



ICMS #: 2021-0005

February 5, 2021

Complaint: The complainant, [REDACTED], submitted an online complaint to the Office of Police Oversight stating the following:

I had separate interaction with APD on [REDACTED] and [REDACTED]. On [REDACTED] I arrived home to find multiple police cars in my yard, they had arrested my roommate and told me she said her son assaulted her and he said that she assaulted him. They said she would be in jail but he was leaving. I told them he had to leave because he dangerous and did not live in the house. After several hours the police decided that he did live in the house and I did not have the right to have him removed due to threats he made against me despite finding a different address when they ran his drivers license. I left home for the evening for my own safety. I was also informed that none of the threats were "real" since I had not reported them to the police. I was disparaged for having a roommate they disapproved of and was spoken to in a demeaning manner as if the officers had already [REDACTED] the outcome. They informed me that I could lock him out (but they would not stop him if he broke in) since if he was a resident of the home he should have the keys. They also informed me he said he would vacate the premises the next day. On [REDACTED] I returned from my 12 hour shift and their car was gone so I went into the house assuming it was vacant. Instead, he was crouched in a dark stairwell and not visible until I was within his reach, so I ran out of the house. Overnight he had poured multiple liquids (milk, chocolate syrup, BBQ sauce, molasses over the counters and floors and as I was running out I noted the strong smell of gas in the house. I called 911 and the officers were demeaning, making fun of me for being frightened, and whenever I asked what recourse I had to be safe they just kept telling me he had a right to be in the house. I wasn't allowed to ask how to file a complaint or restraining order because they just kept cutting me off and telling me to listen not speak. They informed me he had "accidentally" turned the gas on and despite the fact that they noted he was "on something" they said there was no evidence that he was a danger. [REDACTED], his mother, noted he had an apartment elsewhere and did not live here and the police responded " that's okay, he's allowed to have two homes." She also stated we weren't safe from him so they said we could leave. [REDACTED] asked if there was a way for us to file a complaint or restraining order and was told it was a civil manner. An officer asked me what I hoped to accomplish that night and I told him I wanted to clean up the fluids, get the things out of the home that were irreplaceable , ie family mementos, and remove anything that he could use as a weapon. During both visits [REDACTED] was allowed to criticize, encouraged to tell his lies and verbally threaten me ("i'm gonna report you to the board of medicine") and I was not permitted to respond so I actually put earplugs in so I could keep my cool and clean and pack my belongings. [REDACTED] left when the police left and [REDACTED] and I continued to clean up the mess he had made. We locked the door and he returned causing a disturbance, ramming his head into the glass door and kicking it. When this was unsuccessful he held the horn of his mother's car down for about 5 minutes, then began ramming the front door until he succeeded in kicking it



down. I backed away from him and he chased me.. I told him not to touch me or I would pepper spray him He punched me and struck me in the R arm which I had raised over my head to protect myself and I then sprayed him. This is on video, I called APD and they took his statement, would not let me file a charge against him, told me I was not injured and arrested me for injuring him. When I asked to file a restraining order or arrest him because he injured me , they told me it was a civil matter. I gave them the video at that time but they told me there was nothing on it. Any injuries [REDACTED] claimed to have sustained surely came from his attempts to gain entry by slamming his body into the patio and front doors. I pointed out that a 38 year old man had now assaulted two smaller 58 year old women in two days and that both times the women were arrested. When I was released from jail, I sought medical treatment for my injuries. The examining physician feels I may have sustained a torn labrum in my R shoulder, a possible MCL injury to my R knee along with the multiple strains and contusions which I incurred when [REDACTED] assaulted me. These injuries are all consistent with the story I told police to which they responded " There are 3 different stories " and they said they were going with [REDACTED] story as if they predetermined the outcome without doing a thorough investigation.

This notice of formal complaint is a request for Internal Affairs [REDACTED] to initiate an investigation in order 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 RESPONSIBILITY TO COMMUNITY - 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.

301.2 IMPARTIAL ATTITUDE AND COURTESY

Employees are expected to act professionally, treat all persons fairly and equally, and perform all duties impartially, objectively, and equitably without regard to personal feelings, animosities, friendships, financial status, sex, creed, color, race, religion, age, political beliefs, sexual orientation, gender identity or gender expression or social or ethnic background.

303.3 DEPARTMENT ISSUED BODY WORN CAMERA

BWC equipment is to be used primarily by uniformed personnel as authorized per assignment by the Department and must be used unless otherwise authorized by a Commander or above.

318.2 DETENTIONS, FIELD INTERVIEWS, & FIELD PHOTOGRAPHS – GENERAL POLICY



(c) Officers will act with as much restraint and courtesy toward persons interviewed, detained or arrested as is possible under the circumstances.

404.2 CIVIL DISPUTES - 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.

404.3 CIVIL DISPUTES - GENERAL CONSIDERATIONS

When appropriate, officers handling a civil dispute should encourage the involved parties to seek the assistance of resolution services or take the matter to the civil courts. Officers must not become personally involved in disputes and shall at all times remain impartial.

(a) Civil disputes tend to be confrontational and officers should be alert that they can escalate to violence very quickly. De-escalation techniques should be used when appropriate.

902.2.5 INITIAL SUPERVISOR RESPONSIBILITY

Unless a complaint is submitted directly to the OPO or IA, the initial response to an internal or external complaint shall generally rest with the employee's immediate supervisor.

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

The OPO recommends that this allegation receive a B classification.