

Boston Police

DEPARTMENT

1 Schroeder Plaza, Boston, MA 02120-2014

April 3, 2000

To: Paul F. Evans
Police Commissioner

From: Deputy Superintendent Marie L. Donahue
Assistant Bureau Chief, Bureau of Internal Investigations

Subject: Internal Affairs Recommendations

Sir:

I respectfully submit the recommendations of the Internal Affairs Division in reference to:
Case #: 021-00

Complainant(s) Rosimeire Santos
[REDACTED]

Employee(s): P.O. John C. Hughes
I.D. #: 09022 - Area D-14
Violation of Rule 304, §2

- Sustained: (Investigation disclosed sufficient evidence to support allegations in the complaint.)
- Disciplinary Hearing
- Reprimand: Written Oral
- Not Sustained: (Investigation failed to prove or disprove the allegations.)
- Exonerated: (The action complained of did occur, but investigation revealed that action was proper, legal and reasonable.)
- Unfounded: (The investigation revealed that conduct did not occur.)
- Filed

Respectfully submitted,



Deputy Superintendent Marie L. Donahue
Assistant Bureau Chief, BII



Previous Complaint(s): see attached sheet

Reviewed by Chief, Bureau of Internal Investigations and forwarded to Legal Advisor

Reviewed by Legal Advisor and forwarded to Police Commissioner

Handwritten notes: MJA 5/1/00 [Signature] 4-19-00

Previous Complaint(s) re:
Date 04-03-00

P. O. John Hughes
I.D. #09022 Area D-14

1. Conduct - Unfounded (Case #134-87)
2. Violation of Rule 304, §2 - Exonerated (Case #021-00) Current Case

To: Deputy Superintendent Marie L. Donahue
Assistant Bureau Chief, Bureau of Internal Investigations

From: Sergeant Detective Francis L. Evans
Internal Affairs Division

Date: March 28, 2000

Subject: Internal Affairs Case # 021-00, Complaint Control # 1262, Alleging
Violation of BPD Rule # 304, Section 2 (Use of Non-Lethal Force) by
Police Officer John C. Hughes, ID # 9022, Area D-14.

Ma'am:

I respectfully submit the following report relative to the above complaint filed by Rosimeire Santos of [REDACTED]

SUMMARY OF COMPLAINT CONTROL # 1262, ATTACHMENT # 1

The complainant alleges that on 2/1/00 she stopped at District 14 and asked Officer John Hughes to lock her 12 year-old son up for the night because he was acting up. She alleges that the police officer became very upset and pulled her out of the car and into the booking area of the station where he told her to calm down or he would lock her up and tow her car. She stated that the officer then let her go and walked outside with her. She further indicated that approximately 15 minutes later the officer showed up in the lobby of her apartment building and asked if everything was all right.

SUMMARY OF BPD INCIDENT REPORT, CC # 000058870, ATTACHMENT # 2

Boston Police Department Incident Report written by Police Officer John C. Hughes indicates the following: At approximately 7:30 P.M. on 2/1/00 while exiting the side entrance of District 14 the above officer observed a white Toyota 4-Runner turn into Wirt Street from the eastbound lane of [REDACTED]. When the Toyota came to a sudden stop next to Officer Hughes' police [REDACTED]

The report further indicates that the operator of the Toyota, who was later identified as Rosimeire Santos of [REDACTED] also alighted from the vehicle and approached the officer stating, [REDACTED]. As the officer attempted to conduct an inquiry, Ms. Santos began yelling at him and [REDACTED]. The officer reports that he made several attempts to calm Ms. Santos and instructed [REDACTED] which also contained [REDACTED] a family friend Cynthia Biggo. The officer further reports that when Ms. Santos chased after [REDACTED] and reach into the vehicle in an attempt to grab [REDACTED], she

was restrained and taken into District 14 in a further effort to calm her down. The report indicates that officers of the District 14, Drag Unit, were present [REDACTED]

The officer reports that after approximately five minutes, Ms. Santos began to calm down and explained that she was upset about a [REDACTED]

The officer reports that at approximately 8:00 P.M. he responded to [REDACTED] to check [REDACTED]. He reports that he met [REDACTED] in the hallway and when he asked if everything was all right, Ms. Santos stated, "No we're not, you made things worse, I'm taking you to court."

SUMMARY OF INTERVIEW WITH ROSIMEIRE SANTOS, ATTACHMENT # 3

On Friday, February 11, 2000, along with Sergeant Detective Richard Clancy of the Internal Affairs Division, I went to [REDACTED] where we conducted the following interview relative to the above complaint. The complainant, Rosimeire Santos, is a thirty-three year old Hispanic female, date of birth [REDACTED] who resides at the above address. [REDACTED]

[REDACTED] She stated that she stopped at District 14 where she encountered Officer John Hughes, asked if he was on duty and told him she was having a problem [REDACTED]

[REDACTED] When asked about her demeanor, the complainant indicated that she was angry at that time, and acknowledged being loud and excited. She acknowledged that when the officer told [REDACTED] to get back in the car she did not want [REDACTED] to get in. She indicated that when she went back and got into her vehicle the officer grabbed her by the arm, removed her from the vehicle and dragged her into the station. When asked, the complainant stated that she was resisting as the officer was pulling her into the station and he threatened to lock her up and tow her car.

The complainant indicated that when the officer took her into the station she was upset and crying. [REDACTED]

[REDACTED] She further indicated that while in the station the officer told her again that if she did not calm down he would lock her up and tow her car. When asked, the complainant indicated that the officer did eventually let her go and when they came out of the station there were some undercover officers standing by her vehicle [REDACTED]

[REDACTED] She stated that when they came out there were other people around and the police officer settled down and told her to try to calm herself down. She indicated that at that time she was very upset and thought she was going to have a heart attack.

The complainant stated that when they went home she was still very upset and noticed that she had a bruise on her arm that was caused by the officer grabbing her. The complainant indicated that she called the station to report the incident and spoke to Lieutenant Donahoe. She further indicated that when her friend Cynthia saw the bruise

she got upset and said, "We're going down there." She stated that at that point, the doorbell rang and when they went downstairs they met Officer Hughes who stated that he just came by to see if they were okay. Ms. Santos indicated that she responded, "No. I'm not O.K. sir, I'm not O.K., you grabbed me by the arm, you bruised my arm and I'm going to report that." She stated that she then went to District 14 and filed a complaint. When asked, the complainant indicated that her specific complaint is that the officer grabbed and bruised her arm.

Upon further inquiry the complainant acknowledged that she was in a very excited state and got back into her vehicle [REDACTED]. When asked if the officer instructed her not to get into the vehicle she initially indicated that he did not, then stated that she didn't recall. When pressed on the issue the complainant finally acknowledged that the officer did tell her not to get in the vehicle. She acknowledged yelling at the officer and resisting when he removed her from the vehicle and while he was taking her into the station.

When asked, the complainant stated that she no longer had the bruise on her arm and indicated that she did not seek medical attention as a result of it. When asked if she had ever been arrested, the complainant indicated [REDACTED]. When asked if she had ever been arrested or summoned into court on a criminal charge she stated, "No." When pressed on the issue and prior to being confronted with her criminal record the complainant stated that she was one hundred percent sure that she never had a criminal charge filed against her.

SUMMARY OF INTERVIEW WITH [REDACTED] ATTACHMENT # 4

[REDACTED] On Friday, February 11, 2000, along with Sergeant Detective Richard Clancy, I went to the above address and conducted the following interview relative to Complaint # 1262. In response to inquiries, [REDACTED] indicated that on February 1, 2000, [REDACTED]

[REDACTED] stated that when she stopped the car she wanted [REDACTED] to get out but [REDACTED] didn't want to.

[REDACTED] stated that [REDACTED] was angry and this officer told her to calm down [REDACTED] stated that [REDACTED] would not calm

down so the officer threatened to lock her up, grabbed her arm and took her into the station. [REDACTED]

SUMMARY OF INTERVIEW WITH CYNTHIA BIGGIO, ATTACHMENT # 5

On Friday February 11, 2000, along with Sergeant Detective Richard Clancy of the Internal Affairs Division, I went to [REDACTED] and conducted the following interview with Cynthia Biggio. Ms Biggio is a twenty-seven year old Hispanic female, date of birth [REDACTED], and she resides at the above address. She indicated that on February 1st she was in the company of the complainant, Rosimeire Santos [REDACTED] when Ms. Santos was having a problem [REDACTED].

Ms. Biggio basically reiterated the accounts of the complainant [REDACTED] with respect to the family crisis and the encounter with Officer Hughes. She indicated that when they stopped at the police station, Ms. Santos and [REDACTED] were screaming at each other prior to the arrival of Officer Hughes. When asked if Ms. Santos told [REDACTED] to get out of the car, Ms. Biggio stated, [REDACTED]

[REDACTED] She further indicated that Ms. Santos did tell the officer [REDACTED] She stated that this made the officer very upset. She stated that Ms. Santos [REDACTED]

When asked, Ms. Biggio indicated that the officer did tell Ms. Santos not to drive off and they started screaming at each other. She indicated that at this time, the officer said if you don't calm down, I'm going to lock you up. She stated that that was when the officer grabbed Ms. Santos by the arm, took her out of the vehicle and into the police station. She indicated that the officer was initially trying to help, but she thinks he got a little out of line. She further indicated that when Ms. Santos came out of the station she (Ms. Biggio) noticed that her arms had bruises all over them.

[REDACTED]

SUMMARY OF INTERVIEW WITH DETECTIVE RUSSELL GRANT, ID # 8306, ATTACHMENT # 6

On Wednesday, February 16, 2000, Detective Russell Grant was interviewed at the Internal Affairs Division relative to the above complaint. Sergeant Detective Richard Clancy was also present when the following interview was conducted.

In response to inquiries, Detective Grant indicated that he is assigned to the District 14, Drug Control Unit and stated that he was working on February 1st. He further indicated that at approximately 7:30 P.M. he had just completed an interview with two gentlemen when they left his office. He indicated that he received a telephone call from one of them approximately one-minute after they left and was informed that there was a problem outside the station. He stated that this individual was calling from his cell-phone

and informed him [REDACTED] Detective Grant indicated that as he, Officer Gaughan and Officer Menino were leaving the office to respond the same gentleman called again and stated that there was now a police officer on the scene. He indicated that as they were speaking, the caller stopped in mid-sentence and stated that the woman was now going after the police officer.

Detective Grant stated that when he got outside he observed a white SUV being operated by a Hispanic female pulling away. He indicated that he instructed the operator to stop and he asked what was going on. [REDACTED]

[REDACTED] Detective Grant stated that at this time, a woman [REDACTED] came out of the station accompanied by Officer Hughes. He indicated that Officer Hughes walked her to the passenger side of the vehicle [REDACTED]

When asked, Detective Grant indicated that he did not observe Officer Hughes abuse the complainant, Ms. Santos, in any way. He stated that when he observed them come out of the station, Officer Hughes did not have his hands on her at all. He stated that she was very upset and he did not attempt to have any conversation with her. When asked about Officer Hughes' demeanor, the detective stated that Officer Hughes seemed to be concerned not only for the mother [REDACTED] He stated that it was his opinion that the officer had received an explanation regarding [REDACTED] and that he (Hughes) was trying to intervene and resolve the situation.

SUMMARY OF INTERVIEW WITH POLICE OFFICER TIMOTHY GAUGHAN ID # 10177, ATTACHMENT # 7

On Wednesday, February 16, 2000, Officer Gaughan was interviewed at the Internal Affairs Division relative to the above complaint. Sergeant Detective Richard Clancy was also present when the following interview was conducted.

In response to inquiries, Officer Gaughan indicated that he is assigned to the District 14, DCU and was working Tuesday, February 1st. He basically reiterated Detective Grant's account of how they became aware of the incident involving Officer Hughes and the complainant, Rosimeire Santos. Officer Gaughan stated that after receiving a telephone call, Detective Grant informed him and Officer Menino that there was a commotion outside the station involving a police officer. He stated that when he and Officer Menino exited the side door of the station they could hear a female voice yelling and screaming, coming from the garage area. Officer Gaughan stated that he followed the voice to the booking area where he observed Officer John Hughes talking to a female who was later identified as Rosimeire Santos. He indicated that Ms. Santos was visibly upset, crying and yelling [REDACTED] He stated that Officer Hughes was telling her that she had to calm down [REDACTED]. When asked, Officer Gaughan indicated that he never heard Ms. Santos complain that Officer Hughes had put his hands on her or that he had abused her in any way.

**SUMMARY OF INTERVIEW WITH POLICE OFFICER JOHN C. HUGHES,
ID # 9022, ATTACHMENT # 8**

Officer Hughes came to the Internal Affairs Division on Tuesday, February 22, 2000, to be interviewed relative to the above complainant. Sergeant Detective Richard Clancy of the Internal Affairs Division was present and Attorney Kenneth Anderson for the BPPA represented the officer.

In response to inquiries, Officer Hughes indicated that he did have an encounter with the complainant, Rosimeire Santos, on Tuesday, February 1, 2000. He indicated that at approximately 7:30 P.M. upon exiting the side door of District 14, he observed a Toyota 4/Runner come to a sudden stop on Wirt Street after making a left turn from

[REDACTED] He indicated that at that time, a female later identified as Rosimeire Santos also alighted from the vehicle and approached him (the officer) as he was standing on the sidewalk.

The officer stated that when the complainant approached him she addressed him in a loud voice [REDACTED]. The officer indicated that when he inquired as to what was taking place the complainant continued yelling at him [REDACTED]

The officer indicated that in response to his instructions [REDACTED]

[REDACTED] He indicated that the complainant resisted as he walked her into the station, but he felt that the only way he could calm the situation was to [REDACTED]. The officer indicated that he informed the complainant that if she did not calm down her behavior could lead to arrest. He further informed her that she could not just drive up to a police station and demand [REDACTED]

The officer indicated that he did eventually calm the complainant down and released her. He stated that he walked outside with her and attempted to explain to [REDACTED]. The officer indicated that he thought that the situation was calmed down until he observed the manner in which the complainant drove off. When asked, the officer indicated that after the complainant [REDACTED] left the scene he realized that she was still upset and felt that there might be more problems when they got home. He stated for that reason he went to the complainant's home to make sure everyone was calmed down. He indicated that when he arrived at the complainant's apartment building he met them in the common hallway and asked if everything was okay. The officer stated that Ms. Santos responded, "Yeah we're okay, but you made everything worse." He indicated that when Ms. Santos informed him that she was going to complain about him he stated, "Okay that is your right" and walked away.

When asked to describe the force used to take the complainant into the station, the officer stated, "I walked her in leading her by the arms. She was screaming the whole time but she walked with me." When asked if he would describe the force use as

excessive, the officer stated, "No, I thought it was reasonable. If I let her go, I think she would have turned around and ran back outside to her vehicle." Upon further inquiry the officer indicated that he felt that if the complainant was allowed to return to the vehicle at that time, [REDACTED]

SUMMARY OF INTERVIEW WITH BORIS KRONER, ATTACHMENT # 9

Boris Kroner is a twenty-four year old white male, date of birth [REDACTED], who resides at [REDACTED]. He came to the Internal Affairs Division (IAD) on Monday, March 20, 2000, to be interviewed relative to the above complaint. Sergeant Detective Richard Clancy of IAD was also present when the following interview was conducted.

Mr. Kroner indicated that on February 1, 2000, at approximately 7:30 P.M. he had just concluded a meeting with Detective Russell Grant, at District 14, when he observed the encounter between the complainant, Rosimeire Santos [REDACTED]. Mr. Kroner stated that he was sitting in his motor vehicle with a friend, Eugene Ovchinnikov, when he observed [REDACTED] which was parked in front of his vehicle. He stated that a female also alighted from the Toyota [REDACTED]

Mr. Kroner indicated that a uniformed police officer came out of the station and tried to calm the female [REDACTED]. He indicated that as the officer was talking to the female trying to calm her it appeared that she was ignoring him [REDACTED]. He indicated that the officer repeatedly asked the female to calm down until she eventually turned her aggression on him, screaming and pointing her finger at him. Mr. Kroner indicated that as this incident was taking place he placed two calls from his cellular phone to Detective Grant informing him of the situation. He indicated that there was another adult female with the complainant who was also telling her to calm down.

Mr. Kroner indicated that as the complainant's behavior persisted, the officer eventually took her by the arm and escorted her into the station. He stated that she was struggling with him the entire time. When asked, Mr. Kroner indicated that in his opinion the officer acted in a calm and professional manner throughout the encounter. He further indicated that he never observed the officer use any force that he would consider unreasonable.

SUMMARY OF INTERVIEW WITH EUGENE OVCHINNIKOV, ATTACHMENT # 10

Eugene Ovchinnikov is a twenty-one year old white male, date of birth [REDACTED] who resides at [REDACTED]. He came to the Internal Affairs Division on Monday, March 20, 2000, to be interviewed relative to the above complaint. Mr. Ovchinnikov basically reiterated his companion's account of the meeting with Detective Grant and his observations of the encounter between the complainant [REDACTED] and Officer John Hughes. He indicated that at one point while the female was [REDACTED]

He indicated that at that time, the police officer came out of the station and tried talking to the female who just appeared to ignore him and continued yelling [REDACTED]. The witness indicated that prior to the arrival of the officer (P.O. Hughes) his

friend called Detective Grant on his cellular telephone to inform him of the situation. He indicated that when the officer arrived and the female began to violently confront him, they place a second call to Detective Grant.

The witness indicated that the uniformed officer took the female into the police station just prior to the arrival of the detectives. He indicated that within minutes they came back out and she was acting in the same agitated manner as when she went in. When asked, the witness stated that Officer Hughes remained calm throughout the encounter. He stated that he could not believe how the officer was able to remain so calm considering the circumstances. When asked if in his opinion the officer was being forceful with the complainant, the witness stated, "Oh no! He was so nice I couldn't believe how he was taking it." When asked, the witness further indicated that in his opinion the officer never used any force that he would consider unreasonable.

CONCLUSION

After a thorough investigation and a careful review of all documentation relating to the above complaint, I respectfully conclude the following:

The complainant, Rosimeire Santos, has alleged that Police Officer John C. Hughes subjected her to excessive force by grabbing and bruising her arm [REDACTED]

[REDACTED] The evidence derived from the above investigation would suggest that Officer Hughes was acting well within the scope of his duties when confronted with a situation that mandated his intervention.

The complainant acknowledged in a taped interview that she was angry, loud and excited when she encountered Officer Hughes, [REDACTED]

[REDACTED] The officer contends that he attempted repeatedly to calm the complainant only to have her continue her aggressive behavior [REDACTED]

[REDACTED] For this reason he restrained the complainant and despite her resistance escorted her by the arm into the police station. When asked, the officer indicated that he believed that the complainant's behavior had risen to the level of disorderly conduct and that probable cause to arrest her did exist at that time. However, he indicated that he took the complainant into the police station and focused his efforts on calming her and restoring peace to [REDACTED] as an alternative to arrest. The officer did acknowledge physically restraining the complainant while escorting her into the station, but indicated that he felt that the force was reasonable and necessary to prevent her from [REDACTED] and [REDACTED]

The accounts of two impartial eyewitnesses, Boris Kroner and Eugene Ovchinnikov, seem to substantiate the officer's version of the incident. They each gave taped statements in which they described [REDACTED] prior to the arrival of Officer Hughes. They both have indicated that they observed the entire encounter and assert that the officer remained calm and professional throughout, despite being subjected to a violent onslaught by the complainant.

The above investigation has also revealed that the complainant does have a prior criminal record consisting of [REDACTED]. A review of incident reports (CC # 70185417 and CC# 70109735, attached) pertaining to these charges has disclosed the following: It is alleged that on March 3, 1997, the

complainant violated Restraining Order # 9608RO6363 by showing up at her estranged husband's place of business (Boston Toyota). On April 11th, 12th and 13th 1997, she allegedly violated the above order by appearing at the victims place of business, assaulting him by means of a shod foot, threatening to have him killed and telephoning his place of business approximately seventy five (75) times over a two day period. [REDACTED]

Although the complainant alleged that the officer bruised her arm she indicated that she did not seek or require any medical attention. The evidence would seem to indicate that any trauma suffered by the complainant was most likely the result of her own behavior and the resistance she offered. The evidence would further suggest that Officer Hughes was compelled by Department policy to intervene and he would have been remiss in his duties if he failed to take action to resolve the situation.

The facts indicate that the officer did employ some degree of physical force when restraining the complainant, however, a preponderance of evidence would suggest that that degree of force was proper, legal and reasonable. Additionally, the evidence would suggest that the officer not only acted properly, he demonstrated sound judgment and a sincere concern for the welfare of the complainant [REDACTED]. The officer indicated that he thought that the complainant had calmed down, however, when he observed the manner in which her vehicle left the scene he sensed the possibility of further problems. With this fact in mind he followed-up by responding to her home in order to insure everyone's safety. Therefore, based on the above investigation, I respectfully submit the following finding and recommendation.

FINDING

Allegation: That Police Officer John C. Hughes, ID # 9022, was in violation of BPD Rule # 304, Section 2 (use of non-lethal force). A thorough investigation and a preponderance of evidence would suggest that the officer did utilize physical force while restraining the complainant, however, the evidence would further suggest that that force was proper, legal and reasonable. Therefore, I respectfully recommend that this allegation be classified as **Exonerated**.

*Contents noted & approved
Deputy Marie L. Donahue*

Respectfully submitted
Francis L. Evans
Francis L. Evans
Sergeant Detective
Internal Affairs Division

ATTACHMENTS

- #1 Complaint # 1262
- #2 Incident Report, CC# 000058870
- #3 Transcript of Interview with Rosimeire Santos
- #4 Transcript of Interview with [REDACTED]
- #5 Transcript of Interview with Cynlia Biggio
- #6 Transcript of Interview with Detective Russell Grant
- #7 Transcript of Interview with Police Officer Timothy Gaughan
- #8 Transcript of Interview with Police Officer John C. Hughes
- #9 Transcript of Interview with Boris Kroner
- #10 Transcript of Interview with Eugene Ovchinnikov

Additional Attachments

IAD Investigative Checklist
Employee Data Sheet Re: Officer Hughes
IAD History, Officer Hughes
Carney Form
Incident Reports and Court Documentation [REDACTED]
Involving the Complainant