be close by. I can say, hey I’ve been robbed, and I see that somebody might be following me.” Appellant further indicated that he then drove down the ramp to “some sort of law enforcement area” to file a report. Appellant additionally stated that he did not make it all the way down the ramp. Appellant described what occurred:



I mean, immediately upon entering there was a loud noise. So, when the loud noise came on, I thought it was probably best – I just got out the car and approached somebody and that's when I had seen somebody standing next to a white Caravan that said, Portland Public Works or city that works or something of that nature. So, I mean, from where the photos were taken of that day, I didn't – it would appear that I had driven the car that far down and that is not the case.

Appellant then indicated he had only come halfway down the ramp and stopped to allow enough room for vehicles leaving the sally port to get past. Appellant denied that he hit the sally port gate, and stated that he “didn't come anywhere close to the gate.”

Appellant denied that he was under the influence of a controlled substance or alcohol. Noting that his “eccentric-ness” is often mistaken for being under the influence of a controlled substance. He had previously been prescribed Adderall for ADHD, but discontinued its use in April 2016.

Appellant was then asked if Officer B identified himself as an officer after he got out of his vehicle and approached him. Appellant could not remember what was said by Officer B, but then described him as having worn “a white t-shirt and jeans.” Appellant indicated that Officer B did not appear to him to be a police officer, but attempted to explain to him that he needed to file a police report. Appellant added that he wanted to speak with someone in uniform because of previous incidents in which, “personnel appear to be of law enforcement and they were actually not.” Appellant further indicated that during his interaction with Officer B, he was held so that he could not move or “fight back.” Appellant then confirmed that Officer B held onto him until he was assisted by MCSO deputies, but added that he was initially “placed very violently towards the hood of the van.”

In reference to Allegation #2, where it is alleged Officer A used a homophobic slur during a conversation with him, Appellant indicated that that there was an “alleged conduction of a DUI interview” and there were multiple times when other individuals in “black vests” would “come up and raise the curtain and laugh at me in a laughing motion.” Appellant further described the action as follows:

I mean I'm presuming it was another Portland Police officer or it was some other law enforcement, that's when there was a remark made about you know, faggot with a tramp stamp and they made reference to my underwear as well and that took place while he had other people coming up and lifting the curtain to the holding cell area.

Officer B

Officer B indicated that on 05/11/2016, he was assigned to the Central Precinct front desk to transport some items to SE Precinct. Officer B recalled checking out an unmarked van because he was in blue jeans and a “city polo shirt with the city emblem on it.” Officer B added that he had his badge “hanging around my neck” and further stated that “it would be force of habit for me to take that out from underneath and to show it. Especially in here because I know that I made sure that I tried to convey myself as a police officer.”

Officer B then indicated that he first observed Appellant's vehicle “up a couple of stories” as he came around the sally port to leave. Officer B added that he observed Appellant's vehicle swerve and travel at a rate of speed, “higher than really should be.” Officer B indicated that he observed Appellant exit his vehicle and ask for a police officer. Officer B stated that he informed Appellant that he was a police officer and attempted to, “calm him down and I just wanted him to stand at his car.” Appellant failed to comply with Officer B's instructions and attempted to walk past the officer. Officer B recalled that the Appellant was not “in tune with me. He wasn't listening.”

Officer B said that as Appellant attempted to walk past him, he “quickly took his wrist in a control hold and escorted him to the hood of my van.” Officer B stated that he then “pushed” Appellant against the van, “to control his movements.” Officer B clarified that his push was, “not like talking football push. I'm just like, nudging push.”

Officer B stated that he had only received permission to wear a gun and badge because, “the intent is I’m not to take any – police action unless absolutely necessary.”

Officer B further indicated that he did not have a radio with him when the incident occurred and called the front desk from his cell phone. Officer B stated that it “probably felt like forever” as he waited for assistance and added that MCSO deputies had to wait for the sally port doors to reset before they opened. Officer B indicated that at that time, MCSO deputies took control of Appellant and then asked him to clear Appellant’s pocket. Officer B stated that he was kicked in the upper left leg by Appellant during the interaction, but denied that he assisted MCSO deputies in taking Appellant to the ground because of his injury.

Officer B indicated that Appellant was not compliant during his arrest and added that once Appellant was on the ground, “I believe I held his pant legs.” Officer B stated that he remembered Appellant “being scraped up a little bit of blood on his face.” Officer B additionally stated that he wrote a report documenting the incident and added that Appellant was charged with Driving Under the Influence of Intoxicants because he was “profusely sweating.” Officer B added that Appellant had “...red blood shot eyes. Was not able to look at me in the eyes. Just what I talked about earlier of how he’s not actively engaging.” Officer B also indicated that Appellant’s rate of speech was “fast” and he rambled and could not make sense.

Officer B further indicated that his interaction with Appellant on 05/11/2016 was appropriate and did “everything I thought I was supposed to do.”

Medical Records

On 02/28/2018, Appellant indicated that he would provide IPR with medical records that documented the injuries he received as a result of the incident. Additionally, an authorization for Release of Medical Information was mailed to Appellant on 03/26/2018. To date, IPR has yet to receive any medical records from Appellant or his medical provider(s).

MCDC Exit Ramp Photos

IPR took photographs of the exit ramp at the Multnomah County Detention Center, including several showing a sign with a yellow background and black lettering. The sign was observed posted on the right-hand side of the opening which leads to the street and states, “EXIT ONLY NO PEDESTRIANS.” Subsequent photographs show the ramp leading down to the parking and sally port areas.

Video Evidence

IPR obtained additional video footage from the Multnomah County Sheriff’s Office not provided during the original investigation. It shows Appellant approaching the exit ramp at MCDC, back up and subsequently accelerate down the ramp and into the sally port area. The video footage also shows Appellant being escorted into booking from the sally port by two MCSO deputy sheriffs. At 03:50, Appellant is observed being brought into booking where he is taken to the counter of one of the work stations and appears to struggle with corrections staff. Appellant continues to resist as three MCSO deputies attempt to process him. At 05:19, three individuals being processed are moved to a seated area, while deputies continue to attempt to process Appellant. At 06:28, Appellant is escorted away from the processing area by multiple deputies. Footage from a different camera angle into booking at 07:19, shows Appellant kick back and to the left in a circular motion with his right leg at the deputies positioned on his left and right. A third deputy enters the camera frame and assists with the processing of Appellant. At 09:43, Appellant is escorted from the processing desk by MCSO deputies, and another camera angle at 10:03 being escorted by three deputies to an isolation cell. Deputies are observed at 10:51, leaving the isolation cell and shutting the door at 10:58. At 11:01, Appellant is observed at the glass of the cell door, at which time a deputy subsequently pulls down the curtain over the glass

A review of the photographs taken of the exit ramp show the camera which attached to the ceiling which captured Appellant driving down the ramp, as well as the camera which captured Appellant being escorted into booking. There does not however, appear to be a camera in place that would have captured the interaction between Officer B and

Appellant. Additionally, MCDC staff informed IPR that the video footage provided was all that was available from the incident on 05/11/2016.

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.