



## NOTICE OF FORMAL COMPLAINT

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ICMS #: 2021-1111

December 8, 2021

**Complaint:** The complainant alleges: On [REDACTED] I was in [REDACTED] and I'm gay, and I was having a good time with my friend. We were drinking and doing normal things for a night out, and I asked the lady for a hookah because when you reserve a table, you get a hookah. The lady didn't answer; she just said, let's go outside. She gave a signal to the police to take us out, and I didn't know why because I wasn't disrespecting anyone. There were cameras there; you can see that. I was just requesting what I had a right to because you pay for the service. The manager told us if we wanted to go back inside, we'd have to pay another \$25. I asked why and started recording because they were bringing out another gentleman and another woman, and I just don't feel like our rights were being respected. The security guards threw me on the ground and put guns on me and the electroshock device. I started crying and shouting, and there were witnesses who saw what they were doing to me. I wasn't able to defend myself and, of course, because of my sexual orientation and they're security officers. I called APD about five times from my phone, and they didn't show up, and if they had shown up beforehand, they [security guards] would not have been able to use the electroshock on me, and I wouldn't have suffered that trauma – trauma that I'm going to have to deal with for the rest of my life.

An hour and a half later, the police arrived, a man and a woman, and they ended up speaking to them in English. That's something that I didn't understand and what I ended up telling the girl at the end is, "God can see everything you are doing." The officers just spoke to the security guards and the club owner, and they just told me to leave and not to go back and leave the vehicle because I had been drinking. And that was fine; I could go back the next morning to get my vehicle. And there was a gentleman there who got the security guards off me and told me to leave because the guards were mafia and were going to kill me. Because of everything I had been through, I just wanted the police to arrive and defend us, but it didn't turn out that way.

The police are supposed to defend us. They're not supposed to defend the people that are harming the community – the Latino community, the Hispanic community, much less the gay community. They didn't help me, they just told me to leave and not come back, and I just don't understand how it happened that way. I took pictures the next day of my face from when they threw me on the ground. It was all swollen. All I want is for the police to be able act for us, and not just for the gay community but everyone who is in the right. All of my sadness, frustration, and the trauma I endured were recorded on those four phone calls I made to 911 when they were hitting me, and I was crying. And it wasn't because of the alcohol because I'm not drinking right now, and I've been traumatized for the rest of my life.



# OFFICE OF POLICE OVERSIGHT

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*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):**

#### 301.2 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.

#### 328.3 MEMBER RESPONSIBILITIES

Every member of this Department shall perform their duties in a fair and objective manner and is responsible for promptly reporting any known instances of racial or bias-based profiling to a supervisor.

#### 401.2 INITIAL RESPONSE AND INVESTIGATION

- (a) Officers responding to an incident shall ensure that all persons are safe and anyone in need of medical attention receives assistance.

#### 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



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subject does not need to be on the property at the time the notice is given in order for the notice to be valid.

### 609.2 LANGUAGE INTERPRETER SERVICE

- (a) The Language Interpreter Service should be used when interpretation is necessary to provide services to the public and to perform police duties.
- (b) The Language Interpreter Service should not be used:
  - 2. When other means are available, unless this would jeopardize the investigation.

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.***