



## OFFICE OF POLICE OVERSIGHT

### NOTICE OF FORMAL COMPLAINT

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ICMS #: 2021-0862

August 24, 2021

**Complaint:** The complainant alleges: My name is [REDACTED]. I want to formally file a complaint against [REDACTED] for racial profiling and excessive and unnecessary use of force. This officer is a menace to the black and brown people of our community here in [REDACTED] Austin. He is so well known in the neighborhood that he is called [REDACTED]. He is known to be aggressive and if he can get away with it, he will shake down people and take their property. He is known to conduct business in seedy areas to avoid anyone witnessing what he's doing. He manages to take the smallest reason to pull you over and escalate it to the point of physicality. He hides under the guise of "resisting arrest" or "trying to take his weapon."

On [REDACTED] at approximately [REDACTED], I was driving west bound on [REDACTED] in the right hand lane. As I was passing the [REDACTED] neighborhood I saw a police car waiting to enter onto [REDACTED]. After I passed him, he pulled out from [REDACTED] and proceeded to get behind me. I put my blinker on and moved over into the left hand turn lane. He followed behind me and followed me to the stop light at [REDACTED]. [REDACTED] There was a car in front of me and the cop was behind me. We waited at the light for about a minute and half. I had all 4 of my windows down, I had my seatbelt on and there was no amplified music coming from my vehicle. As a black male, I automatically assumed he was running my plates. I am aware of APD's "hunting" practice when they run your plates and make themselves aware of your past involvement with the authorities. Once he saw me and ran my plates, making note of my past criminal history, he made it his business to follow me so he could find any reason to stop me.

The light turned and we all turned left onto [REDACTED]. (south bound). I was intentional about watching my speed because the cop was behind me. I was going 25 mph and the speed limit was 30 mph. After I passed [REDACTED], I put on my left turn blinker. As I was breaking and approaching my turn on [REDACTED], he turned on his lights.

It was extremely dark and I was afraid to stop where I would be isolated and there are no street lights. Being only a block away from my house, I decided to get home where we have cameras and lights. I pulled into my driveway at [REDACTED] and stepped out of my vehicle asking the officer why he was following me? I know that there is no law that says that I have to stay in my vehicle, especially in my own yard. My hands were visible and I was not a threat. He didn't offer an explanation. Officer [REDACTED] escalated the situation. The law says he is required to use the least amount of force necessary to de-escalate an incident. He did the opposite. Without hesitation, he immediately grabbed me, slammed me on the pavement, bashed me with his baton, drug me out of my driveway and into the street and began punching me.



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My head hit the ground and he proceeded to knee me in my side, punch me in the face, choke my neck and kick me. Confused at why this was happening, I did the natural thing which was to put my hands over my face to block the blows. I never fought back or resisted. I was screaming for my mother to come outside. This triggered neighbors to come out, get my mom, pull out their phone to record the mistreatment I suffered. Extra officers arrive on the scene. 3 three additional officers came and held me down. They asked me to roll over and I complied. On the video you hear me saying "I'll roll over." Then they asked me to stand up and I say "I'll stand up" but then they start punching me again. So they tied my feet together with something that looked like a belt and handcuffed my wrists behind my back. In an effort to humiliate me they were yelling "STAND UP! STAND UP!" and yanking on my shirt. It was impossible to stand up while all four of my extremities were bound.

Eventually, they had to help me up. Not one time did I resist or attempt to fight the officers. I did exercise my 1st amendment rights to free speech and protest what they were saying and the mistreatment I was enduring.

Once in the police vehicle, an officer asked if I was injured. He hap hazardously snapped the photos with an attitude like he didn't even want to take them. He put an ice pack on the very top of my head.

The officers were angry that they couldn't find my car key. He began harassing my sister and mother to give him the spare key. He told my mom "that's fine, we'll just bust out the window." This was rude and no way to respond to my mother and it was an incorrect answer. I know that an "inventory search" can be done but they cannot break my windows to perform it. They threatened to arrest my sister because she wanted to know why they needed to take my vehicle. My sister asked Officer [REDACTED] what was the penal code for my arrest and another officer told her "speeding." Traffic Code 543.004, clearly states that speeding is an offense that you write a citation for. It is not an arrestable offense unless you are going 20+ miles over the limit . Upset at how speeding could be a criminal and arrestable offense, my family asked how could this be? Then the officers proceeded to give my family a multitude of reasons why I was stopped and going to jail. First, they told my family I was going 6 miles over the speed limit, which is untrue as I was intentional about staying under the limit while being followed. Mind you, in the end I was never ticketed for this. Secondly, they told my family I had sped through the stoplight, which was untrue because we were stopped at the light together. It was impossible to speed through with a car in front of me and a cop behind me. Next, they told them I had a warrant, which I didn't. Then told them I was resisting arrest, which I never did and my family and neighbors can attest to. Finally they were told I had drugs on me, which is untrue. There were no drugs found on my person.



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I was never asked to identify myself, at no point did any officer ask for my driver's license or even ask me my name. I wasn't properly patted down and I was never read my Miranda rights because Officer [REDACTED] was assaulting me.

Instead of going straight to the jail, I was taken to the dark parking lot at [REDACTED]. I asked Officer [REDACTED] what was his plan? "Was his plan to kill me?" His response, "I have to search you but I didn't want to do that in front of your family." I was terrified! This [REDACTED] is closed so there aren't any cameras or lights in the parking lot. I didn't know what was going to happen to me there with no witnesses. I was searched and nothing was found on my person. Once back in the car, I asked again what was I arrested for? Officer [REDACTED] said "you got a warrant buddy. A warrant for criminal mischief."

I told him that I didn't have one and they had the wrong person. Then he changed his story and said I was being arrested for resisting arrest.

Once I arrived to Travis County Jail, the nurse at the jail treated me and said "they did all of this to you?" I was left with a huge road rash burn on my right shoulder, hands, knees, left foot, wrists, back near my waistline and several scars on the right side of my head from being drug on the concrete. My left jaw is swollen, my left eye is swollen, a knot behind my right ear and rib pain from being punched and kneed while I was cuffed and helpless on the ground. I woke up in so much pain, my whole body was aching like I had been in a car crash. Also, we are in the middle of a pandemic and not one officer had on a face mask.

I later learned that my car was towed from my driveway at [REDACTED]. The Tow Truck Driver was instructed to take my car to the same dark parking lot at [REDACTED] so the remaining officers could search my vehicle. They were unnecessarily destructive with their search and left my car in ruins. They pried their way into my vehicle through the passenger window. The weather stripping was left hanging making it difficult to close the door. The glove compartment and arm rest compartment doors were forcibly jerked open and now they do not close. The headrests in my backseat were yanked off and thrown in the floor. They don't lock into position anymore. My backseat seatbelts don't click into place anymore. I have young children and I am unable to put them safely in the backseat. My trunk button no longer works either. Apparently, the backseat was forced open to enter into the trunk. All of the contents of my trunk were in my backseat and on the floor. This kind of property damage is unnecessary and criminal.

The next night I walked with my uncle to [REDACTED] to show him where the cops had taken me the night before. There was a cop parked in the parking lot. I was pointing and the cop saw me. He asked me "what's up? What's the problem?" I told him he was the problem. He got angry



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and got out of his car and my uncle asked if he had his camera on acting like that. He Even angrier, he shouted “my camera is off, this is some man shit!” Then he told me “fuck you.” Naturally, I said “fuck you too.” I left. I do not know what his name was but his vehicle is # [REDACTED]

I feel like he racially profiled me. In Officer [REDACTED] report, I want to know what answers he listed in the racial profiling page of his report? I want repercussions for his cruel and aggressive actions. We, the community, don't want him patrolling our neighborhood. He's not our protector, we need protection from him. After these encounters with these officers, I am even more traumatized and distrustful of the police officers in APD as are my family members.”

*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):**

##### 200.1.3 DUTY TO INTERCEDE

Any officer who observes another officer using force shall intercede to prevent further harm if the officer knows that the force being used is not objectively reasonable and the officer has a reasonable opportunity to prevent the harm. Such officers must also promptly report these observations to a supervisor.

##### 200.2 DE-ESCALATION OF POTENTIAL FORCE ENCOUNTERS

When safe and reasonable under the totality of circumstances, officers shall use de-escalation techniques to reduce the likelihood for force and increase the likelihood of voluntary compliance.

##### 200.3 RESPONSE TO RESISTANCE

While the type and extent of force may vary, it is the policy of this department that officers use only that amount of objectively reasonable force which appears necessary under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this order.

##### 200.3.1 DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE

Any interpretation of objective reasonableness about the amount of force that reasonably appears



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to be necessary in a particular situation must allow for the fact that police officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving, and the amount of time available to evaluate and respond to changing circumstances may influence their decisions. The question is whether the officer's actions are "objectively reasonable" in light of the facts and circumstances confronting him.

### 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.

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.***