



ICMS #: 2020-1069

June 24, 2020

Complaint: The Office of Police Oversight received an anonymous online complaint alleging the following:

“I watched Austin Police Department officers threaten to arrest peaceful protesters for "criminal trespass" on public property. Having read through the entire Austin City Code, I am fairly sure there is zero ordinance basis for the alleged criminal offense. The only potentially relevant offense in the Texas Penal Code would be §30.05, which appears to apply only to private property and public property with legally restricted access. The area that APD was threatening to arrest people for entering is a public area which has not had restricted access until 06/21/2020 - even with the barriers in place, APD welcomed protesters up onto the porch area in previous weeks. Here is a livestream video in which they threatened to arrest peaceful protesters on public property (<https://www.youtube.com/watch?v=...>) despite having literally zero legal authority to do so. APD officers are trying to intimidate protesters who are exercising their first amendment rights when APD is 100% legally wrong. The only possible justification is Administrative Bulletin 11-04 (https://www.austintexas.gov/sites/default/files/files/City_Clerk/administrative-bulletin-20111102.pdf) which was declared unconstitutional by a federal district judge back in 2012 (<https://www.clearinghouse.net/chDocs/public/PN-TX-0003-0004.pdf>). This behavior by the Austin Police Department officers constitutes a violation of Texas Penal Code Sec. 39.03. OFFICIAL OPPRESSION. "(a) A public servant acting under color of his office or employment commits an offense if he: (2) intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing his conduct is unlawful" because the officers specifically impeded protesters in the exercise and enjoyment of their right to peacefully protest while the officers were acting under the color of the police officers' office. This is Official Oppression and should be investigated and presented to the District Attorney's office as such. This behavior also violates the following Canons of Police Ethics listed in the APD General Orders Issued 6/1/2020: Article 2: Limitations of Authority, Article 3: Duty to be Familiar with the Law and with Responsibilities of Self and Other Public Officials, and Article 7: Conduct Toward the Public. Additionally, their behavior violates sections 900.1.1 (Responsibility to know and comply) and 900.3.2(a) (Acts bringing discredit upon the department) of the APD General Orders. I don't want to be anonymous, but I am concerned about retaliation as a result of this complaint so I must remain anonymous.”

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.