



Case Summary for Appeal Hearing

2020-C-0043/ 2021-X-0001

June 2, 2021

INVESTIGATION OVERVIEW

Involved Persons

- Appellant
- Officer A
- Officer B
- Officer C
- Detective D

- Detective E

Allegations

No.	Allegation Summary	Category	Finding
1	Officer A made an unjustified and improper arrest of the Appellant during a protest in downtown Portland	CONDUCT	EXONERATED
2	Officer B made an unjustified and improper arrest of the Appellant during a protest in downtown Portland	CONDUCT	EXONERATED
3	Officer C made an unjustified and improper arrest of the Appellant during a protest in downtown Portland	CONDUCT	EXONERATED
4	Officer A used inappropriate force during the custody of the Appellant.	FORCE	UNFOUNDED
5	Officer B used inappropriate force during the custody of the Appellant.	FORCE	UNFOUNDED
6	Officer C used inappropriate force during the custody of the Appellant.	FORCE	UNFOUNDED



7	Officer B wrote an inaccurate report in relation to the arrest of the Appellant.	PROCEDURE	UNFOUNDED
8	Officer B made the decision to arrest the Appellant on the basis of race.	DISPARATE TREATMENT	NOT SUSTAINED

Incident/Complaint Summary

On August 17, 2019, large protest and counter protest events occurred in Portland organized by a variety of groups including PopMob, Patriot Prayer, Portland Democratic Socialists of America, and an individual named Joe Biggs (a Florida man associated in media reports with the Proud Boys). These events were set to begin at varying times throughout the day starting at approximately 0930. Appellant was arrested near the intersection of SW 3rd Avenue and SW Oak Streets in downtown Portland at approximately 1450 that afternoon. Appellant was given a citation for Disorderly Conduct II and released.

On February 12, 2020, The City of Portland Risk Management office received a copy of a tort claim notice sent by Appellant’s attorney alleging that Appellant’s arrest violated her constitutional rights. IPR opened an investigation based on the tort claim notice and reached out several times to schedule an interview with Appellant. The Investigator was not successful in obtaining an interview and the investigation proceeded based on the information in Appellant’s tort claim notice. After the case had been submitted for review in June 2020, Appellant’s attorney agreed to an interview and the investigation was reopened.

Summary Interviews

Appellant

Appellant said that earlier in the day she had marched with a group on the east side of Portland where a female officer told her to get back onto the sidewalk or be arrested. Appellant returned to the sidewalk immediately and was not arrested. She stated, later in the day, she was walking northbound across SW Oak Street at SW 3rd Avenue in the crosswalk with a green light at the time of her arrest. She danced for no longer than 10 seconds and was live streaming on Facebook at the time she stopped to dance. She stopped to dance because the song “Fuck the Police” by NWA came on and had finished dancing and was on the sidewalk when officers arrested her. When asked why she thought she was arrested, Appellant said it was possibly related to seeing Officer B earlier in the day and telling him to jump off a bridge. She additionally articulated a belief that her Black Lives Matter clothing and dancing to “Fuck the Police” may have played a role. Because Officer B is a white male police officer, and because Complainant believes Officer B’s uniform may have had a flag with a blue stripe on it signifying “blue lives matter,” Appellant believes an objection to her clothing and speech, both of which related to “Black Lives Matter,” may have motivated Officer B to arrest her. Appellant also stated that Officer B arrested her because he thought

she was impeding traffic and that race was likely a motivating factor in her arrest because there were a large number of white people in the street at the time of Complainant's arrest who were not arrested. Appellant said when Officers A and B took her arms, they exerted downward pressure in a way that gave her no choice but to get down on the ground, that Officers got her to the ground quickly, but not so forcefully that her head bounced off the ground, and that her cheek hurt for a day or two after the arrest but it was not bad enough to seek medical attention. Appellant also reported pain in her shoulder. Appellant said she recalls other people walking in the street at the time of her arrest, but other people were not engaged in dancing or singing that would have attracted as much attention.

Officer A

Officer A recalled that on August 17, 2019 he was assigned to an RRT squad tasked with ensuring various groups of protesters did not clash with one another, as well as protecting safety of protesters by ensuring they stayed out of the street. Officer A recalled the RRT vehicle traveling westbound on SW Oak Street from SW 2nd Avenue when he observed Appellant in the middle of the street. Officer A stated there was a sound truck which passed through the area immediately prior and all the other protesters cleared the street while Complainant was in the middle of the street twerking. Officer A stated the probable cause for arresting Appellant was Appellant was blocking traffic which didn't allow the RRT vehicle to move down the street when there was a green light. Officer A recalled Officer B had Appellant's left arm and he had Appellant's right arm and Appellant repeatedly asked why she was under arrest and he recalls explaining it to her. Officer A stated he did not use force and did not observe anything in the course of Appellant's arrest which caused him concern Appellant may be injured. Officer A recalled asking Appellant if she needed medical help but Appellant declined. Officer A recalled previous times that same day his group could have arrested Appellant blocking traffic on the east side of Portland but that they did not arrest her those previous times due to crowd dynamics. Officer A stated he and Officer B were traveling at the front of the RRT vehicle and therefore saw Appellant blocking traffic prior to other officers in their unit.

Officer B

Officer B recalled arriving at the location of SW 3rd Avenue and SW Oak Streets a few seconds before initiating Appellant's arrest. Officer B stated there was a sound truck traveling immediately behind the RRT vehicle his group was traveling on. Officer B recalled sound trucks giving orders for several hours to keep the streets open and if protesters impeded traffic they would be arrested. Officer B stated that as the RRT vehicle traveled westbound on SW Oak Street approaching SW 3rd Avenue he recalled Appellant approximately 10 yards east of the crosswalk "dancing and flipping us off." Officer B recalled making the decision to arrest Appellant for Disorderly Conduct II. Officer B stated he recalled that as the RRT vehicle approached Appellant's location the majority of people who had been in the street got out of the street but Appellant remained in the street in a manner that prevented the RRT vehicle from passing. Officer B stated the probable cause to arrest Appellant was that Appellant was "in the street impeding traffic." Officer B recalled that as he and Officer A approached Appellant she tried to return to the crowd and as Appellant reached the sidewalk he and Officer A caught up to her, grabbed her arms, and told Appellant she was under arrest. Officer B described Appellant as "yelling and screaming but . . . cooperative." Officer

B recalled Appellant lowered herself to the ground and stated he did not use force. Officer B recalled telling Complainant she was being arrested for impeding traffic and stated he asked Appellant several times whether she was injured and did not recall Appellant answering. Officer B stated RRT units have fire paramedics with them and he had a paramedic ask Appellant if she was injured but he recalls Appellant yelling and cursing at the paramedic but not responding as to whether she was injured. Officer B did not recall Appellant appearing injured in any way.

Officer C

Officer C was assigned to an RRT team supervised by Detective D. Officer C recalled the overall mission of his RRT squad that day as follows:

“ . . . to protect life and protect human safety. So, the first goal is to just try to keep them from fighting each other. And then we’re also looking at protecting constitutional rights, making sure people have the opportunity to speak what they want to say and to gather and assemble as well as protecting property and generally enforcing laws and order.”

Officer C stated he recalls the RRT vehicle he was riding on was traveling westbound on SW Oak between SW 2nd Avenue and SW 3rd Avenue when he first observed Appellant. Officer C stated at that point in time officers were trying to keep the streets open to vehicle traffic and a sound truck was in the area announcing that message frequently. Officer C stated he believes a sound truck had passed through the area shortly before his arrival on the scene and described that there were a couple hundred protesters along that block and the vast majority were staying on the sidewalk and following traffic signals. Officer C observed Appellant enter SW Oak in the middle of the block, outside of a crosswalk, in front of the RRT vehicle and begin “. . . twerking with her back to us, looking over her shoulder directly at us, and that’s why our car stopped was because there was a human being in the road in front of us.” Officer C described that once officers started getting off the truck to arrest Appellant she tried to return to the crowd. Officer C additionally stated that a few moments prior, his group had a conversation with their team leader about making selective arrests and the group had gotten the go ahead from incident command to make arrests of people committing crimes in front of them if they had the resources. Officer C said he believes that either Officer A or Officer B wrote the main report and he provided more of a support role in Complainant’s arrest. Officer C recalled Officers A and B took Appellant’s hands and he recalled Appellant going to the ground such that it appeared Appellant either lost her balance or went down intentionally. Officer C did not recall observing any actions on the part of Officers A or B that appeared to be a use of force. Once Appellant was on the ground, Officer C described holding one of Appellant’s hands on the small of her back while another officer obtained cuffs. Officer C recalled Appellant shouting questions such as “Why am I being arrested?” Once Appellant was handcuffed, Officer C described rolling her onto her side in a “. . . modified recovery position just so that it would be a bit more comfortable and easier to breathe.” Officer C recalled asking Appellant if she was hurt and Appellant saying she was fine. Officer C additionally recalled Complainant refusing paramedics. Officer C helped walk Complainant to the field arrest team and returned to the line.

Detective D

On August 17, 2019 Detective D was working as an RRT Squad Leader and was not involved in the arrest of Appellant but was involved in the arrest of another individual at the same time and in the same area for blocking traffic. Detective D recalled that it's standard procedure, during a protest event, if officers observe someone committing a crime, and it's reasonable to make an arrest at the time, they do so. Detective D recalled that at the time of Appellant's arrest the majority of the protesters were on the sidewalk, so Appellant and the person Detective D was involved in arresting were apart from the crowd. Detective D recalled a concept from RRT training involving how a lone actor can inspire others to join them. In this case, Detective D stated that if more protesters entered the roadway it would have required significant force to remove them whereas it requires minimal force to remove a lone actor.

Detective E

On August 17, 2019, Detective E was assigned to the Formal Arrest Team and tasked with interviewing individuals taken into custody arising from the planned protests that day. In that capacity, Detective E was located at the PPB Training Division facility near the Portland Airport. Detective E recalled being involved in two interviews on that day. Detective E recalled Complainant as cooperative and "talking about dancing in the middle of the street, dancing by police after being told to leave the street." Detective E specifically remembered Appellant "talking about the – I remember her saying something about some F Donald Trump song was her favorite song. . . and [he] remember[ed] her talking about hearing commands, that she had enough time to get off the street, but she was arrested prior to getting off the street."

Video and Photographs

IPR obtained and reviewed several photos and videos as part of this investigation. This includes PPB video taken from the air within a 1-hour period of Complainant's arrest documenting activity in the vicinity of SW 3rd Avenue and SW Oak Streets as well as photos and videos found on social media and from local news stations.

Complaint Received:	02/18/2020
Investigation Completed:	06/05/20
Investigation Reopened:	06/24/20
Investigation Completed:	09/03/2020
Findings Completed:	10/16/2020
Appeal Received:	11/19/2020

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.