



ICMS #: 2021-0166

March 12, 2021

Complaint: Complainant alleges: While staying at the [REDACTED], at [REDACTED], I was being harassed by the occupants in the hotel room above my room, and because I carried a firearm, decided that before the situation got to far out of hand, that I should dial 911 to report the incident, as well as get assistance in defusing the the situation. As I sat in my car, in the hotel parking lot, awaiting the officer's arrival, 5-10 mins later, an Austin Police Dept. vehicle pulled up behind my vehicle, blocking me in. The first Officer approached the driver's side, where I was seated, and asked a number of questions, then finally asking me the reason for my call. I gave a brief, but descriptive account of who I am, as well as, explaining my right shoulder injury I suffered from my former, 22 yr career, which is why I am medically retired, as I went on to recounted the reason for the call for assistance. As I was nearing the conclusion of my statement of facts, and continued to sit in my vehicle, the second Officer arrived. The first Officer abruptly stated "Tell him, what you just told me." as he headed towards the vehicle he arrived in. While the second Officer listen to me recount my statement of facts, in the driver's seat of my vehicle, he abruptly asked about my firearm, when the first officer returned. I was asked where was the firearm at that time and given instruction to exit the vehicle. I explained to them that the firearm was on the passenger side front seat, as the second officer immediately went in that direction to observe it through the window, then asking if I would unlock the door to examine it, as I complied with his request. Moments later I see him walking towards his vehicle with my firearm, as he places it on the hood of this vehicle. The two officers step away from me for a moment, and return saying they are detaining me on an "psychosis involuntary 48 hr hold." As I am in total disbelief of what I'm hearing, I sternly ask them what kind of credentials do they THINK they have that they can violate, and infringe on my rights as a citizen of these United States, without cause? Separately they each began saying they didn't believe my account of what I previously stated. I then informed them that just because they allege that they've never heard of anything like it before does not give them the right or jurisdiction to detain me against my will, and WITHOUT CAUSE. Nor were they qualified to may this diagnoses, when the third officer walked up. As the second officer stated "Yeah, but he is!" pointing to the third officer. As the first officer says "That's why he's here!" pointing to the third officer. As the third officer draws near where we are standing, I inquired to the three of them to produce the third officer's credentials to make this determination, when the second officer stated "He's a peace officer!" I immediately responded back "So am I!" "Now, What?!" "And that gives NONE of you the right to make that determination, or restrict, or restrain me from my life!" As I am uttering the final words of my statement to them, I can see that they are determined to follow through with their plan, while they are slowly approaching me, as I am walking backwards to flee. I, in what felt like a moment in the movie "Roots", as they capture the African people on the beach, they aggressively grabbed me by both arms, as I heard officer three state "Let's just take her to the ground!" After having watched the tramatic video of George Floyd, I am in total disbelief that this is happening to me, and was not going to allow this take down to happen. As I struggled to free myself from this nightmare of injustice, i am suddenly aware of the familiar, excruciating sharp, neuro, pain in my neck, right shoulder and arm, from the injury I had informed them of at the start, and comply with the three of them. I am suddenly aware of my covid-19 mask, about to fall to the ground, possibly exposing me to the deadly virus, as I demanded that they adjust it immediately



to my face, as they continued to aggressively holding my arms, as they walked me back to their vehicles. I also informed them of my right to have a female officer perform the clothed body search, I know that is yet to come, as well as, an ambulance to the hospital for my re-injured neck, and right arm. Later I am taken to St David hospital, for my injuries, and then escorted by a fifth officer to Austin Oaks, where I was misled to believe that I was just going there to get a doctor to sign me out immediately. I was there from the [REDACTED], at approximately [REDACTED] hours, to [REDACTED]. exceeding the 48 hr hold, and unjustly against my will. I received no paperwork from the Austin Police Dept for this horrendous abuse of power, under the color of authority, false imprisonment, improper arrest, malicious prosecution, to identify two of the three officers by name. The second officer's name, I believe is [REDACTED]. The first, and third officers had their names covered, and refuse to tell me, when I inquired. Although my phone was confiscated at Austin Oaks, I was still bruised when I got out on [REDACTED] 0. I have photos of the bruising i endured in the days that followed.

This notice of formal complaint is a request for Internal Affairs 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):

211.4.1 EMPLOYEE REPORTING GUIDELINES FOR ALL FORCE LEVEL INCIDENTS

The following outlines the reporting guidelines for involved employees, employees that witness an incident and employees designated to assist at the scene of any response to resistance incident.

- (a) An incident report shall be completed by the primary reporting employee and include title code 8400. This report shall be written regardless of whether a report or supplement would normally be written for the initial incident.
- (b) Supplements shall be completed by:
 1. All other employees who are involved in a force incident.
 2. Employees who witness a force incident.
 3. Employees assisting at the scene of a force incident.
- (c) The following information shall be included in each report and supplement:
 6. Reports shall not contain "boilerplate" or "pat" language (e.g., "furtive movement" or "fighting stance") without descriptive details of the action.
- (d) All incident reports and supplements shall be completed separately and without discussing the details of the incident with other personnel. "Group reporting" is prohibited. Debriefing after an incident and/or the necessary discussions to further the training requirements of officers enrolled in the Field Training Program (FTP) are allowed.

306.3.1 SEARCH PROTOCOL



Nothing in this order supersedes officer safety tactics.

(a) Officers will conduct person searches with dignity and courtesy.

(e) When safety permits:

1. Officers should explain to the person being searched the reason for the search and how the search will be conducted.
2. When practical, an officer of the same gender should be called to the scene when officers believe the subject is concealing items in a sensitive area, such as, evidence or narcotics in the groin, buttocks, or breast areas. This does not apply to items that pose an immediate threat to officer safety.
3. If a subject requests a search by an officer of the same gender, an attempt should be made to have a same gender officer conduct the search.

445.4.2 PEACE OFFICER EMERGENCY DETENTION

(a) The authority to apprehend a person by using the Peace Officer's Emergency Detention (POED) is granted under the Tex. Health and Safety Code § 573.001. This type of custody is protective rather than criminal in nature and does not constitute an arrest. A POED may be used when:

1. The officer has reason to believe, and does believe, that the person is mentally ill; and
2. Because of that mental illness there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained; and
3. The officer believes that there is not sufficient time to obtain a warrant before taking the person into custody.

(b) An employee encountering a person who needs to be assessed for a possible POED shall contact an on-duty CIT officer.

1. The responding CIT officer shall be responsible for:

- (a) Conducting an assessment to determine whether the person should be handled as an Emergency Detention;
- (b) Providing transportation to the appropriate mental health facility or furnishing referral information;

1. The CIT officer may transport the Emergency Detention or have a non CIT officer transport the Emergency Detention after completing all paperwork and advising where the subject is to be taken.

(c) Preparing all required documentation.

445.5 MENTALLY ILL PERSONS REQUIRING MEDICAL ATTENTION

Officers shall call EMS to treat and/or transport the person to a medical facility when a mentally ill person needs medical attention.

(a) If the subject is transported, a Mental Health Transport Form shall be completed and given to EMS personnel.



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.

