
State of Texas

AFFIDAVIT

County of Travis

Before me the undersigned authority personally appeared who states under oath:

Complainant's Name: Antonio Francis Buehler
Printed/Typed First, Middle, Last Name

Please read the following and initial

I have been informed that under the Penal Code of the State of Texas, if a person knowingly and/or intentionally provides false information in a sworn affidavit they may be subject to criminal prosecution for a violation of Texas Penal Code Sections 37.02 (Perjury), 37.03 (Aggravated Perjury), and/or Section 37.08 (False Report).

****Complainant Initial Here: .

My date of birth is: [REDACTED]

My home address is: [REDACTED]

My home telephone number is: [REDACTED]

My work telephone number is: N/A

My driver's license number is: [REDACTED] State of: Texas

Date that I am writing this statement is: 12/02/2015
MM/DD/YYYY

If you know the name(s) of the Austin Police officer(s) you want to make a complaint about please list their names below. If you do not know the names, please include a description of the officer(s). The officer(s) is/are:

Officer Zachary Scott Baldrige
Officer Name or Description (male/female, race, age, height, weight)

Employee ID# 7042

Sergeant Randy Dear
Officer Name or Description (male/female, race, age, height, weight)

Employee ID# 4422

Officer Name or Description (male/female, race, age, height, weight)

Employee ID# _____

The date of the incident I want to complain about is: 6/13/15 or 6/14/15

The time of the incident was approximately: between 9:30 p.m. and 2:00 a.m.

The location of the incident was: 415 E 6th Street, Austin, TX 78701

Narrative-description of what happened: *Tell the story of what occurred between you and the Austin Police Officer(s). Be sure to include the facts of the interaction. The assigned investigator will review the facts as you outline them to determine if the officer(s) complied with policy and procedure.*

I am a member of the Peaceful Streets Project. We are a grassroots community activist organization that attempts to change culture so that police do not abuse people or commit crimes, and so that members of the public will hold the police accountable. One of our primary activities as an organization is filming the police (“cop watch”) while they are performing their duties in public. On the night of June 13, 2015, I joined a group of Peaceful Streets Project volunteers downtown to cop watch in the Sixth Street area. During that cop watch I observed a disturbance taking place on the sidewalk at 415 E. Sixth Street.

As I moved toward the disturbance to film the interaction between police officers and a man who was likely detained, Officer Zachary Baldrige #7042 looked over his left shoulder and saw me advancing toward the scene. Although I was clearly not interfering and other people were closer to the incident than I was (as can be seen by the fact that people walked between me and the incident), Baldrige seems to be solely concerned with my vantage point as a cop watcher.

With Baldrige in my way (1st attempt to block my view), I first raised my camera, and then stepped to the left. By trying to block my ability to film the incident, Baldrige clearly violated APD policy 302.2(c)5, “Intentionally block or obstruct cameras or recording devices.” As Baldrige drifted to his right (2nd) I moved further left. As Baldrige again stepped to his right to block my shot (3rd), I then stepped to my right. Baldrige then immediately stepped to his left to block my shot (4th). As I then stepped left to get an unobstructed view of the incident I told Baldrige, “Stop blocking my view.” He then stepped to his right to again block my view (5th). I again said, “Stop blocking my view” as I moved to my right and raised my camera above eye level to avoid his head blocking my shot as he again moved to his left (6th).

SGT Randy Dear who has repeatedly interfered with our ability to film police interactions then comes into the scene and yells, “step back.” As Dear pushed Baldrige forward I then stepped to my left, again, and Baldrige then again moved to his right to block my view (7th). As I moved to my right to try to get a clear shot I asked Baldrige, “Why are you blocking my view, you don’t like my First Amendment rights?” As I was asking the question, he again moved to his left to block my ability to film the incident (8th), so I again moved to my left. As he moved to his right to block my ability to film the incident (9th) I moved again to the right. As Baldrige

moved to his left to block my ability to film the incident (10th), I finally stopped and allowed him to block my camera angle with his head, as he intended.

When I finally allowed Baldrige to accomplish his goal of blocking my camera shot with his head, he then said something to the effect of, “now get your hand outta my face” as he assaulted me by shoving me in the chest and pushing me back. Baldrige’s actions easily fit within the legal definition of assault under Texas Penal Code 22.01(a)3, “intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.”

Had I shoved Baldrige back in response to his assault, I would have most certainly been arrested for assaulting a police officer and aggressively prosecuted for it. Because Baldrige, who is a sworn peace officer who reportedly has a duty to protect and serve, assaulted me in response to my Constitutionally protected right to film the police, he should be disciplined and indefinitely suspended by the Austin Police Department and he should be prosecuted by the District Attorney.

The video supporting this complaint (with annotations) can be found at:
<https://youtu.be/KPXhgEU-No4>

My complaint(s) is/are: *What are you alleging the police officer(s) did or did not do that you think is a violation of policy and procedure? In this section you must outline what your specific allegation/complaints are. There is no expectation that you know or understand Austin Police Department policy and procedure. If you would like to reference policy and procedure you may do so on the Austin Police Department website:*

http://www.austintexas.gov/sites/default/files/files/Police/APD_Policy_2015-2_Issued_5-1-2015-updated.pdf

Your failure to clearly document your complaint(s) may result in the case file being administratively closed by the Internal Affairs Division of the Austin Police Department instead of being investigated.

1. Baldrige violated APD policy 302.2(c)5 by trying to block my ability to film the police ten times during the aforementioned incident (nine if you consider him moving to the right once, and then again in order to block me twice as I moved left as one instance). The policy clearly states that “... officers shall not ... Intentionally block or obstruct cameras or recording devices.”

2. Should Baldrige claim ignorance of APD policy 302.2(c)5, despite training that APD has directed specifically in response to the Peaceful Streets Project filming police officers, then he should also be disciplined for violating Policy 900.1.1 Responsibility To Know And Comply which states that ignorance is not a defense to disciplinary action.

3. Should Baldrige claim that he was not trying to block my ability to film the incident by continually placing his head in front of my camera, as I repeatedly moved each time he placed his head in front of my camera, and as I told him to stop blocking my view and/or asked him why he was blocking my view, then he should be disciplined under APD policy 900.3.1 Honesty. The video clearly shows that he was attempting to block my view, and even if he mysteriously couldn't figure out why he was drawn to place his head in front of my camera, my statements and questions should have clearly apprised him of what he was doing.

4. Baldrige should also be disciplined for violating APD policy 900.3.2 Acts Bringing Discredit Upon The Department. Given APD's history of officers harassing, threatening, assaulting, and unlawfully arresting people who film the police, Baldrige's attempts to prevent me from filming a police interaction, and his criminal act of assaulting me when I stopped trying to film around him, clearly brings discredit upon the department (especially because I am publishing the video on YouTube, today).

5. If Baldrige did not file a use of force report, then he should also be disciplined for failing to file one according to APD policy 211.4.1 Employee Reporting Guidelines for All Force Level Incidents. Given that the use of force was criminal in nature (assault), it should be considered

a Level 1 force incident. If a supervisor (presumably SGT Dear) did not immediately notify SIU and IA then an internal investigation should be initiated against SGT Dear for violating APD policy 211.3.1 Criminal Misconduct.

6. Finally, I assume Baldrige also violated APD policy by committing the criminal act of assault. Texas Penal Code Sec. 22.01(a)3 clearly covers his act of violently shoving me because I was trying to record the incident. The law states that assault is committed when a person (including a police officer) “intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.” If the Austin Police Department does not believe that this constitutes assault we would like that to be clearly explained in writing so that we can begin to shove police officers when they harass or interfere with our ability to film the police, or in response to them shoving us.

This is a formal complaint. This incident presents policy violations that warrant closer examination to identify, address and correct officer conduct. This should not be relegated to supervisors because this behavior violates policy, violates the law, and because it is apparent by the rank of the officers involved and the prior incidents that the chain of command is not willing to take these issues seriously or is not capable of properly addressing these policy violations and criminal acts. I request an Internal Affairs and SIU investigation. Further, I request that Anthony Hipolito not be staffed on this complaint given his prior role misleading the media regarding my now infamous New Year’s Day 2012 arrest.

You may attach additional pages if necessary.

Notary: *This section must be completed in the presence of a Notary Public. Your complaint will not be accepted if it is not signed and stamped by a notary. Notary services are available throughout the community, including the post office and most banking institutions. The staff in the Office of the Police Monitor is also available to notarize this document free of charge.*

I can read, write, speak and understand the English language and this statement, consisting of six pages, is true and correct to the best of my knowledge and belief.

Affiant (Complainant's Signature)

Subscribed and sworn to before me, by the said

Notary Public Printed Name

This _____ day of _____, _____
Date Month Year

Notary Public in and for the State of _____
State

Signature of Notary

Notary Stamp Here

Commission Expiration Date _____
MM/DD/YYYY

****Please make a copy of this Affidavit for your records****

You must send this original document to:
Office of the Police Monitor
P.O. Box 1088
Austin, Texas 78767

Or

Hand deliver the original to:
1520 Rutherford Lane, Bldg. 1, Suite 2.200A
Austin, Texas