



OFFICE OF POLICE OVERSIGHT

NOTICE OF FORMAL COMPLAINT

ICMS #: 2021-1053

November 5, 2021

Complaint: The complainant cannot remember the exact date of this incident but remembers that the incident took place at [REDACTED]. The complainant also provided a case number: [REDACTED]. On the night of the incident, a guest at the complainant's hotel was having an issue with the room they were assigned. As a result, both the guest and a hotel employee called the police. Once on scene, the complainant alleges that officers were advising the hotel guest how to proceed. The officers allegedly told the guest to take pictures of the room and report the room conditions to the hotel's corporate office. While still on the scene, the complainant alleges that officers failed to de-escalate the situation and threatened to contact someone from court to shut the hotel down. Later, while the complainant's employee was on the phone with the complainant, officers allegedly asked the employee who they were on the phone with. More specifically, if they were speaking to a male or female manager. The complainant thinks that this was uncalled for and that officers continually treat him, and his wife poorly based on past experiences. On [REDACTED], the complainant allegedly spoke with an APD sergeant. In this conversation, the complainant alleges that the sergeant stated that "officers can be opinionated." The complainant also went to the substation that morning to talk about the incident, but allegedly had to wait 45 minutes before he could speak with anyone. Overall, the complainant is frustrated with APD's handling of their calls and believes that APD has a personal vendetta against them.

This notice of formal complaint is a request for Internal Affairs to initiate an investigation to determine if the employee conduct is within compliance of APD policy, Civil Service Rules, and Municipal Civil Service Rules.

Recommended Administrative Policies to Review (to include but not limited to):

301.1 PURPOSE AND SCOPE

All persons deserve protection by fair and impartial law enforcement and should be able to expect similar police response to their behavior wherever it occurs. Employees will serve the public through direction, counseling, assistance, and protection of life and property. Employees will be held accountable for the manner in which they exercise the authority of their office or position. Employees will respect the rights of individuals and perform their services with honesty, sincerity, courage, and sound judgment.

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301.2 IMPARTIAL ATTITUDE AND COURTESY

Employees shall provide equal and fair protection of all rights under local, state, and federal law for all members of the community. Law enforcement will be conducted in an impartial and equitable manner.

In an effort to create an organizational culture that is inclusive and nondiscriminatory, employees shall act professionally, treat all persons fairly and equally, and strive to interact with the community in a positive manner. Employees will perform all duties objectively and without regard to personal feelings, animosities, friendships, financial status, occupation or employment status, sex, disability status, housing status, mental health or ability, citizenship, language, national origin, creed, color, race, religion, age, political beliefs, sexual orientation, gender identity, gender expression, ethnicity, or social or ethnic background. Employees will endeavor to understand and respect cultural, national, racial, religious, physical, mental, and other differences.

404.2 POLICY

The Austin Police Department recognizes that a law enforcement presence at a civil dispute can play an important role in the peace and safety of the community. Subject to available resources, officers of this department will assist at the scene of civil disputes with the primary goal of safeguarding persons and property, preventing criminal activity and maintaining the peace. When handling civil disputes, officers will remain impartial, maintain a calm presence, give consideration to all sides and refrain from giving legal or inappropriate advice.

437.3.1 CRIMINAL TRESPASS NOTICE

When an officer witnesses a subject being given a trespass notice by an owner/agent, the officer shall document the incident by either writing a "Criminal Trespass Notice" incident report (title code 2730) or complete a Criminal Trespass Notice Incident Form (PD0040 or PD0040E). A subject does not need to be on the property at the time the notice is given in order for the notice to be valid. If the notice is to be temporary and the suspect leaves when told to do so by the owner/agent, the officer will title the report "Assist Complainant" and document that the notice was temporary and should not be considered a permanent (e.g., up to one year) notice.

Recommended Classification: *The OPO is permitted to make a preliminary recommendation on the classification of administrative cases.*

The OPO recommends this complaint receive a B classification.

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