

Police Officer who was located inside of our front office lobby area demanding to meet with Constable Davis.

Shortly afterwards, approximately five uniformed deputies responded and were present but posted outside the office area since the three female civilian Precinct 2 employees depart the office at 1700 hours. Again, our concern was for their safety because of the angry, unprofessional behavior displayed by this Missouri City Police Officer. The additional deputies were summoned based on the Officers aggressive behavior and his unknown intent based on this unprofessional behavior displayed by the off duty police officer.

Constable Davis was on a conference call when Ms. Debra Davis informed him that Officer Smith had demanded to meet with him so he was forced to terminate his conference call prematurely to find out what Officer Smith needed. Chief Pentecost proceeded to meet Officer Daryl Smith in the hallway after Ms. Davis gave him access through the electronically controlled door where Chief Pentecost escorted him inside Constable Davis's open office.

Present inside Constable Davis office for the un-scheduled and un-announced meeting with Missouri City Police Officer Daryl Smith was Chief Pentecost, Constable Ruben Davis and Officer Daryl Smith. Additional Precinct 2 staff was present and located outside in the staff break area, hallway and parking lot area.

At approximately 1705 hours when the meeting began Constable Davis was seated behind his desk and Chief Pentecost was standing on the right side and Daryl Smith stood on the left side in front of the Constables desk. Constable Davis began the meeting by asking Officer Smith "how can I help you." Officer Smith replied in an angry, loud tone of voice stating; "Ruben you need to tell your people to stop taking my cards out of my card holders." Constable Davis asked Officer Smith what he was talking about. Officer Smith responded by accusing Precinct 2 Deputies of removing his campaign business cards out of the plastic business card holders he purchased and placing Constable Davis business cards in that same plastic cardholder. Officer Smith apparently purchased and placed his clear plastic business card holders inside the convenience store located next door to the Constables office on Texas Parkway; so he Smith apparently assumed Precinct 2 Constables committed this juvenile act. Constable Davis responded by asking Officer Smith were the cards he placed inside the store free? Officer Smith responded; "no Ruben", they are not free, were going to keep this clean you need to buy your own cardholder for your business cards. Constable Davis attempted to explain to Officer Smith that if the cards were free for citizens to take, then why would he Smith accuse the Constables staff of taking his cards. Officer Smith responded again, "no Ruben", my cards are not free you need to buy your own cardholder. I Chief Pentecost then entered the conversation by introducing myself to Officer Daryl Smith since I had never seen or met him personally. After introducing myself as Chief Pentecost to Daryl Smith Officer Smith replied sarcastically stating; yes, I know all about you! My response was oh really!

Constable Davis ended the conversation and meeting with Officer Smith at approximately 1710 hours with that verbal exchange as it became clear to him that Officer Smith seemed to become even more angry and aggressive in his tone of voice and demeanor about his political materials being removed from that one single convenience store location. In addition, prior to leaving the Constables office, Officer Smith felt that he needed to warn Constable Davis that Missouri City has a policy in place regarding the removal of, or tampering with political signs. Officer Smith felt the need to re-site Missouri City's policy twice to Constable Davis. This in Constable Davis's opinion was clearly intended to be a threat directed towards him personally since he was already aware of Missouri City's policy from his previous elections.



CONSTABLE DEPARTMENT - PRECINCT TWO

Fort Bend County, Texas

RUBEN DAVIS
Constable

October 3, 2011

(281) 403-8010
Fax (281) 403-8027

Chief Joel Fitzgerald
Missouri City Police Department
3849 Cartwright Rd.
Missouri City, TX 77489

Subject: Formal Complaint

This letter shall serve as the formal written complaint of Chief Deputy Rodney Pentecost against an individual who was positively identified as off duty Missouri City Police Officer Daryl Smith.

On Tuesday, September 20, 2011, at approximately 1655 hours, a B/M approximately 6' 2" medium build approximately 230 lbs, with close cut hair wearing blue jeans, cowboy boots, cowboy belt with a large rodeo buckle and cream color cotton pull over short sleeve shirt entered the Fort Bend County Precinct 2 Constables Office. The Fort Bend County Precinct 2 Constables Office is located at 303 Texas Parkway, Missouri City, Texas 77459.

Constable Ruben Davis's Administrative Assistant Debra Davis immediately recognized the visitor, as being Officer Daryl Smith who she stated appeared to be very agitated and visibly angry. Ms. Davis stated Officer Smith approached her office located in the front lobby and demanded that he be allowed to see "Ruben". Ms. Davis stated that Officer Smith also demanded that she leave her desk to accompany him as his witness to this un-scheduled meeting with Constable Davis; apparently since he Smith recognized Ms. Davis from previous community obviously felt that he knew her well enough to be his witnesses. Ms. Davis quickly informed Officer Smith that she did not work for him and she had no intention of getting involved in his meeting with Constable Davis. She proceeded to inform Officer Smith that her job was to greet Constable Davis guest and notify him when he has visitors present in the lobby, particularly those visitors who have scheduled appointments. The incident took place during regular business hours 0800 to 1700 our front lobby doors are secured at 1700 hours.

Officer Smith was further advised that he was required to sign in upon entering the Constables Office lobby area however; he failed to do so after being instructed by Precinct 2 clerical staff. It should be noted that Officer Smith had no appointment with Constable Davis in addition; Officer Smith clearly displayed a very angry aggressive disrespectful demeanor. Upon recognizing how visibly angry and disrespectful Officer Smith conducted himself towards our female staff who were very polite yet very vulnerable and exposed in their work area's, Ms. Davis who is also the front office clerical supervisor did not hesitate to interrupt Constable Davis in order to alert him that Officer Smith was outside in the lobby area demanding to meet with him regarding some unknown reason. Chief Deputy Rodney Pentecost was present in the office and after being informed about Officers Smith's angry demeanor; quickly made the decision to dispatch additional Fort Bend Precinct 2 Deputy Constables to the office based on the potential threat of workplace violence involving a possibly armed and visibly angry, disrespectful Missouri City

After this tendentious visit from Officer Smith, Constable Davis made the decision to call a mandatory staff meeting with all fifty-five of his sworn peace officers that took place Saturday October 1, 2011. Constable Davis has instructed his deputies to respond to Officer Smith in a professional, non-confrontational manner; unlike the behavior displayed by Officer Smith who by the way was extended officer courtesy although his angry behavior, mannerisms and body language could clearly be perceived as "over the top" to put it mildly. Our staff was very accommodating since most agencies would have escorted him from the premises and generated a case number. The potential threat of workplace violence displayed by an individual who tout's himself as this experienced, qualified, veteran police officer was totally uncalled for based on the reason for Officer Smith's visit.

Officer Smith clearly used poor judgment by confronting Constable Davis at his office regarding a political related business matter during the Constables normal business hours. Officer Smith sees and comes in contact with Constable Davis when he is out in the community with [REDACTED] and friends on a very regular basis since he Smith has announces his candidacy for Constable. Why would Officer Smith interrupt Constable Davis at work in his office with such a petty, trivial and un-important matter such as a business card holder and missing business cards that cost less than two cent's apiece? It really makes you wonder about the psychological and mental stability of a person especially a police officer who would draw un-necessary attention to him self over some cheap free business cards displayed in a public place and apparently made available for all citizens to take "for free". This is very disturbing and quite bazaar behavior in our opinion!

Again, Constable Davis is very concerned regarding the potential for future verbal or physical exchanges between Precinct 2 Deputies and Officer Smith. Fort Bend County Precinct 2 Deputies are clearly not intimidated by the aggressive behavior, demeanor, threats and inflammatory remarks made by Officer Smith. We want to make it clear that it is not our intent to have on-going confrontations with Officer Smith over the next several months regarding petty issues such as this. You can be assured that the Precinct 2 Constables staff will remain professional.

I wish to take this opportunity to thank you in advance for addressing this formal complaint written and submitted by Chief Deputy Rodney Pentecost. We feel confident that your department will take the right steps to address the unprofessional conduct and behavior displayed by Officer Daryl Smith at our office.

Finally, as a college educated counseling practitioner its clear that Officer Smith is a prime candidate anger management counseling. It's also possibly that he might need to be subject to a current psychological evaluation based on the immature behavior and poor judgment he displayed over such a small un-important matter.

Kind Regards,



Rodney Pentecost
Chief Deputy

CC: Constable Ruben Davis



CONSTABLE DEPARTMENT - PRECINCT TWO

Fort Bend County, Texas

RUBEN DAVIS
Constable

(281) 403-8010
Fax (281) 403-8027

October 19, 2011

Joel Fitzgerald
Chief of the Police Department
City of Missouri City Police Department
3849 Cartwright Road
Missouri City, Texas 77489

Dear Chief Fitzgerald:

I am writing this letter regarding professionalism among one of your staff members. The City of Missouri City Police and the Fort Bend County Constable Pct 2 Office has had an outstanding relationship and I would like no more than to see that relationship continue.

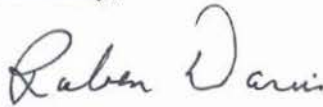
On September 20, 2011, Sgt. Daryl Smith came to my office and exhibited unprofessional behavior in front of my Chief Deputy and five (5) other staff members. It was not clear if Sgt. Smith's intentions were of a personal nature or if he was representing the City of Missouri Police Department. Sgt. Smith made allegations that my staff had taken some of his campaign material. He stated that Missouri City laws would be enforced and arrest made if this behavior continued. Sgt. Smith stated that this was directed at all of the Constable, Pct. 2 employees. In my opinion Sgt. Smith's behavior was very unprofessional and exhibited behavior that I have never seen during my 35 year law enforcement career. His behavior was bizarre and he initiated an unpleasant verbal exchange with my Chief Deputy. I had to step in and end this confrontation and asked Sgt. Smith to leave my office as he was becoming more hostile.

On September 24, 2011, a Missouri City Police Unit was present at Kitty Hollow Park during an event sponsored by the East Fort Bend Democratic Club. The security for this event was provided by other agencies; therefore I am not sure why a Missouri City Police Unit was present at this event. The Missouri City Unit did meet with Sgt. Daryl Smith. I would like to know if this Unit was there on official police business or at the request of Sgt. Daryl Smith, as the calls for service at this park are handled by the Ford Bend Sheriff's Office.

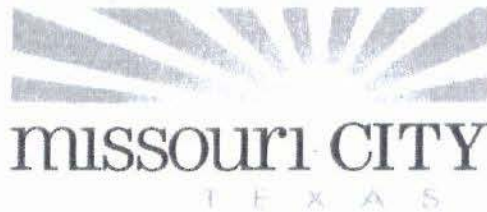
On Saturday, October 8, 2011, Sgt. Daryl Smith was observed driving a Missouri City Police Unit in the Quail Run subdivision; which is located inside the City of Houston. I would like to know if this was official police business and, if so, the nature of that business. The calls for service for this area are provided by the Houston Police Department and the Fort Bend County Precinct Two Constable's Office. I would like to know if Missouri City Police Department is contracted to provide police services outside the City of Missouri City.

Thank you for your time and attention to this matter and I look forward to your written response.

Sincerely,

A handwritten signature in cursive script that reads "Ruben Davis". The signature is written in dark ink and is positioned below the word "Sincerely,".

Ruben Davis
Constable



Police

Joel Fitzgerald, Sr.
Chief of Police



October 20, 2011

Constable Ruben Davis
Chief Deputy Rodney Pentecost
Fort Bend Constable Pct. 2
303 Texas Parkway
Missouri City, Texas 77459

Keith Jemison, MA
Assistant Chief of Police
Internal Affairs & Administration
3849 Cartwright Road
Missouri City, Texas 77459

Constable Davis and Chief Deputy Pentecost,

The Missouri City Police Department is in receipt of two letters from your department specifically focused upon interactions with and observations of Sergeant Daryl Smith. The first letter was dated October 3rd, 2011 and references an incident thirteen (13) days prior on September 20th, 2011. The second letter dated October 19th, 2011 references the same September 20th, 2011 incident as well as another incident twenty-five (25) days prior on September 24th, 2011.

It is the policy of the Missouri City Police Department to accept all complaints against its officers. The department will conduct an objective, thorough, competent, and professional investigation of all allegations of misconduct by employees and complaints bearing on the department's response to community needs.

Pursuant to the provisions of Texas Government Code Sec. 614.021, please complete the enclosed complaint form in its' entirety and return it to my office for assignment to a professional standards investigator.

Respectfully,

Assistant Chief Keith Jemison, MA

Cc: File

Letter #: 10202011-01



Police

Joel Fitzgerald, Sr.
Chief of Police



October 20, 2011

Constable Ruben Davis
Chief Deputy Rodney Pentecost
Fort Bend Constable Pct. 2
303 Texas Parkway
Missouri City, Texas 77459

Keith Jemison, MA
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3849 Cartwright Road
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Respectfully,

Assistant Chief Keith Jemison, MA

Cc: File

Letter #: 10202011-01

Missouri City Police Department
Internal Affairs Complaint and
Compliment Process

If you have a question concerning the complaint / compliment process, you may contact any officer for assistance. If you wish to file a complaint against an officer or pass along a compliment on an officer, you may contact any officer, but we prefer you contact a supervisor in person or at 281-403-8700.

The Missouri City Police Department will also accept complaints and compliments via the mail, e-mail and fax. Anonymous complaints will be reviewed and investigated as appropriate.

You may complete the following preliminary form and mail it or bring it to the police department to initiate appropriate action. It is important that all information requested be provided to facilitate the process.

Complaint / Compliment

Your Name: _____

Your Address: _____

Home Phone #: _____

Work Phone #: _____

Details: _____

Officer's Name: _____

Case #: _____

Date of Incident: _____

Other

Information: _____

Mail to:

Missouri City Police Department
Internal Affairs Division
3849 Cartwright Rd.
Missouri City, Texas 77459
281-403-8700

If you have specific questions or comments concerning this complaint or compliment, please contact the Administrative Captain at phone number 281-403-8713

Exhibit _____

Missouri City Police Department

Perjury & Written Statement Notification

Penal Code

Section 37.02 Perjury:

(a) A person commits an offense if, with intent to deceive and with knowledge of the statement's meaning:

1. he makes a false statement under oath or swears to the truth of a false statement previously made and the statement is required or authorized by law to be made under oath; or
2. he makes a false unsworn declaration under Chapter 132, Civil Practice and Remedies Code.

(b) An offense under this section is a Class A misdemeanor.

Section 37.03 Aggravated Perjury

(a) A person commits an offense if he commits perjury as defined in Section 37.02, and the false statement:

1. is made during or in connection with an official proceeding; and
2. is material.

(b) An offense under this section is a felony of the third degree.

Government Code

614.022. Complaint to be in Writing and Signed by Complainant

To be considered by the head of a state agency or by the head of a fire or police department, the complaint must be:

- (1) in writing; and
- (2) signed by the person making the complaint.

You will be contacted by the officer assigned to conduct the investigation into your complaint to schedule an interview and obtain your sworn statement.

I hereby acknowledge that I have been informed of the perjury statute and of the requirement for a written, signed statement regarding my complaint.

Signature

Printed Name

Exhibit _____

Missouri City Police Department

Perjury & Written Statement Notification

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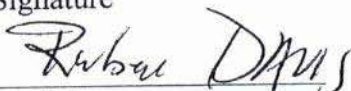
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Signature



Printed Name

STATEMENT OF Ruben G. Davis, Jr.

DATE: 11/03/2011

Reference: September 20, 2011

My letter of complaint was generated to ensure that the Office of Fort Bend County, Constable Pct. 2 and the Missouri City Police Department continues our excellent working relationship.

I do not want an incident of this nature to occur again. In the event that it does, our office will take the appropriate action.

 Ruben G. Davis, Jr.
Printed Name


Signature



THE WOODS LAW FIRM, P.C.

2016 Main Street, Suite 111
Houston, Texas 77002
(713) 651-1115
(713) 651-1116 [Fax]
(877) 653-1115 [Toll Free]
www.attorneyrobertwoods.com



Effie Flanagan, R.N.

Robert L. Woods, Shareholder
Email: robert@attorneyrobertwoods.com

April 23, 2012)

VIA USMAIL:

Chief Joel F. Fitzgerald, Sr
Missouri City Police Department
3849 Cartwright Road
Missouri City, TX 77459

VIA USMAIL

Mayor Allen Owen
1522 Texas Parkway
Missouri City, TX 77489

VIA USMAIL

Council Member Jerry Wyatt
1522 Texas Parkway
Missouri City, TX 77489

VIA USMAIL

Council Member Danny Nguyen
1522 Texas Parkway
Missouri City, TX 77489

VIA USMAIL

Council Member Bobby Marshall
1522 Texas Parkway
Missouri City, TX 77489

VIA USMAIL

Council Member Don Smith
1522 Texas Parkway
Missouri City, TX 77489

VIA USMAIL

Council Member Robin Elackatt
1522 Texas Parkway
Missouri City, TX 77489

VIA USMAIL

Council Member Floyd Emery
1522 Texas Parkway
Missouri City, TX 77489

RE: Missouri City Police Sergeant Daryl Smith

To all Concerned:

My office has been contacted by several Missouri City residents regarding the above referenced Missouri City Police Sergeant campaigning and intimidating citizens while on duty as a police officer. Sergeant Daryl Smith has gone so far as to threatened police action against some of the citizens of Missouri City while engaging in this "on- duty police politicking". While on duty and in uniform Sergeant Smith has made numerous visits to several locations campaigning. Also on duty and in uniform he has made threats of arresting people whom he thinks are campaign opponents and supporters. Furthermore, Office Smith has used his position to benefit him in circumventing campaign laws, such as posting campaign material in violation of city ordinance. My office has already made open records request regarding a specific incident on 4/20/2012 and was again informed of more incidents on 4/25/2012 and 04/26/2012.

On 04/25/2012, Officer Smith while on duty and in uniform went to the campaign office of Constable Davis at 1308 Turtle Creek and engaged citizens that were in front of Constable Davis' Office stating that. "*it is time to change the constable's office*". A review of the calls for service showed that Officer Smith had no city business at this location.

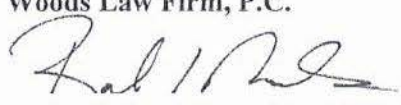
On 04/26/2012, at approximately 2:30 p.m., Officer Smith while on duty and in uniform went to the Century Glass located at 2007 Highway 90, in Missouri City, TX. The owner stated that Officer Smith came in and was very angry that Constable Davis campaign sign was on his property. Officer Smith took upon himself to remove the signs and put them behind the business. The business owner was very intimidated by Officer Smith. A review of the calls for service showed that Officer Smith had no city business at this location.

In disappointment, I was further informed that Chief Joel Fitzgerald, Sr. had been notified of such events, but declined to take action unless an official complaint is sworn against the officer. He did not see the need for an investigation. Therefore, I must take the position that if any civil action is taken against Officer Smith as a result of his on duty activity, his actions are sanctioned by the Department and City. This surprises me since, any campaigning on duty is a not only a prohibited activity by a public servant, it would constitute theft by a public servant, since Sergeant Smith is being paid by the city for non- city work. It is unconscionable for me to think that a Chief of Police need someone to file a complaint when possible criminal activity is taken place by one of his officers. This would appear to make the officer's actions sanctioned by the police department and city; which in turn, would breach the elected officials as well as the Chief's fiduciary duty not to waste city funds. The most egregious of acts is to think that Officer Smith while on duty and in uniform, thinks he has the right to go on to someone's private property and dictated any activity for his personal gain and benefit. This in itself is official oppression.

In conclusion, if Office Smith makes any arrest in connection to any event relevant to his campaign, it also will constitute official oppression which the city would have a hard time defending, since obviously city officials knows and condones Officer Smith's on duty political activity. At this time I am requesting that Chief Fitzgerald and the Missouri City City Council take action to cease Sergeant Smith from not only campaigning on duty or in a city uniform, but also, to stop the attempt to intimidate the citizens of Missouri City.

Sincerely,

Woods Law Firm, P.C.



By: Robert L. Woods,
For the Firm

Email: [REDACTED]



Police

Joel Fitzgerald, Sr.
Chief of Police



WRITTEN WARNING

To: Sergeant Daryl Smith

Cc: Lt. Kevin Burleson
Assistant Chief Mike Berezin
Chief Joel Fitzgerald

From: Captain Dwayne Williams

Date: May 14, 2012

Ref: **Written Warning**



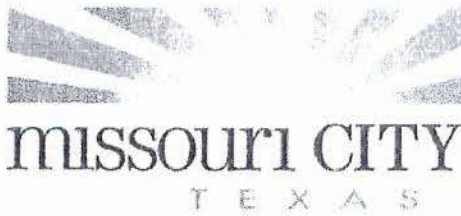
On Friday, 5/11/12, at approximately 1935 hrs, you (Sgt. Daryl Smith) requested a civil stand-by at 1308 Turtle Creek while you make contact with Constable Ruben Davis in reference to requesting him to move his campaign signs from over your signs in the 1200 block of Texas Parkway, Stafford, Texas, 77477. Officers Nolen and Urban responded to 1308 Turtle Creek and stood by while you spoke with Constable Ruben Davis. Constable Ruben Davis asked you to leave the office and began calling Chief Fitzgerald. Officer Nolan requested a supervisor to the scene and I responded to the Turtle Creek office.

Once I arrived you explained to me you were asking Constable Davis to remove his signs off of your signs in the 1200 block of Texas Parkway. Knowing that you already reported the damage to your signs to the Stafford Police Department, I asked you to take photos of the damage to your signs and just file your report with The Stafford Police Department and let their agency handle the investigation. I asked you, Officers Nolen and Urban to leave the 1308 Turtle Creek address since Constable Ruben Davis had asked you to leave and the request was causing a disturbance.

Being an employee of the Missouri City Police Department, you are to abide by the Department's Code of Conduct which states:

28. Employees shall not conduct themselves in a manner which:

Brings the Department into disrepute;



Police

Joel Fitzgerald, Sr.
Chief of Police



Reflects unfavorably upon the employee as a member of the Department;

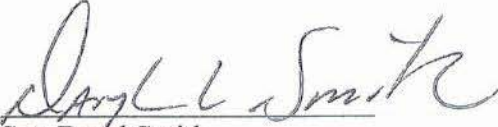
Damages or affects the reputation of any employee of the Department;

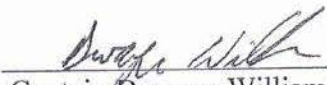
Impairs the operation or efficiency of the Department or any employee.

The fact that you are supervisor in the Missouri City Police Departments requires that you are held to a higher standard than officers in the Department. The memo will service as written notice to not engage in any conduct which would reflect poorly on our agency or The City of Missouri City. I asked you to leave Constable Davis' office on Friday and I am directing you not to go to any of Constable Davis Offices to confront him about campaign matters. You should use better judgment in the future and not involve Missouri City Officers in your campaign. Obviously, you have the right to request police service if there has been a criminal offense.

Please let this serve as a notice that you are hereby receiving a written warning for policy violation:

1. MCPD Policy 10-01, V, D, 26, Unbecoming Conduct


Sgt. Daryl Smith


Captain Dwayne Williams



Council & Management

1522 Texas Parkway
Missouri City, Texas 77489

Phone: 281.403.8500
www.missouricitytx.gov

August 13, 2012

Constable Ruben Davis
Constable Department – Precinct Two
303 Texas Parkway
Missouri City, TX 77459

Dear Constable Davis,

Thank you for your letter dated August 9, 2012. Sergeant Smith is allowed to conduct personal business while on his personal time during his shift, such as lunch or other activities. The preference of the City is to have our officers use their marked vehicles while conducting their personal business during their personal time while on a shift while within the city limits. This allows them to be able to respond to a call if needed, and keeps our vehicles visible on the city streets.

I apologize for not returning your call on this concern. After discussing the issue with Chief Fitzgerald, we agreed that he would call you and discuss the issue. It was my understanding that this discussion satisfied your question, and thus I did not directly call you back. If there are other issues that may arise, please feel free to let me know and we will address them accordingly.

Sincerely,

Edward A. Broussard
City Manager

Ruben [REDACTED] Davis
[REDACTED]
[REDACTED]

August 22, 2012

Edward Broussard
Missouri City Manager
1522 Texas Parkway
Missouri City, Texas 77489

Dear Broussard:

On May 11, 2012, the Missouri City Police Department raided my campaign Office. The event started with a member of the Missouri City Police Department interfering with a Fort Bend County Precinct 2 Toll Road Deputy.

The Missouri City Police Department Officers pulled the Fort Bend County Toll Road Deputy away from his duties to investigate a complaint at 1250 Texas Parkway in Stafford, Texas.

A member of the Missouri City Police Department walked into my campaign office located at 1308 Turtle Creek and demanded that I join a police investigation at 1250 Texas Parkway in Stafford, Texas 77477. My response to the Missouri City Police Officer was that I did not know what he wanted and that I would not follow him to some unknown location. The unknown Police Officer immediately left my campaign office.

Approximately 15 minutes later several Missouri City Police cars showed up at 1308 Texas Parkway. Sergeant Daryl Smith and **two on-duty Police Officers** showed up at my campaign office and approached me with a threatening demeanor. Sergeant Smith began to mumble something about one of my campaign signs touching his campaign sign. I refrained from using deadly force on these three Missouri City Police Officers. I did make a request to the Missouri City Police Chief Joel Fitzgerald, but I got no response.

These Missouri City Police officers violated the laws and the civil rights of both [REDACTED] and myself. These officers were asked numerous times to leave my campaign office but refused and appeared out of control. The incident at my campaign office was videoed and placed on YouTube with the help of the Missouri City Police Department.

Exhibit 1B 2

Constable Ruben Davis
/Edward Broussard
Page -2-

I would like to file charges on these police officers who were told to leave my campaign office **several times** and refused.

I would also like a written response to the following:

1. What are the names of all of the police officers involved in this incident?
2. How can I receive reimbursement for my Fort Bend County toll road deputy who was removed from his assignment?
3. Why did a police supervisor not talk to me at the location although I requested to speak to a supervisor?
4. Why did Sergeant Smith and the two on-duty police officers have [REDACTED] and me under restraint with their hands on their gun belts?
5. What was the total number of police officers at this incident?
6. Why did Sergeant Smith come into my campaign office walking towards [REDACTED] and me with his gun visible?
7. Why did the Missouri City Police Department shut down my campaign office with several on duty police cars?
8. Why did the Missouri City Police Department harass the dance school business owner in my shopping center and frighten the children and parents of the school?
9. What is the name of the police captain that arrived on this crime scene and left and took no action?
10. Why did the City of Missouri City allow their employees to use City equipment on political campaigns?

[REDACTED] and I were terrified and thought we could have been shot and killed. I want to know what involvement or advise did the Missouri City Police Chief Joel Fitzgerald have in this crime scene.

Constable Ruben Davis
/Edward Broussard
Page -3-

I want Sgt. Daryl Smith fired for this incident. [REDACTED] and I do not feel safe with police officers like this on your department. I want to know if Sgt. Daryl Smith has any mental or emotional problems. The Police Chief is aware of Sgt. Daryl Smith's behavior towards Ruben and [REDACTED]. I have reached out to your Police Department, and the Police Chief has not contacted me regarding all of the police calls that [REDACTED] has made regarding Sgt. Daryl Smith.

I have been in law enforcement for over 36 years and the Head of a Police Agency in Fort Bend County for 16 years. I hold a Bachelors Degree from the University of Houston and a Master's degree from Prairie View A & M University. I would like a written response to this formal complaint.

Sincerely,



Ruben Davis
Constable

cc: Mayor
City Council Members

Fort Bend County Precinct 2
Ruben Davis, Constable
303 Texas Parkway, # 124
Missouri City, Texas 77459

Dear Ruben,

There are many areas I am finding lacking for support in my neighborhood. I live in Ridgegate community and have for the past 30 years. The past two years I have noticeably watched this area become 'ghetto'. We do not have regular patrols through our neighborhood. I do recall seeing a car pass my street in the past year.

The school zones speeds are not being observed in either Ridgegate or Hunters Glen. On Ridgecreek the parents are blocking both sides of the street waiting for their children and they are also blocking us from getting in and out of our streets. It would make sense to make a patrol officer to assist and keep the traffic flowing. In addition, some people wanting to avoid the school, and then speed through our streets without regard for anyone's safety. I never see a patrol car at any of these times.

Maybe you and your officers can take some lessons from other school on how to effectively manage school traffic.

School has resumed and you are again running for reelection, well, if I see no positive changes, I will certainly make sure your constituents are aware of conditions in our neighborhood and near and around our schools.

Mary Stephney Quinby
6114 Irish Hill Drive
Houston, Texas 77053

A handwritten signature in cursive script that reads "Mary Quinby". The signature is written in black ink and is positioned below the typed name and address.



CONSTABLE DEPARTMENT - PRECINCT TWO

Fort Bend County, Texas

RUBEN DAVIS
Constable

(281) 403-8010
Fax (281) 403-8027

March 22, 2012

Allen Owen, Mayor
City of Missouri City
1522 Texas Parkway
Missouri City, Texas 77489

VIA FAX: (281) 208-5591

Dear Mayor Owen:

I am writing this letter to forward a complaint to you that I received from a 30-year resident of the Ridgeway Subdivision. Ms. Mary S. Quinby, who resides at 6114 Irish Hill Drive in Houston, Texas 77053 is complaining of the lack of public safety in her community as well as traffic control around the Hunter's Glen Elementary School, located at 945 Independence Blvd., Missouri City, Texas 77489.

I am requesting that you would please contact Ms. Quinby in hopes to resolve this matter.

Should you have any questions or desire further information, do not hesitate to contact me.

Sincerely,

Ruben Davis
Constable

Exhibit 4



CONSTABLE DEPARTMENT - PRECINCT TWO

Fort Bend County, Texas

RUBEN DAVIS
Constable

(281) 403-8010
Fax (281) 403-8027

August 22, 2012

Edward Broussard
Missouri City Manager
1522 Texas Parkway
Missouri City, Texas 77489

RE: Police Complaint against Daryl Smith and the Missouri City Police Department

Dear Mr. Broussard:

This letter shall serve as a formal written complaint from Constable Ruben Davis and against Sergeant Daryl Smith of the Missouri City Police Department. This original complaint was filed on October 3, 2011.

On Tuesday, September 20, 2011, at approximately 1655 hours, Sergeant Daryl Smith of the Missouri City Police Department entered the Fort Bend County Precinct 2 Constables' Office located at 303 Texas Parkway, Missouri City, Texas 77459. Sergeant Smith identified himself as a Missouri City police officer.

Sergeant Smith appeared to be very agitated, visibly angry, and emotional unstable. He demanded to my Administrative Assistant, Debra Davis that he wanted to see Constable Ruben Davis. Sergeant Smith was asked to sign in as a visitor and refused. Ms. Davis contacted her boss and then escorted Sergeant Smith to the Constable's office. Constable Ruben Davis and Chief Deputy Rodney Pentecost met with Sergeant Smith in the Constable's office.

Ms. Davis after escorting Sergeant Smith to her boss's office attempted to leave as Sergeant Smith demanded in a loud voice "you stay here, you need to hear what I have to say." Ms. Davis replied to Sergeant Smith, "I do not work for you", and returned to her office.

Sergeant Smith appeared to be emotionally unstable, incoherent, and unprofessional. Sergeant Smith explained that someone had taken some of his campaign business cards out of its holder and replaced them with a Constable Ruben Davis business card at a business establishment. Sergeant Smith stated that he would arrest any Fort Bend County Precinct 2 deputy or employee that touched any of his campaign business cards.

I asked Sergeant Daryl Smith if his business cards were free, what law would have been broken? Sergeant Daryl Smith replied that he would arrest any Fort Bend County Precinct 2 Constable employee that touches any of his cards and put them in the Missouri City jail.

Constable Ruben Davis
/Edward Broussard
Page -2-

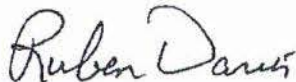
I asked Sergeant Smith if he could place a large sign at all locations where his signs are located, asking all Fort Bend County Precinct 2 Constable employees and citizens not to take any of his free business cards.

Sergeant Smith again appeared to be emotionally unstable and rambled for about 5 to 10 minutes repeatedly saying he did not want any Fort Bend County Precinct 2 Constable employees touching or taking any of his free business cards. Sergeant Smith then had an exchange of words with my Chief Deputy, Rodney Pentecost. I asked Sergeant Smith to leave my office as his behavior became unstable. Sergeant Smith left my office exchanging words with other employees in my office.

I filed a report with the Missouri City Police Department on October 2, 2011 but that complaint was not accepted. My employees were advised of Sergeant Daryl Smith's unprofessionalism and the failure of the City of Missouri City and Police Chief Joel Fitzgerald to take any actions regarding this incident and Smith's behavior.

Should you have any questions or need further information regarding this formal complaint do not hesitate to contact me.

Sincerely,



Ruben Davis
Constable

cc: Mayor
Council Members



CONSTABLE DEPARTMENT - PRECINCT TWO

Fort Bend County, Texas

RUBEN DAVIS
Constable

(281) 403-8010
Fax (281) 403-8027

August 23, 2012

Edward Broussard
Missouri City Manager
1522 Texas Parkway
Missouri City, Texas 77489

RE: Police Complaint against Daryl Smith and the Missouri City Police Department

Dear Mr. Broussard:

The Missouri City Police Department contacted my office in April and requested documents for a police investigation. I received a call from Missouri City Assistant Police Chief Berisen to inform of the nature of this police investigation. The Assistant Police Chief went on to say that his department would turn this police investigation over to the Texas Rangers, because of my re-election campaign and Sergeant Daryl Smith. Texas Ranger, Bradley Freeman contacted me and he advised me that he was conducting this criminal investigation.

I was contact in April and May of this year by citizens of Missouri City regarding Sergeant Daryl Smith walking city neighborhoods showing documents relating to the criminal investigation. I have the names of three (3) citizens that were approached and shown police investigation documents by Sergeant Daryl Smith. The documents described to me appeared to be this same information that I turned over to the Missouri City Police Department. The neighborhoods that were involved in this incident are Creekmont and Hunters Glen Sections I, II, III, IV, and V subdivisions. Any activity such as this should be considered a violation of the law.

I am filing a formal complaint and I want the following questions answered:

1. What are the names of the Missouri City investigators that received documents from my office in regards to this criminal case?
2. Who turned over documents in this police investigation to Sergeant Daryl Smith?
3. Who authorized Sergeant Daryl Smith to show police documents in an active police investigation to citizens in this community?

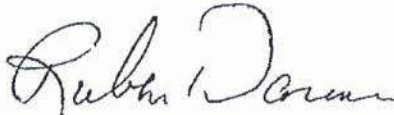
/Edward Broussard

Page -2-

4. Is Sergeant Daryl Smith involved in this criminal investigation of a Precinct Two volunteer?
5. What involvement if any did Missouri City Police Chief Joel Fitzgerald or Assistant Police Chief Berisen have with Sergeant Daryl Smith going door to door showing evidence in an active police investigation to citizens?
6. I want to know if your department has a police ethics policy.

Should you have any questions or desire further information, do not hesitate to call me.

Sincerely,

A handwritten signature in cursive script that reads "Ruben Davis".

Ruben Davis
Constable

cc: Mayor
City Council Members



MISSOURI CITY POLICE DEPARTMENT
Joel F Fitzgerald, Sr., Ph. D. (ABD), MBA
Chief of Police



POLICE MEMORANDUM

Date: August 24, 2012

TO: Edward Broussard, City Manager

FROM: Joel Fitzgerald, Chief of Police

SUBJECT: ADMINISTRATIVE INQUIRY: SGT. DARYL SMITH (2012-0008)

1. On August 23, 2012 at 1:57pm, I received two letters from you via email from Fort Bend County Precinct #2 Constable Ruben Davis regarding a Missouri City Police Department employee, Sgt. Daryl Smith. Pursuant to your email request, we had a conversation regarding multiple letters that we received during the election for Fort Bend County Precinct #2 Constable in which Sgt. Daryl Smith is accused of misconduct while campaigning as the sole challenger to Ruben Davis for his position as Constable in the Democratic Primary on May 29, 2012.

The inquiry precipitating this response specifically includes allegations of misconduct by Sgt. Smith on the following two dates: May 9, 2012 and May 11, 2012.

In the letter dated August 21, 2012 that references events on May 9, 2012, Ruben Davis accused Sgt. Smith of several traffic offenses, unbecoming conduct, and physical abuse. The allegations in the August 21, 2012 letter contradict his 9-1-1 call that day and subsequent statements made to the MCPD supervisor that responded to the scene, Sgt. Phillip Englishbee. Davis specifically stated during his 9-1-1 call to Telecommunications Officer (TCO) Epps that he was *threatened*, and a person inside of a vehicle was *making faces and videotaping* he and [REDACTED]. Davis' August 21st letter states that he observed Sgt. Smith upon his approach to the location on Texas Parkway, but his original 9-1-1 call never mentions the erratic driving and attempted assault described in detail within the letter. The allegations Davis made on May 9, 2012 via 9-1-1 and on-scene statements to Sgt. Englishbee are inconsistent with those alleged in the subsequent letter. Sgt. Englishbee was advised upon his arrival that Sgt. Smith was driving erratically, but determined the driving related accusations did not occur. In the presence of Sgt. Russell Terry, he attempted to interview the male (Brandon Hamilton) who was allegedly assaulted by Sgt. Smith but Davis intervened and refused to allow Hamilton to speak with MCPD. The most troubling portion of Davis' accusation is that he purports that Sgt. Smith assaulted a criminal suspect and we could not



MISSOURI CITY POLICE DEPARTMENT

Joel F Fitzgerald, Sr., Ph. D. (ABD), MBA
Chief of Police



record the allegation due to his active interference. The MCPD has not been contacted by any of the various agencies to which Davis should have referred the incident, allowing them to independently investigate the alleged assault. If an assault occurred, a senior law enforcement officer should have allowed the complainant to make a statement and facilitate the investigation of such an offense. The MCPD properly recorded the incident on police report #12-9073, and Davis' allegations are Not Sustained for purposes of our own internal inquiry.

2. In a second letter, also dated August 21, 2012, referring to an incident on May 11, 2012, Davis accused Sgt. Smith of making a call to 9-1-1 to report a black male (Ruben Davis) with a gun at 7622 Chasewood, at an early voting location. Davis accused Sgt. Smith of making a false report to the Houston Police Department, but I personally reviewed the You Tube video of the incident and it appeared his 9-1-1 call was founded (You Tube, 2012). On August 24, 2012, I spoke with Inv. E. Castaneda HPD-Homicide, who informed me the investigation is still an open and active criminal case.

Davis alleges that Sgt. Smith spoke with me during the incident, and he did. He acted upon previous direction from me to call me whenever he became involved in an incident with Davis, and in this case, he called to inform me that Davis threatened Sgt. Smith and [REDACTED] with a firearm. Davis exercised the same freedom by calling me during previous incidents. Smith stated that he called HPD to report the incident at the polling location as an aggravated assault HPD-622902126). In this case, the facts during this encounter would justify the classification of Unfounded.

3. Davis also alleges that I have not personally responded to him regarding *all* of his calls on the behavior of Sgt. Smith. As the head of a law enforcement agency, I am certain that Davis understands any internal affairs complaints, if filed, come to my attention. It is his responsibility to sign the Perjury & Written Statement form and submit it with his written complaint as per state law. I can confirm that is aware of this process, because he submitted a complaint as recently as November 3, 2011, in regards to complaints initiated on September 20 and September 24 respectively, and I have spoken with him on the telephone on several occasions since advising him of the same. On October 20, 2011, Assistant Chief Jemison responded to those complaints, provided him complaint documentation as well as informing Davis of the MCPD policy and process of investigating and submitting complaints (via certified mail):



MISSOURI CITY POLICE DEPARTMENT

Joel F Fitzgerald, Sr., Ph. D. (ABD), MBA
Chief of Police



It is the policy of the Missouri City Police Department to accept all complaints against its police officers. The department will conduct an objective, thorough, competent, and professional investigation of all allegations of misconduct by employees and complaints bearing on the department's response to community needs. (Jemison, 2011)

Davis responded to Assistant Chief Jemison's letter and returned endorsed, yet incomplete paperwork, with the following benign statement:

My letter of complaint was generated to ensure that the Office of Fort Bend County, Constable Pct. 2 and the Missouri City Police Department continues our excellent working relationship. I do not want an incident of this nature to occur again. In the event that it does, our office will take the appropriate action. (Davis, 2011)

4. Reference: <http://www.youtube.com/watch?v=xIfWrXBqbls>

Joel Fitzgerald, Sr.
Chief of Police

Lance Bothell

From: Joel Fitzgerald
Sent: Tuesday, August 28, 2012 11:51 AM
To: Keith Jemison; Lance Bothell
Subject: Response to an emailed issue from Davis

Joel Fitzgerald, Ph.D. (ABD), MBA
Chief of Police
Missouri City Police Department
3849 Cartwright Rd.
Missouri City, TX 77459
(281) 403-8701 - Office

"Education is not the filling of a bucket but the lighting of a fire."
—William Butler Yeats

-----Original Message-----

From: Joel Fitzgerald
Sent: Monday, April 09, 2012 10:18 AM
To: Ruben Davis
Subject: Re: Church

Ruben,

The MCPD is ahead of the curve regarding crimes in the Indian-American Community. As a matter of fact, I met with a group of citizens on this to develop a positive rapport and facilitate the information sharing process. Although most of the crimes you are referring to occurred outside of this jurisdiction, I also offered P/O Flagg to help them form a crime watch program.

Please share any crime information you have, and attend the Regional CID Meetings (every third Wed.) as most agencies in the area have staff members present. We think that hearing from your agency and having them participate in our gang operations would benefit our end of the county. Most agree that since I started this program we've had a better collective gauge on crime.

I had officers meet with the pastor regarding the damaged basketball goals as well. The last report we received was in October 2011, but we told him that we would initiate "close patrols" in his area and always be available to address his, and all members of the community's concerns.

Take care (and I'll see you at the Fish Fry),

Joel

Sent from my iPhone

Lance Bothell

From: Joel Fitzgerald
Sent: Tuesday, August 28, 2012 11:51 AM
To: Mike Berezin; Keith Jemison; Lance Bothell
Subject: Pct. 2 notification on impersonating arrest

Joel Fitzgerald, Ph.D. (ABD), MBA
Chief of Police
Missouri City Police Department
3849 Cartwright Rd.
Missouri City, TX 77459
(281) 403-8701 - Office

"Education is not the filling of a bucket but the lighting of a fire."
—William Butler Yeats

-----Original Message-----

From: Joel Fitzgerald
Sent: Thursday, April 19, 2012 10:28 AM
To: Ruben Davis
Subject:

How you're doing better. I'm sure you received the message on Troy Mcallister representing himself as working for you. He was arrested for warrants yesterday. If you need more info, you can call me or our CID Captain John Bailey 2814038713.

Get well soon.

Chief Joel Fitzgerald
Missouri City Police Department
3849 Cartwright Rd.
Missouri City, TX 77459
(281) 403-8701 office-direct

Sent from my iPhone

Lance Bothell

From: Joel Fitzgerald
Sent: Tuesday, August 28, 2012 11:59 AM
To: Keith Jemison; Mike Berezin; Lance Bothell
Subject: FW: FYI on response to Constable Davis' letter
Attachments: Davis 120813.DOC

Joel Fitzgerald, Ph.D. (ABD), MBA

Chief of Police

Missouri City Police Department

3849 Cartwright Rd.

Missouri City, TX 77459

(281) 403-8701 - Office

x

"Education is not the filling of a bucket but the lighting of a fire."
—William Butler Yeats

From: Edward Broussard
Sent: Monday, August 13, 2012 9:21 AM
To: Joel Fitzgerald
Subject: FYI on response to Constable Davis' letter

Edward A. Broussard
City Manager
City of Missouri City, Texas
(281) 403-8692

Lance Bothell

From: Joel Fitzgerald [joelism71@gmail.com]
Sent: Tuesday, August 28, 2012 12:08 PM
To: Keith Jemison; Lance Bothell
Subject: Fwd: Meeting?

Ditto...

----- Forwarded message -----
From: **Joel Fitzgerald Sr** ¹³⁷ <joelism71@gmail.com>
Date: Fri, Apr 13, 2012 at 2:52 PM
Subject: Meeting?
To: Ruben Davis <rubendavis2012@gmail.com> ¹³⁷
Cc: "Stephen K. Brown II" <[REDACTED]>

Ruben,

We need to set up a meeting to talk about the negative comments raised about the City and MCPD at the meeting you attended last night. I can meet you either at my office or your office on Tuesday. If you can do it earlier, I can meet you at Pearson's tomorrow morning.

Joel F. Fitzgerald, Sr., PhD (ABD), MBA

Sent from my iPad

Lance Bothell

From: Joel Fitzgerald
Sent: Tuesday, August 28, 2012 11:55 AM
To: Keith Jemison; Lance Bothell; Mike Berezin
Subject: FW: Internal Investigation (Confidential)
Attachments: Ruben Davis to Chief Berezin 05-02-2012 1334hrs.wav; 04-20-2012 davis.wav; 04-20-2012a davis.wav; 04-25-2012 1405 hrs Davis message on Burleson.wav; 04-26-2012 0851 hrs Burleson conversation with Davis.wav; 05-03-2012 1409hrs Burleson to Pct 2.wav; 05-03-2012 1500hrs voicemail from PCT Chief Deputy.wav

Joel Fitzgerald, Ph.D. (ABD), MBA

Chief of Police

Missouri City Police Department
3849 Cartwright Rd.
Missouri City, TX 77459
(281) 403-8701 - Office

x

"Education is not the filling of a bucket but the lighting of a fire."
—William Butler Yeats

From: Keith Jemison
Sent: Friday, May 04, 2012 9:18 AM
To: Mike Berezin; Joel Fitzgerald
Subject: Fwd: Internal Investigation (Confidential)

Sent from my HTC on the Now Network from Sprint!

----- Forwarded message -----

From: "Robert Girndt" <GIRNDT@missouricitytx.gov>
Date: Fri, May 4, 2012 9:13 am
Subject: Internal Investigation (Confidential)
To: "Keith Jemison" <KJemison@missouricitytx.gov>

There are no AVL "points" for either of the two officers for the date that you requested. Attached to this email are several phone conversations that you have asked for.

Thank you,

Robert M. Girndt

9/19/2012

Radio System Administrator
Missouri City/Sugar Land Radio System
3849 Cartwright
Missouri City, TX 77459

281-403-8725 office
[REDACTED] cell

This email contains proprietary information and may be confidential. If you are not the intended recipient of this email, you are hereby notified that any dissemination, distribution or copying of this message is strictly prohibited. If you received this message in error, please delete it immediately.

From: Keith Jemison
Sent: Thursday, May 03, 2012 5:58 PM
To: Robert Girndt
Cc: Keith Jemison
Subject: Internal Investigation (Confidential)

Robert,

Please pull "looking glass" for Sgt. Daryl Smith utilizing unit #2539 and Officer Evette Kelly for May 2, 2012 and forward me the printout first thing in the morning. I have received a complaint that two uniformed officers were in the Quail Glenn subdivision in Houston, Texas on May 2nd 2012. I need to confirm whether this is accurate or not. I need this request maintained in confidence and fulfilled first thing in the morning. No one is to see the results of this unless they hold the rank of Assistant Chief of Police or above.

Keith Jemison, MA
Assistant Chief of Police
Internal Affairs & Administration
3849 Cartwright Road
Missouri City, TX 77459
281-403-8702

Lance Bothell

From: Joel Fitzgerald (Adobe SendNow Invitations) [sendnow-invitations@acrobat.com]
Sent: Tuesday, August 28, 2012 11:49 AM
To: Lance Bothell
Subject: 5/22/12 Davis letter



File sent to you by Joel Fitzgerald:

mayor owen22Mar2012 (Revised).pdf

 [Download](#)

912 KB  **Virus Checked**

File will be available for download for 7 days.

To download the file, click on the Download button above or copy and paste this URL into your browser:
https://sendnow.acrobat.com/?i=flwJhRM--iH*quoTWkcWLw
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Lance Bothell

From: Joel Fitzgerald
Sent: Tuesday, August 28, 2012 11:38 AM
To: Mike Berezin; Keith Jemison; Lance Bothell
Subject: You Tube video links

Ruben Davis' version of the campaign office civil standby: <http://youtu.be/JFjU3bXV7BQ>

Ruben Davis' misleading Facebook post alleging the arrest of a Daryl Smith:

<https://docs.google.com/viewer?a=v&pid=gmail&attid=0.2&thid=13774ac6ea60b2d0&mt=application/pdf&url=https://mail.google.com/ui%3D2%26ik%3D49a5036ef8%26view%3Datt%26th%3D13774ac6ea60b2d0%26attid%3D0.2%26disp%3Dsafe%26zw&sig=AHIEtbS78gpdhQsdT4xIJfNfkN3UdXNk8Q>

Daryl Smith's video that details the events precipitating the Ruben Davis campaign office civil stand by: <http://www.youtube.com/watch?v=1aVOIReO9o0&feature=youtu.be>

Daryl Smith's version of the campaign office civil standby: <http://www.youtube.com/watch?v=1rHnfbr-xuA&feature=relmfu>

Ruben Davis did call me on that date on my cell phone, but I was unavailable. Davis made subsequent written allegations which, absent a MCPD complaint, we handled internally.

Joel Fitzgerald, Ph.D. (ABD), MBA

Chief of Police

Missouri City Police Department
3849 Cartwright Rd.
Missouri City, TX 77459
(281) 403-8701 - Office



"Education is not the filling of a bucket but the lighting of a fire."
—William Butler Yeats

Lance Bothell

From: Joel Fitzgerald
Sent: Tuesday, August 28, 2012 11:14 AM
To: Keith Jemison; Lance Bothell
Subject: 2012-0008 JFF2
Attachments: 2012-0008 JFF2.doc

Lance Bothell

From: Joel Fitzgerald
Sent: Tuesday, August 28, 2012 11:00 AM
To: Keith Jemison; Mike Berezin; Lance Bothell
Subject: Fwd: Letter Received from Constable Ruben Davis
Attachments: 201208281040.pdf; ATT00001..htm

Please respond via memo to each of the alleged complaints. The PSI inquiry number will still be 12-0008.

Chief Joel Fitzgerald
Missouri City Police Department
3849 Cartwright Rd.
Missouri City, TX 77459
(281) 403-8701 office-direct

Sent from my iPhone

Begin forwarded message:

From: Edward Broussard <ebroussard@missouricitytx.gov>
Date: August 28, 2012 10:43:41 CDT
To: Joel Fitzgerald <Fitzgerald@missouricitytx.gov>
Subject: **Fwd: Letter Received from Constable Ruben Davis**

Sent from my iPhone

Begin forwarded message:

From: Sonia Webb <swebb@missouricitytx.gov>
Date: August 28, 2012 10:43:07 AM CDT
To: Edward Broussard <ebroussard@missouricitytx.gov>
Subject: **Letter Received from Constable Ruben Davis**

Please see the attached four letters received from Constable Ruben Davis. I have placed the hard copies in your inbox.

Thank you

Sonia Webb
Deputy City Secretary
City of Missouri City
1522 Texas Parkway
Missouri City, TX 77489

Email: swebb@missouricitytx.gov
Phone: 281-403-8685
Fax: 281-208-5591

City website: www.missouricitytx.gov

-----Original Message-----

From: Ricohc3002@missouricitytx.gov
[mailto:Ricohc3002@missouricitytx.gov]
Sent: Tuesday, August 28, 2012 9:40 AM
To: Sonia Webb
Subject: Message from "RNP00267345BDE3"

This E-mail was sent from "RNP00267345BDE3" (Aficio MP C3002).

Scan Date: 08.28.2012 10:40:27 (-0400)
Queries to: Ricohc3002@missouricitytx.gov

Keith Jemison

From: Lance Bothell
Sent: Wednesday, August 29, 2012 8:42 AM
To: Keith Jemison
Subject: You tube and facebook
Attachments: Missouri City Texas Krasey Cops 2012.mp4; 20120512 085736(1).mp4; 20120512_074623.AVI.mp4; Facebook article and pic.pdf

Chief,

I was able to capture the youtube videos. All three are attached to this e-mail. The facebook page link in Chief Fitzgerald's email is no longer operational. However, I was able to download the picture referenced by Ruben Davis and an article speaking of the erroneous arrest claim made by Davis against Smith. I scanned the picture and article as one document and included those in this e-mail as well.

I will start working on copying and attaching all of that information into the AIM program under the associated case number. Once you are done with you write-up, I will include that as well.

Lance Bothell
Administrative Captain
FBI-NA 230th
LEMIT LCC 53rd
Missouri City Police Department
281-403-8719
281-403-5479 fax

Fort Bend Constable Precinct 2 Democratic Primary features erroneous arrest claim

From Staff Reports | Posted: Tuesday, May 22, 2012 9:56 pm

With less than a week remaining in the Fort Bend Constable Precinct 2 Democratic Primary, the election is becoming heated between incumbent Constable Ruben Davis, and his opponent, Missouri City Police Sgt. Daryl Smith.

The election will be decided on Tuesday, May 29, and early voting is ongoing.

The winner of the primary is very likely to be elected with the winner either running unopposed or facing an overmatched opponent in the general election in November.

On Monday, Constable Davis -- a retired Houston Police Department officer who's been in office since 1996 -- had a photo on his Facebook page of Sgt. Smith in a campaign t-shirt (next to two uniformed Missouri City Police officers) with the caption, "Missouri City Police Arrest Daryl at my Campaign office!!"

The post had 21 "likes" and 19 posts, mostly in support of Constable Davis.

Missouri City Police Chief Joel Fitzgerald said that Sgt. Smith had not been arrested, thus the posting was not true.

Despite that, the post was still on Constable Davis' Facebook page as of 11:50 p.m. Tuesday evening.

On Sgt. Smith's YouTube page, www.youtube.com/darylsmith4constable, there are six videos, mostly of Sgt. Smith confronting Constable Davis and his volunteers regarding campaign signs.

Sgt. Smith uses the videos to support his claims that Constable Davis is posting campaign signs over his own.



R
M.

Missouri City
office!!

Share



Close

People Who Shared This



Angie Aleman shared Ruben Davis's photo.
this is NOT TRUE DONT BELIVE this PLEASE thanks :)

Like · Comment · May 22 at 1:36pm ·

Theresa Lyde and Francine Peters like this.



Ben Lampe Ruben, You suck!!!! Everyone needs to get out and
Vote for Darryl for Pct 2 fort bend constable

May 22 at 3:20pm · Like · 1



Write a comment...



Kevin Burleson shared Ruben Davis's photo.
Totally false accusations made by Ruben Davis. Please spread the word in
Fort Bend County and Support Daryl Smith for Fort Bend Pct 2 Constable!!!

Like · Comment · May 22 at 1:25pm ·

Theresa Lyde, Russell B D'Oench and Chris Vargas like this.

View all 7 comments

1 share



Jay McClellan Looks and sounds like libel to me?

May 22 at 5:44pm via mobile · Like · 1



Milly Jones Smith How in the world could that happen? I mean
the mis-information.

May 22 at 9:57pm · Like



Write a comment...

You can see only shares that are public or from friends.

.1175 - Withhold Some
throughout



FORT BEND COUNTY CONSTABLE PRECINCT TWO

The Honorable Ruben Davis Constable

March 5, 2013

Charles Butt, Chairman and CEO
H-E-B Grocery Company
646 S. Main Ave
San Antonio, Texas 78204

VIA FAX: (210) 938-4362

Dear Mr. Butt:

I am writing this letter as a formal complaint. My name is Ruben Davis. I am the Constable in Fort County, Precinct Two. I was recently elected to my fourth term as Constable in Fort Bend County. [REDACTED] moved to the area of your store in the 1950's. My Church members, [REDACTED] and childhood friends all shop in the area.

Your contract security officer, Sergeant Daryl Smith for over a year, has harassed [REDACTED] and me. Several customers are concerned for my safety at your store. The list of citizens that have had an exchange with Sgt. Smith includes a state district judge, a NAACP executive board member, some of my church members, and friends of our family.

I have contacted the Missouri City Police Department and have sent several letters to the Police Chief Joel Fitzgerald and to the City Manager. Neither has responded to our complaints against Sgt. Smith. Most of my complaints were serious offenses including an incident when Sgt. Smith drove a vehicle aggressively towards [REDACTED] and me. Another was an illegal police raid at my office that was located at 1308 Turtle Creek in Missouri City, Texas. During this illegal raid, [REDACTED] and I were ordered by two Missouri City Police supervisors not to ever be in the presence of Sgt. Smith. By the time that the Missouri City Police Department left my office, both [REDACTED] and I were terrified.

We are in the process of filing a complaint against Sgt. Smith with the Federal Bureau of Investigations and the Fort Bend District Attorney's office.

**FORT BEND COUNTY CONSTABLE
PRECINCT TWO**

H-E-B, dated March 5, 2013

Page --2-

[REDACTED] friends and I would like to continue to shop at your company stores. However, we would appreciate the convenience of shopping without the harassment of your contract security officer, Sergeant Daryl Smith.

Should you wish to contact me, I may be reached at my office or by cellular phone at [REDACTED].

Sincerely,



Constable Ruben [REDACTED] Davis

[REDACTED]
[REDACTED]
Office 281-403-8010

Office Address
Fort Bend County Annex
303 Texas Parkway, Suite 124
Missouri City, Texas 77459

Ruben [REDACTED] Davis

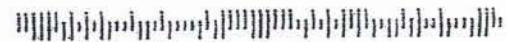
NORTH HOUSTON TX 77060

05 MAR 2013 PM 1 L



Charles Butt, Chairman and CEO
H-E-B Grocery Company
646 S. Main Ave
San Antonio, Texas 78204

78204122799





MISSOURI CITY POLICE DEPARTMENT
Joel F Fitzgerald, Sr., Ph. D. (ABD), MBA
Chief of Police



POLICE MEMORANDUM

Date: August 24, 2012

TO: Edward Broussard, City Manager

FROM: Joel Fitzgerald, Chief of Police

SUBJECT: ADMINISTRATIVE INQUIRY: SGT. DARYL SMITH (2012-0008)

1. On August 23, 2012 at 1:57pm, I received two letters from you via email from Fort Bend County Precinct #2 Constable Ruben Davis regarding a Missouri City Police Department employee, Sgt. Daryl Smith. Pursuant to your email request, we had a conversation regarding multiple letters that we received during the election for Fort Bend County Precinct #2 Constable in which Sgt. Daryl Smith is accused of misconduct while campaigning as the sole challenger to Ruben Davis for his position as Constable in the Democratic Primary on May 29, 2012.

The inquiry precipitating this response specifically includes allegations of misconduct by Sgt. Smith on the following two dates: May 9, 2012 and May 11, 2012.

In the letter dated August 21, 2012 that references events on May 9, 2012, Ruben Davis accused Sgt. Smith of several traffic offenses, unbecoming conduct, and physical abuse. The allegations in the August 21, 2012 letter contradict his 9-1-1 call that day and subsequent statements made to the MCPD supervisor that responded to the scene, Sgt. Phillip Englishbee. Davis specifically stated during his 9-1-1 call to Telecommunications Officer (TCO) Epps that he was *threatened*, and a person inside of a vehicle was *making faces and videotaping* he and [REDACTED]. Davis' August 21st letter states that he observed Sgt. Smith upon his approach to the location on Texas Parkway, but his original 9-1-1 call never mentions the erratic driving and attempted assault described in detail within the letter. The allegations Davis made on May 9, 2012 via 9-1-1 and on-scene statements to Sgt. Englishbee are inconsistent with those alleged in the subsequent letter. Sgt. Englishbee was advised upon his arrival that Sgt. Smith was driving erratically, but determined the driving related accusations did not occur. In the presence of Sgt. Russell Terry, he attempted to interview the male (Brandon Hamilton) who was allegedly assaulted by Sgt. Smith but Davis intervened and refused to allow Hamilton to speak with MCPD. The most troubling portion of Davis' accusation is that he purports that Sgt. Smith assaulted a criminal suspect and we could not



MISSOURI CITY POLICE DEPARTMENT

Joel F Fitzgerald, Sr., Ph. D. (ABD), MBA
Chief of Police



record the allegation due to his active interference. The MCPD has not been contacted by any of the various agencies to which Davis should have referred the incident, allowing them to independently investigate the alleged assault. If an assault occurred, a senior law enforcement officer should have allowed the complainant to make a statement and facilitate the investigation of such an offense. The MCPD properly recorded the incident on police report #12-9073, and Davis' allegations are Not Sustained for purposes of our own internal inquiry.

2. In a second letter, also dated August 21, 2012, referring to an incident on May 11, 2012, Davis accused Sgt. Smith of making a call to 9-1-1 to report a black male (Ruben Davis) with a gun at 7622 Chasewood, at an early voting location. Davis accused Sgt. Smith of making a false report to the Houston Police Department, but I personally reviewed the You Tube video of the incident and it appeared his 9-1-1 call was founded (You Tube, 2012). On August 24, 2012, I spoke with Inv. E. Castaneda HPD-Homicide, who informed me the investigation is still an open and active criminal case.

Davis alleges that Sgt. Smith spoke with me during the incident, and he did. He acted upon previous direction from me to call me whenever he became involved in an incident with Davis, and in this case, he called to inform me that Davis threatened Sgt. Smith and [REDACTED] with a firearm. Davis exercised the same freedom by calling me during previous incidents. Smith stated that he called HPD to report the incident at the polling location as an aggravated assault HPD-622902126). In this case, the facts during this encounter would justify the classification of Unfounded.

3. Davis also alleges that I have not personally responded to him regarding *all* of his calls on the behavior of Sgt. Smith. As the head of a law enforcement agency, I am certain that Davis understands any internal affairs complaints, if filed, come to my attention. It is his responsibility to sign the Perjury & Written Statement form and submit it with his written complaint as per state law. I can confirm that I am aware of this process, because he submitted a complaint as recently as November 3, 2011, in regards to complaints initiated on September 20 and September 24 respectively, and I have spoken with him on the telephone on several occasions since advising him of the same. On October 20, 2011, Assistant Chief Jemison responded to those complaints, provided him complaint documentation as well as informing Davis of the MCPD policy and process of investigating and submitting complaints (via certified mail):



MISSOURI CITY POLICE DEPARTMENT

Joel F Fitzgerald, Sr., Ph. D. (ABD), MBA
Chief of Police



It is the policy of the Missouri City Police Department to accept all complaints against its police officers. The department will conduct an objective, thorough, competent, and professional investigation of all allegations of misconduct by employees and complaints bearing on the department's response to community needs. (Jemison, 2011)

Davis responded to Assistant Chief Jemison's letter and returned endorsed, yet incomplete paperwork, with the following benign statement:

My letter of complaint was generated to ensure that the Office of Fort Bend County, Constable Pct. 2 and the Missouri City Police Department continues our excellent working relationship. I do not want an incident of this nature to occur again. In the event that it does, our office will take the appropriate action. (Davis, 2011)

4. Reference: <http://www.youtube.com/watch?v=xIfWrXBqbls>

Joel Fitzgerald, Sr.
Chief of Police



CONSTABLE DEPARTMENT - PRECINCT TWO

Fort Bend County, Texas

RUBEN DAVIS
Constable

(281) 403-8010
Fax (281) 403-8027

October 19, 2011

Joel Fitzgerald
Chief of the Police Department
City of Missouri City Police Department
3849 Cartwright Road
Missouri City, Texas 77489

Dear Chief Fitzgerald:

I am writing this letter regarding professionalism among one of your staff members. The City of Missouri City Police and the Fort Bend County Constable Pct 2 Office has had an outstanding relationship and I would like no more than to see that relationship continue.

On September 20, 2011, Sgt. Daryl Smith came to my office and exhibited unprofessional behavior in front of my Chief Deputy and five (5) other staff members. It was not clear if Sgt. Smith's intentions were of a personal nature or if he was representing the City of Missouri Police Department. Sgt. Smith made allegations that my staff had taken some of his campaign material. He stated that Missouri City laws would be enforced and arrest made if this behavior continued. Sgt. Smith stated that this was directed at all of the Constable, Pct. 2 employees. In my opinion Sgt. Smith's behavior was very unprofessional and exhibited behavior that I have never seen during my 35 year law enforcement career. His behavior was bizarre and he initiated an unpleasant verbal exchange with my Chief Deputy. I had to step in and end this confrontation and asked Sgt. Smith to leave my office as he was becoming more hostile.

On September 24, 2011, a Missouri City Police Unit was present at Kitty Hollow Park during an event sponsored by the East Fort Bend Democratic Club. The security for this event was provided by other agencies; therefore I am not sure why a Missouri City Police Unit was present at this event. The Missouri City Unit did meet with Sgt. Daryl Smith. I would like to know if this Unit was there on official police business or at the request of Sgt. Daryl Smith, as the calls for service at this park are handled by the Ford Bend Sheriff's Office.

Exhibit _____

After this tendentious visit from Officer Smith, Constable Davis made the decision to call a mandatory staff meeting with all fifty-five of his sworn peace officers that took place Saturday October 1, 2011. Constable Davis has instructed his deputies to respond to Officer Smith in a professional, non-confrontational manner; unlike the behavior displayed by Officer Smith who by the way was extended officer courtesy although his angry behavior, mannerisms and body language could clearly be perceived as "over the top" to put it mildly. Our staff was very accommodating since most agencies would have escorted him from the premises and generated a case number. The potential threat of workplace violence displayed by an individual who tout's himself as this experienced, qualified, veteran police officer was totally uncalled for based on the reason for Officer Smith's visit.

Officer Smith clearly used poor judgment by confronting Constable Davis at his office regarding a political related business matter during the Constables normal business hours. Officer Smith sees and comes in contact with Constable Davis when he is out in the community with [REDACTED], family and friends on a very regular basis since he Smith has announces his candidacy for Constable. Why would Officer Smith interrupt Constable Davis at work in his office with such a petty, trivial and un-important matter such as a business card holder and missing business cards that cost less than two cent's apiece? It really makes you wonder about the psychological and mental stability of a person especially a police officer who would draw un-necessary attention to him self over some cheap free business cards displayed in a public place and apparently made available for all citizens to take "for free". This is very disturbing and quite bazaar behavior in our opinion!

Again, Constable Davis is very concerned regarding the potential for future verbal or physical exchanges between Precinct 2 Deputies and Officer Smith. Fort Bend County Precinct 2 Deputies are clearly not intimidated by the aggressive behavior, demeanor, threats and inflammatory remarks made by Officer Smith. We want to make it clear that it is not our intent to have on-going confrontations with Officer Smith over the next several months regarding petty issues such as this. You can be assured that the Precinct 2 Constables staff will remain professional.

I wish to take this opportunity to thank you in advance for addressing this formal complaint written and submitted by Chief Deputy Rodney Pentecost. We feel confident that your department will take the right steps to address the unprofessional conduct and behavior displayed by Officer Daryl Smith at our office.

Finally, as a college educated counseling practitioner its clear that Officer Smith is a prime candidate anger management counseling. It's also possibly that he might need to be subject to a current psychological evaluation based on the immature behavior and poor judgment he displayed over such a small un-important matter.

Kind Regards,




Rodney Pentecost
Chief Deputy

CC: Constable Ruben Davis

On Saturday, October 8, 2011, Sgt. Daryl Smith was observed driving a Missouri City Police Unit in the Quail Run subdivision; which is located inside the City of Houston. I would like to know if this was official police business and, if so, the nature of that business. The calls for service for this area are provided by the Houston Police Department and the Fort Bend County Precinct Two Constable's Office. I would like to know if Missouri City Police Department is contracted to provide police services outside the City of Missouri City.

Thank you for your time and attention to this matter and I look forward to your written response.

Sincerely,

A handwritten signature in cursive script that reads "Ruben Davis". The signature is written in dark ink and is positioned below the word "Sincerely,".

Ruben Davis
Constable



CONSTABLE DEPARTMENT - PRECINCT TWO

Fort Bend County, Texas

RUBEN DAVIS
Constable

(281) 403-8010
Fax (281) 403-8027

August 22, 2012

Edward Broussard
Missouri City Manager
1522 Texas Parkway
Missouri City, Texas 77489

RE: Police Complaint against Daryl Smith and the Missouri City Police Department

Dear Mr. Broussard:

This letter shall serve as a formal written complaint from Constable Ruben Davis and against Sergeant Daryl Smith of the Missouri City Police Department. This original complaint was filed on October 3, 2011.

On Tuesday, September 20, 2011, at approximately 1655 hours, Sergeant Daryl Smith of the Missouri City Police Department entered the Fort Bend County Precinct 2 Constables' Office located at 303 Texas Parkway, Missouri City, Texas 77459. Sergeant Smith identified himself as a Missouri City police officer.

Sergeant Smith appeared to be very agitated, visibly angry, and emotional unstable. He demanded to my Administrative Assistant, Debra Davis that he wanted to see Constable Ruben Davis. Sergeant Smith was asked to sign in as a visitor and refused. Ms. Davis contacted her boss and then escorted Sergeant Smith to the Constable's office. Constable Ruben Davis and Chief Deputy Rodney Pentecost met with Sergeant Smith in the Constable's office.

Ms. Davis after escorting Sergeant Smith to her boss's office attempted to leave as Sergeant Smith demanded in a loud voice "you stay here, you need to hear what I have to say." Ms. Davis replied to Sergeant Smith, "I do not work for you", and returned to her office.

Sergeant Smith appeared to be emotionally unstable, incoherent, and unprofessional. Sergeant Smith explained that someone had taken some of his campaign business cards out of its holder and replaced them with a Constable Ruben Davis business card at a business establishment. Sergeant Smith stated that he would arrest any Fort Bend County Precinct 2 deputy or employee that touched any of his campaign business cards.

I asked Sergeant Daryl Smith if his business cards were free, what law would have been broken? Sergeant Daryl Smith replied that he would arrest any Fort Bend County Precinct 2 Constable employee that touches any of his cards and put them in the Missouri City jail.

Exhibit 2

Constable Ruben Davis
/Edward Broussard
Page -2-

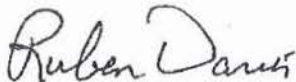
I asked Sergeant Smith if he could place a large sign at all locations where his signs are located, asking all Fort Bend County Precinct 2 Constable employees and citizens not to take any of his free business cards.

Sergeant Smith again appeared to be emotionally unstable and rambled for about 5 to 10 minutes repeatedly saying he did not want any Fort Bend County Precinct 2 Constable employees touching or taking any of his free business cards. Sergeant Smith then had an exchange of words with my Chief Deputy, Rodney Pentecost. I asked Sergeant Smith to leave my office as his behavior became unstable. Sergeant Smith left my office exchanging words with other employees in my office.

I filed a report with the Missouri City Police Department on October 2, 2011 but that complaint was not accepted. My employees were advised of Sergeant Daryl Smith's unprofessionalism and the failure of the City of Missouri City and Police Chief Joel Fitzgerald to take any actions regarding this incident and Smith's behavior.

Should you have any questions or need further information regarding this formal complaint do not hesitate to contact me.

Sincerely,



Ruben Davis
Constable

cc: Mayor
Council Members



CONSTABLE DEPARTMENT - PRECINCT TWO

Fort Bend County, Texas

RUBEN DAVIS
Constable

(281) 403-8010
Fax (281) 403-8027

August 22, 2012

Edward Broussard
Missouri City Manager
1522 Texas Parkway
Missouri City, Texas 77489

RE: Police Complaint against Daryl Smith and the Missouri City Police Department

Dear Mr. Broussard:

The Quail Glen HOA, Fort Bend County Juvenile Probation Department, and the Fort Bend County Precinct Two Constable's Office conducted a neighborhood clean up in the Quail Glen Subdivision on March 31, 2012. The Quail Glen HOA had volunteers from the neighborhood to participate in the clean up. The Fort Bend County Juvenile Probation Department had approximately 19 Juveniles and 4 Juvenile Probation Detention Officers to participate in the clean up. The Fort Bend County Precinct Two Constable's Office supplied a police car and two deputies for the clean up.

Towards the end of the clean up, I, Constable Ruben Davis gathered the young men who ranged in age from approximately 14 to 15 years old and thanked them for their participation in the clean up. I also handed out some good citizen cards and encouraged them to be productive citizens. Sergeant Daryl Smith, although he does not live in that Subdivision, had also participated in the clean up. He walked over to me while I was speaking with the young men. As I was explaining to the young men that I was the one responsible for them being allowed to participate in the clean up, Sergeant Daryl Smith yelled out, "Stop lying to these young men, you had nothing to do with this clean up".

I continued to address the young men when Sergeant Daryl Smith yelled out again, "Stop lying to these young men, you had nothing to do with this clean up. I then stated to the young men that, "I am a College Professor and you young men are still in school. I will let this man talk to you (motioning to Sergeant Daryl Smith) since he will not let me talk to you young people".

Sergeant Daryl Smith identified himself as a Missouri City Police Sergeant. He stated that he was running for Constable and that I (Ruben Davis) was lying about this clean up. He also said to the young men that I had nothing to do with the clean up.

Exhibit 423

/Edward Broussard

Page -2-

I walked away because of Sergeant Daryl Smith's embarrassing behavior and poor representation of the Missouri City Police Department. His actions were both embarrassing and unprofessional. I suddenly thought that this isn't the time or the place, especially in the presence of such fine, hard working young men. I continued to lead by example.

I am filing a complaint based upon the following:

1. Unprofessional Police Conduct
2. Causing a disturbance
3. Bringing shame and dishonor to the men and women of the Missouri City Police Department and the citizens of Missouri City
4. Being a bad role model and setting a bad example to so many young people on juvenile probation.

I want Sergeant Daryl Smith fired for this incident. [REDACTED] and I do not feel safe with police officers like this on your department. I want to know if Sergeant Smith has any mental or emotional problems. The Police Chief is aware of Sergeant Smith's behavior towards [REDACTED] and me. I have reached out to your Police Department, and the Police Chief has not contacted me regarding all of the police calls that [REDACTED] has made regarding Sergeant Smith.

I have been in law enforcement for over 36 years and the Head of a Police Agency in Fort Bend County for 16 years. I hold a Bachelors Degree from the University of Houston and a Master's degree from Prairie View A & M University. I would like a written response to this formal complaint.

Sincerely,



Ruben Davis
Constable

cc: Mayor
City Council Members



CONSTABLE DEPARTMENT - PRECINCT TWO

Fort Bend County, Texas

RUBEN DAVIS
Constable

(281) 403-8010
Fax (281) 403-8027

August 22, 2012

Edward Broussard
Missouri City Manager
1522 Texas Parkway
Missouri City, Texas 77489

RE: Police Complaint against Daryl Smith and the Missouri City Police Department

Dear Mr. Broussard:

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Sergeant Daryl Smith identified himself as a Missouri City Police Sergeant. He stated that he was running for Constable and that I (Ruben Davis) was lying about this clean up. He also said to the young men that I had nothing to do with the clean up.

/Edward Broussard

Page -2-

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I have been in law enforcement for over 36 years and the Head of a Police Agency in Fort Bend County for 16 years. I hold a Bachelors Degree from the University of Houston and a Master's degree from Prairie View A & M University. I would like a written response to this formal complaint.

Sincerely,



Ruben Davis
Constable

cc: Mayor
City Council Members

Fort Bend Constable Precinct 2 Democratic Primary features erroneous arrest claim

From Staff Reports | Posted: Tuesday, May 22, 2012 9:56 pm

With less than a week remaining in the Fort Bend Constable Precinct 2 Democratic Primary, the election is becoming heated between incumbent Constable Ruben Davis, and his opponent, Missouri City Police Sgt. Daryl Smith.

The election will be decided on Tuesday, May 29, and early voting is ongoing.

The winner of the primary is very likely to be elected with the winner either running unopposed or facing an overmatched opponent in the general election in November.

On Monday, Constable Davis -- a retired Houston Police Department officer who's been in office since 1996 -- had a photo on his Facebook page of Sgt. Smith in a campaign t-shirt (next to two uniformed Missouri City Police officers) with the caption, "Missouri City Police Arrest Daryl at my Campaign office!!"

The post had 21 "likes" and 19 posts, mostly in support of Constable Davis.

Missouri City Police Chief Joel Fitzgerald said that Sgt. Smith had not been arrested, thus the posting was not true.

Despite that, the post was still on Constable Davis' Facebook page as of 11:50 p.m. Tuesday evening.

On Sgt. Smith's YouTube page, www.youtube.com/daryismith4constable, there are six videos, mostly of Sgt. Smith confronting Constable Davis and his volunteers regarding campaign signs.

Sgt. Smith uses the videos to support his claims that Constable Davis is posting campaign signs over his own.



R.
M.

Missouri City
office!!

Share



CONSTABLE DEPARTMENT - PRECINCT TWO

Fort Bend County, Texas

RUBEN DAVIS
Constable

October 3, 2011

(281) 403-8010
Fax (281) 403-8027

Chief Joel Fitzgerald
Missouri City Police Department
3849 Cartwright Rd.
Missouri City, TX 77489

Subject: Formal Complaint

This letter shall serve as the formal written complaint of Chief Deputy Rodney Pentecost against an individual who was positively identified as off duty Missouri City Police Officer Daryl Smith.

On Tuesday, September 20, 2011, at approximately 1655 hours, a B/M approximately 6' 2" medium build approximately 230 lbs, with close cut hair wearing blue jeans, cowboy boots, cowboy belt with a large rodeo buckle and cream color cotton pull over short sleeve shirt entered the Fort Bend County Precinct 2 Constables Office. The Fort Bend County Precinct 2 Constables Office is located at 303 Texas Parkway, Missouri City, Texas 77459.

Constable Ruben Davis's Administrative Assistant Debra Davis immediately recognized the visitor, as being Officer Daryl Smith who she stated appeared to be very agitated and visibly angry. Ms. Davis stated Officer Smith approached her office located in the front lobby and demanded that he be allowed to see "Ruben". Ms. Davis stated that Officer Smith also demanded that she leave her desk to accompany him as his witness to this un-scheduled meeting with Constable Davis; apparently since he Smith recognized Ms. Davis from previous community obviously felt that he knew her well enough to be his witnesses. Ms. Davis quickly informed Officer Smith that she did not work for him and she had no intention of getting involved in his meeting with Constable Davis. She proceeded to inform Officer Smith that her job was to greet Constable Davis guest and notify him when he has visitors present in the lobby, particularly those visitors who have scheduled appointments. The incident took place during regular business hours 0800 to 1700 our front lobby doors are secured at 1700 hours.

Officer Smith was further advised that he was required to sign in upon entering the Constables Office lobby area however; he failed to do so after being instructed by Precinct 2 clerical staff. It should be noted that Officer Smith had no appointment with Constable Davis in addition; Officer Smith clearly displayed a very angry aggressive disrespectful demeanor. Upon recognizing how visibly angry and disrespectful Officer Smith conducted himself towards our female staff who were very polite yet very vulnerable and exposed in their work area's, Ms. Davis who is also the front office clerical supervisor did not hesitate to interrupt Constable Davis in order to alert him that Officer Smith was outside in the lobby area demanding to meet with him regarding some unknown reason. Chief Deputy Rodney Pentecost was present in the office and after being informed about Officers Smith's angry demeanor; quickly made the decision to dispatch additional Fort Bend Precinct 2 Deputy Constables to the office based on the potential threat of workplace violence involving a possibly armed and visibly angry, disrespectful Missouri City

Exhibit _____

Police Officer who was located inside of our front office lobby area demanding to meet with Constable Davis.

Shortly afterwards, approximately five uniformed deputies responded and were present but posted outside the office area since the three female civilian Precinct 2 employees depart the office at 1700 hours. Again, our concern was for their safety because of the angry, unprofessional behavior displayed by this Missouri City Police Officer. The additional deputies were summoned based on the Officers aggressive behavior and his unknown intent based on this unprofessional behavior displayed by the off duty police officer.

Constable Davis was on a conference call when Ms. Debra Davis informed him that Officer Smith had demanded to meet with him so he was forced to terminate his conference call prematurely to find out what Officer Smith needed. Chief Pentecost proceeded to meet Officer Daryl Smith in the hallway after Ms. Davis gave him access through the electronically controlled door where Chief Pentecost escorted him inside Constable Davis's open office.

Present inside Constable Davis office for the un-scheduled and un-announced meeting with Missouri City Police Officer Daryl Smith was Chief Pentecost, Constable Ruben Davis and Officer Daryl Smith. Additional Precinct 2 staff was present and located outside in the staff break area, hallway and parking lot area.

At approximately 1705 hours when the meeting began Constable Davis was seated behind his desk and Chief Pentecost was standing on the right side and Daryl Smith stood on the left side in front of the Constables desk. Constable Davis began the meeting by asking Officer Smith "how can I help you." Officer Smith replied in an angry, loud tone of voice stating; "Ruben you need to tell your people to stop taking my cards out of my card holders." Constable Davis asked Officer Smith what he was talking about. Officer Smith responded by accusing Precinct 2 Deputies of removing his campaign business cards out of the plastic business card holders he purchased and placing Constable Davis business cards in that same plastic cardholder. Officer Smith apparently purchased and placed his clear plastic business card holders inside the convenience store located next door to the Constables office on Texas Parkway; so he Smith apparently assumed Precinct 2 Constables committed this juvenile act. Constable Davis responded by asking Officer Smith were the cards he placed inside the store free? Officer Smith responded; "no Ruben", they are not free, were going to keep this clean you need to buy your own cardholder for your business cards. Constable Davis attempted to explain to Officer Smith that if the cards were free for citizens to take, then why would he Smith accuse the Constables staff of taking his cards. Officer Smith responded again, "no Ruben", my cards are not free you need to buy your own cardholder. I Chief Pentecost then entered the conversation by introducing myself to Officer Daryl Smith since I had never seen or met him personally. After introducing myself as Chief Pentecost to Daryl Smith Officer Smith replied sarcastically stating; yes, I know all about you! My response was oh really!

Constable Davis ended the conversation and meeting with Officer Smith at approximately 1710 hours with that verbal exchange as it became clear to him that Officer Smith seemed to become even more angry and aggressive in his tone of voice and demeanor about his political materials being removed from that one single convenience store location. In addition, prior to leaving the Constables office, Officer Smith felt that he needed to warn Constable Davis that Missouri City has a policy in place regarding the removal of, or tampering with political signs. Officer Smith felt the need to re-site Missouri City's policy twice to Constable Davis. This in Constable Davis's opinion was clearly intended to be a threat directed towards him personally since he was already aware of Missouri City's policy from his previous elections.



Police

Joel Fitzgerald, Sr.
Chief of Police



October 20, 2011

Constable Ruben Davis
Chief Deputy Rodney Pentecost
Fort Bend Constable Pct. 2
303 Texas Parkway
Missouri City, Texas 77459

Keith Jemison, MA
Assistant Chief of Police
Internal Affairs & Administration
3849 Cartwright Road
Missouri City, Texas 77459

Constable Davis and Chief Deputy Pentecost,

The Missouri City Police Department is in receipt of two letters from your department specifically focused upon interactions with and observations of Sergeant Daryl Smith. The first letter was dated October 3rd, 2011 and references an incident thirteen (13) days prior on September 20th, 2011. The second letter dated October 19th, 2011 references the same September 20th, 2011 incident as well as another incident twenty-five (25) days prior on September 24th, 2011.

It is the policy of the Missouri City Police Department to accept all complaints against its officers. The department will conduct an objective, thorough, competent, and professional investigation of all allegations of misconduct by employees and complaints bearing on the department's response to community needs.

Pursuant to the provisions of Texas Government Code Sec. 614.021, please complete the enclosed complaint form in its' entirety and return it to my office for assignment to a professional standards investigator.

Respectfully,

Assistant Chief Keith Jemison, MA

Cc: File

Letter #: 10202011-01



Police

Joel Fitzgerald, Sr.
Chief of Police



October 20, 2011

Constable Ruben Davis
Chief Deputy Rodney Pentecost
Fort Bend Constable Pct. 2
303 Texas Parkway
Missouri City, Texas 77459

Keith Jemison, MA
Assistant Chief of Police
Internal Affairs & Administration
3849 Cartwright Road
Missouri City, Texas 77459

Constable Davis and Chief Deputy Pentecost,

The Missouri City Police Department is in receipt of two letters from your department specifically focused upon interactions with and observations of Sergeant Daryl Smith. The first letter was dated October 3rd, 2011 and references an incident thirteen (13) days prior on September 20th, 2011. The second letter dated October 19th, 2011 references the same September 20th, 2011 incident as well as another incident twenty-five (25) days prior on September 24th, 2011.

It is the policy of the Missouri City Police Department to accept all complaints against its officers. The department will conduct an objective, thorough, competent, and professional investigation of all allegations of misconduct by employees and complaints bearing on the department's response to community needs.

Pursuant to the provisions of Texas Government Code Sec. 614.021, please complete the enclosed complaint form in its' entirety and return it to my office for assignment to a professional standards investigator.

Respectfully,

Assistant Chief Keith Jemison, MA

Cc: File

Exhibit _____

Letter #: 10202011-01

Missouri City Police Department

Perjury & Written Statement Notification

Penal Code

Section 37.02 Perjury:

(a) A person commits an offense if, with intent to deceive and with knowledge of the statement's meaning:

1. he makes a false statement under oath or swears to the truth of a false statement previously made and the statement is required or authorized by law to be made under oath; or
2. he makes a false unsworn declaration under Chapter 132, Civil Practice and Remedies Code.

(b) An offense under this section is a Class A misdemeanor.

Section 37.03 Aggravated Perjury

(a) A person commits an offense if he commits perjury as defined in Section 37.02, and the false statement:

1. is made during or in connection with an official proceeding; and
2. is material.

(b) An offense under this section is a felony of the third degree.

Government Code

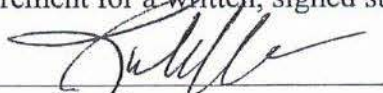
614.022. Complaint to be in Writing and Signed by Complainant

To be considered by the head of a state agency or by the head of a fire or police department, the complaint must be:

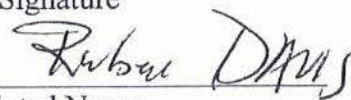
- (1) in writing; and
- (2) signed by the person making the complaint.

You will be contacted by the officer assigned to conduct the investigation into your complaint to schedule an interview and obtain your sworn statement.

I hereby acknowledge that I have been informed of the perjury statute and of the requirement for a written, signed statement regarding my complaint.



Signature



Printed Name

Exhibit _____

STATEMENT OF Ruben G. Davis, Jr.

DATE: 11/03/2011

Reference: September 20, 2011

My letter of complaint was generated to ensure that the
Office of Fort Bend County, Constable Pct. 2 and the
Missouri City Police Department continues our excellent
working relationship.

I do not want an incident of this nature to occur again.
In the event that it does, our office will take the
appropriate action.

Exhibit

Ruben G. Davis, Jr.
Printed Name


Signature



CONSTABLE DEPARTMENT - PRECINCT TWO

Fort Bend County, Texas

RUBEN DAVIS
Constable

(281) 403-8010
Fax (281) 403-8027

August 23, 2012

Edward Broussard
Missouri City Manager
1522 Texas Parkway
Missouri City, Texas 77489

RE: Police Complaint against Daryl Smith and the Missouri City Police Department

Dear Mr. Broussard:

The Missouri City Police Department contacted my office in April and requested documents for a police investigation. I received a call from Missouri City Assistant Police Chief Berisen to inform of the nature of this police investigation. The Assistant Police Chief went on to say that his department would turn this police investigation over to the Texas Rangers, because of my re-election campaign and Sergeant Daryl Smith. Texas Ranger, Bradley Freeman contacted me and he advised me that he was conducting this criminal investigation, *Regarding,*

What investigation?

who

DID NOT HAPPEN

I was contact in April and May of this year by citizens of Missouri City regarding Sergeant Daryl Smith walking city neighborhoods showing documents relating to the criminal investigation. I have the names of three (3) citizens that were approached and shown police investigation documents by Sergeant Daryl Smith. The documents described to me appeared to be this same information that I turned over to the Missouri City Police Department. The neighborhoods that were involved in this incident are Creekmont and Hunters Glen Sections I, II, III, IV, and V subdivisions. Any activity such as this should be considered a violation of the law. *UNDER WHAT PROVISION*

NAMES OF CITIZENS

I am filing a formal complaint and I want the following questions answered:

1. What are the names of the Missouri City investigators that received documents from my office in regards to this criminal case? *UNKNOWN INVESTIGATION*
2. Who turned over documents in this police investigation to Sergeant Daryl Smith? *UNKNOWN*
3. Who authorized Sergeant Daryl Smith to show police documents in an active police investigation to citizens in this community? *UNKNOWN*

Exhibit 1

/Edward Broussard

Page -2-

4. Is Sergeant Daryl Smith involved in this criminal investigation of a Precinct Two volunteer? **UNKNOWN**
5. What involvement if any did Missouri City Police Chief Joel Fitzgerald or Assistant Police Chief Berisen have with Sergeant Daryl Smith going door to door showing evidence in an active police investigation to citizens? **UNKNOWN**
6. I want to know if your department has a police ethics policy. **YES**

Should you have any questions or desire further information, do not hesitate to call me.

Sincerely,



Ruben Davis
Constable

cc: Mayor
City Council Members



MISSOURI CITY POLICE DEPARTMENT
Joel F Fitzgerald, Sr., Ph. D. (ABD), MBA
Chief of Police



POLICE MEMORANDUM

Date: August 24, 2012

TO: Edward Broussard, City Manager

FROM: Joel Fitzgerald, Chief of Police

SUBJECT: ADMINISTRATIVE INQUIRY: SGT. DARYL SMITH (2012-0008)

1. On August 23, 2012 at 1:57pm, I received two letters from you via email from Fort Bend County Precinct #2 Constable Ruben Davis regarding a Missouri City Police Department employee, Sgt. Daryl Smith. Pursuant to your email request, we had a conversation regarding multiple letters that we received during the election for Fort Bend County Precinct #2 Constable in which Sgt. Daryl Smith is accused of misconduct while campaigning as the sole challenger to Ruben Davis for his position as Constable in the Democratic Primary on May 29, 2012.
2. The inquiry precipitating this response specifically includes allegations of misconduct by Sgt. Smith on two dates, May 9, 2012 and May 11, 2012.
3. In the letter dated August 21, 2012 that references events on May 9, 2012, Ruben Davis accused Sgt. Smith of several traffic offenses, unbecoming conduct, and physical abuse. The allegations in the August 21, 2012 letter seriously contradict his 9-1-1 call that day and subsequent statements made to the MCPD supervisor that responded to the scene, Sgt. Phillip Englishbee. Davis specifically stated during his 9-1-1 call to Telecommunications Officer (TCO) Epps that he was *threatened*, and a person inside of a vehicle was *making faces and videotaping* he and [REDACTED]. Davis' August 21 letter states that he observed Sgt. Smith upon his approach to the location on Texas Parkway, but his original 9-1-1 call never mentions the erratic driving and attempted assault described in detail within the letter. The allegations Davis made on May 9, 2012 via 9-1-1 and on-scene statements to Sgt. Englishbee are inconsistent with those alleged in the subsequent letter and curiously inflammatory. Sgt. Englishbee was advised upon his arrival that Sgt. Smith was driving erratically, but determined the driving related accusations did not occur. In the presence of Sgt. Russell Terry, he attempted to interview the male (Brandon Hamilton) who was allegedly assaulted by Sgt. Smith but Davis intervened and refused to allow Hamilton to speak with MCPD. The most troubling portion of Davis' accusation is that he purports that Sgt. Smith assaulted a criminal suspect and we could not record the allegation due to his



MISSOURI CITY POLICE DEPARTMENT
 Joel F Fitzgerald, Sr., Ph. D. (ABD), MBA
 Chief of Police



4. interference. The MCPD has not been contacted by any of the various agencies that Davis should have referred the incident, allowing them to independently investigate the alleged assault. If, in fact, an assault occurred, it is hard to fathom that a senior law enforcement officer would not allow a complainant to make a statement and facilitate the investigation of such an offense. This incident was captured and recorded on police report #12-9073 and Davis allegations are Not Sustained for purposes of our own internal inquiry.

5. In a second letter, also dated August 21, 2012, referring to an incident on May 11, 2012, Davis accuses Sgt. Smith of making a call to 9-1-1 to report a black male (Ruben Davis) with a gun at 7622 Chasewood at an early voting location. Davis accuses Sgt. Smith of making a false report to the Houston Police Department yet I have personally reviewed the You Tube video of the incident and it appears his 9-1-1 call was founded. On August 24, 2012, I spoke with Inv. E. Castaneda HPD-Homicide, who informed me that the investigation is still open and active.

Davis alleges that Sgt. Smith spoke with me during the incident, and he did. He acted upon previous direction from me to call me whenever he became involved in an incident with Davis, and in this case, he called to inform me that Davis threatened Sgt. Smith and [REDACTED] with a firearm. (Davis exercised the same freedom by calling me on during previous incidents.) Smith stated that he called HPD to report the incident at the polling location as an aggravated assault HPD-622902126).

Davis also alleges that I have not personally responded to him regarding his *all* of his calls about the behavior of Sgt. Smith. As the head of a law enforcement agency, I am certain that Davis understands any internal affairs complaints, if filed, come to my attention. It is his responsibility to sign the Perjury & Written Statement form and submit it with his written complaint as per state law. I know he is aware of this process, because he submitted a complaint as recently as *DATE S* November 3, 2012, and was informed on October 20, 2011 by Assistant Chief Jemison via certified mail:

It is the policy of the Missouri City Police Department to accept all complaints against its police officers. The department will conduct an objective, thorough, competent, and professional investigation of all allegations of misconduct by employees and complaints bearing on the department's response to community needs.

He was provided w/ the actual paperwork to complete the formal complaint. What he returned was benign AND DID NOT INCLUDE A COMPLAINT.



MISSOURI CITY POLICE DEPARTMENT
Joel F Fitzgerald, Sr., Ph. D. (ABD), MBA
Chief of Police



6. Davis' allegations against Sgt. Smith and the MCPD have steadily increased during the past few months, but he continues to refuse to submit formal complaints at MCPD, using our complainant perjury statement. He has been reminded on multiple occasions by me of our willingness to investigate any complaints criminal or otherwise involving MCPD employees, and has verbally indicated to me during phone conversations that he was satisfied with the steps I have taken to address his concerns.

Joel Fitzgerald, Sr.
Chief of Police

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

2. Article Number
(Transfer from service label)

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Roslyn Cash*

-
- Agent
-
-
- Addressee

B. Received by (Printed Name)

Roslyn Cash

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

-
- Certified Mail
-
- Express Mail
-
-
- Registered
-
- Return Receipt for Merchandise
-
-
- Insured Mail
-
- C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7013 2630 0000 9970 3501

Domestic Return Receipt

102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Constable Ruben Davis
 Fort Bend Constable Pct. 2
 303 Texas Parkway
 Missouri City, TX 77459

2. Article Number
(Transfer from service label)

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *PRADIA*

-
- Agent
-
-
- Addressee

B. Received by (Printed Name)

PRADIA

C. Date of Delivery

*10/25/4*D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

-
- Certified Mail
-
- Express Mail
-
-
- Registered
-
- Return Receipt for Merchandise
-
-
- Insured Mail
-
- C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7002 3150 0005 4315 4064

Domestic Return Receipt

102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Chief Deputy Rodney Pentecost
 Fort Bend Constable Pct. 2
 303 Texas Parkway
 Missouri City, TX 77459

2.

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *PRADIA*

-
- Agent
-
-
- Addressee

B. Received by (Printed Name)

PRADIA

C. Date of Delivery

*10/25/4*D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

-
- Certified Mail
-
- Express Mail
-
-
- Registered
-
- Return Receipt for Merchandise
-
-
- Insured Mail
-
- C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

4057

Domestic Return Receipt

102595-02-M-1540

IA/PSD CASE REPORT

IA/PSD#: 130006

System #: 13

The information contained in this report is CONFIDENTIAL.**File Class:** ADMIN REVIEW**Date Occurred:** 03/13/2013**Date Reported:** 04/04/2013**Comp Type:** DEPARTMENTAL**Time Occurred:** 0800**Time Reported:** 0800**Location:** 3845 CARTWRIGHT RD
MISSOURI CITY TX**Beat:** **Zone:** B**Date IA/PSD:** 04/04/2013 **Date to Chain:****Date to Chief:****Date Expired:****Status:** Closed**Status Date:** 09/18/2015**Assnd To:** MCCLELLAN, J. B.

ASSOCIATED NAMES

IE SMITH, DARYL L

Sex:M Race:B Action:NONE

ALLEGED RULE OF CONDUCT VIOLATED-----CLOSURE

Code Of Conduct

Pending

SUMMARY/NOTES

Administrative Inquiry into possible misconduct while assigned as Municipal Court Bailiff.
[04/04/2013 16:25, JBM697, 3, MCPD]

IA/PSD (MCPD 13-0006) Tracking

Time	Action	Description	Officer	Time Spent (Mins)
09/18/2015 14:23	CLOSED	CLOSED (Case status was changed to CLOS)	WILLIAMS, D. G.	5.00
09/18/2015 14:21	UNFOUNDED	UNFOUNDED-verbal counseling. [09/18/2015 14:22, DGW404, 96, MCPD] (Case status was changed to UNFO)	WILLIAMS, D. G.	5.00
09/18/2015 14:15	CLOSED	CLOSED-This review was closed with a verbal warning. [09/18/2015 14:15, DGW404, 96, MCPD]	WILLIAMS, D. G.	5.00
04/30/2013 10:24	INVESTIGATION	Will be checking on the status of this investigation on this date [04/30/2013 10:25, JBM697, 3, MCPD] (Case status was changed to OPEN)	MCCLELLAN, J. B.	0.00
04/05/2013 13:00	STATEMENT	STATEMENT OBTAINED FROM SERGEANT SMITH OF HIS INVOLVEMENT IN THE COMPLAINT [04/08/2013 07:48, JBM697, 3, MCPD]	MCCLELLAN, J. B.	15.00
04/04/2013 17:01	INVESTIGATION	DRAFTED NOTIFICATION AND COMPLAINT LETTER [04/04/2013 17:02, JBM697, 3, MCPD] (Case status was changed to INV)	MCCLELLAN, J. B.	20.00
04/04/2013 17:00	FORMAL	FORMAL COMPLAINT RECEIVED FROM THE OFFICE OF THE CHIEF OF POLICE [04/04/2013 17:01, JBM697, 3, MCPD]	MCCLELLAN, J. B.	30.00
Total Time Spent in Minutes:				80.00



Police

Joel Fitzgerald
Chief Administrator



Subject: **Complainant Statement**
Complainant: Office of the Chief of Police
Subject Employee: Sergeant Daryl Smith
PSI Number: 13-0006
Date: 04/04/2013

An internal complaint has been adopted by the Office of the Chief of Police for the alleged violation of Policy 10-01 Code of Conduct G.6.e(Civil,Criminal,Judicial and Investigative Action), which states, Employees shall not engage in any of the following conduct: (e) taking any other action which interferes with the efficiency or integrity of the administration of criminal justice.

If you have any questions concerning this investigation you may contact the investigator assigned, the Administrative Captain, the Assistant Chief of Administration or the Chief of Police. You are reminded to follow the chain of command as described above with any lawful order directed to you.

Signature of Complainant

Signature of Reviewing Investigator



Police

Joel Fitzgerald
Chief Administrator



Subject: **Notification Letter**
Subject Employee: Sergeant Daryl Smith
Assigned Investigator: Sergeant Jay McClellan
PSI Number: 13-0006
Date: 04/05/2013

The purpose of this correspondence is to inform you that I have been assigned to conduct a professional standards investigation reference a complaint made against you adopted by the Chief of Police. The alleged policy violations are as follows:

Policy 10-01 Code of Conduct G.6.e(Civil,Criminal,Judicial and Investigative Action)

You are hereby instructed not to speak with anyone concerning this investigation other than myself, Captain John Bailey, Assistant Chief Keith Jemison or your legal representative. Feel free to contact me should you have questions or need clarification. Attached to this notification is the complaint authorizing said investigation. You are instructed to report to Assistant Chief Jemison's office at 0930 hours on April 5, 2013 to respond to the allegation and provide a written statement.

Signature of Subject Employee

Signature of Investigator



Police

Joel Fitzgerald
Chief Administrator



Subject: Notification Letter

Subject Employee: Sergeant Daryl Smith

Assigned Investigator: Sergeant Jay McClellan

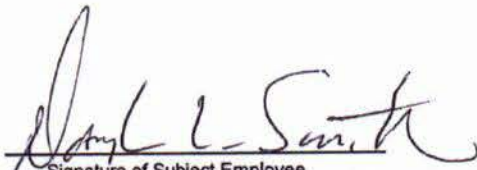
PSI Number: 13-0006

Date: 04/05/2013

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Policy 10-01 Code of Conduct G.6.e(Civil,Criminal,Judicial and Investigative Action)

You are hereby instructed not to speak with anyone concerning this investigation other than myself, Captain John Bailey, Assistant Chief Keith Jemison or your legal representative. Feel free to contact me should you have questions or need clarification. Attached to this notification is the complaint authorizing said investigation. You are instructed to report to Assistant Chief Jemison's office at 0930 hours on April 5, 2013 to respond to the allegation and provide a written statement.


Signature of Subject Employee


Signature of Investigator



Police

Joel Fitzgerald
Chief Administrator



Subject: **Complainant Statement**
Complainant: Office of the Chief of Police
Subject Employee: Sergeant Daryl Smith
PSI Number: 13-0006
Date: 04/04/2013

An internal complaint has been adopted by the Office of the Chief of Police for the alleged violation of Policy 10-01 Code of Conduct G.6.e(Civil,Criminal,Judicial and Investigative Action), which states, Employees shall not engage in any of the following conduct: (e) taking any other action which interferes with the efficiency or integrity of the administration of criminal justice.

If you have any questions concerning this investigation you may contact the investigator assigned, the Administrative Captain, the Assistant Chief of Administration or the Chief of Police. You are reminded to follow the chain of command as described above with any lawful order directed to you.

Signature of Complainant

Signature of Reviewing Investigator



Police

Joel Fitzgerald
Chief Administrator



Subject: Employee Response Letter
Subject Employee: Sergeant Daryl Smith
Assigned Investigator: Sergeant Jay McClellan
PSI Number: 13-0006
Date: 04/05/2013

To: Assistant Chief Keith Jemison
Sergeant Jay McClellan
Reference: PSI Number 13-0006
Date: 04/05/2013
From: Sergeant Daryl L. Smith

On March 13th 2013, I worked bailiff at the Missouri City Municipal Court. It has been alleged that I violated a City policy.

While working the bailiff position, before letting the people inside the court, I advised them to turn cell phone off or on vibrate, no hats, shorts, no gum and do not lean on the Judge's bench. People will then ask questions about why they are here. I will answer them by saying, "If you feel you are not guilty, then plea not guilty and you can ask the for a trial by Judge or jury". I have stated to people, "We do not write the ordinance we enforce them".

It was asked, did I remember talking to someone who showed me a picture of a vehicle in the driveway, then asked do we go on private property? I do remember someone asking that question. My response was, "We as police officers do not unless we have a reason". The guy asked something else and my response was if you feel not guilty then plea not guilty, and your choice is to have a trial by Judge or jury.

It was stated this morning, someone stated, I told someone about their Fourth Amendment rights. I have never mentioned anything to anybody about Fourth Amendment rights.

Sgt. Daryl L. Smith #266

Signature of Subject Employee

Signature of Investigator

Jay B. McClellan

From: Jay B. McClellan
Sent: Friday, April 05, 2013 7:47 AM
To: Keith Jemison; John Bailey
Cc: Jay B. McClellan
Subject: Notification

I notified Sergeant Daryl Smith this morning at 0715 hours of the administrative review (inquiry) into the incident that occurred in March. He was instructed to be in your office (Chief Jemison) at 0930 hours to answer to the allegations. He asked me several questions about the investigation I was unable to answer not knowing full details.

Wanted to let you know this was completed this morning.

IA/PSD CASE REPORT

IA/PSD#: 130015

System #: 22

The information contained in this report is CONFIDENTIAL.

File Class: CLASS II	Date Occurred: 08/30/2013	Date Reported: 08/30/2013
Comp Type: CITIZEN	Time Occurred: 0746	Time Reported: 0746
Location: 4704 WAVERTREE DR MISSOURI CITY TX	Beat:	Zone: B
Date IA/PSD: 08/30/2013	Date to Chain:	Date to Chief:
Date Expired:		
Status: Unfounded	Status Date: 10/16/2014	Assnd To:

ASSOCIATED NAMES

CO FEW, JOHNATHIAN L	Sex:M Race:B Age:38 4019 FLORAL WAY CT
IE LAMPE, BEN A	Sex:M Race:W Action:NONE
IE SMITH, DARYL L	Sex:M Race:B Action:NONE

SUMMARY/NOTES

No summary added

IA/PSD (MCPD 13-0015) Tracking

Time	Action	Description	Officer	Time Spent (Mins)
10/16/2014 08:16	UNFOUNDED	UNFOUNDED	WILLIAMS, K. D.	15.00
		The original complaint in thi sinvestigation ahs been ruled as UNFOUNDED. However, during the investigation, violations of policy were discovered and ruled as sustained. Discipline was rendered. [10/16/2014 08:23, KDW823, 456, MCPD] (Case status was changed to UNFO)		
09/12/2013 16:33	FORMAL	FORMAL COMPLAINT RECEIVED. On said date and time I met with Mr. Few at the Missouri City Police Department, at which time he presented a two page typed letter, serving as his official complaint. I read the complaint, but did not see any need to address it's content, because of the extensive investigation that was previously conducted. I did however, ask Mr. Few if the information was trauthful, to which he replied "yes". I asked Mr. Few if he needed to add any additional information or exclude any information and he replied "no". I then asked Mr. Few to sign the document, at which time I notarized and signed the document. The document was then turned over to Supervisor Curry. [09/12/2013 16:38, PXE336, 23, MCPD]	ENGLISHBEE, P.	0.15
Total Time Spent in Minutes:				<u>15.15</u>

IA/PSD CASE REPORT

IA/PSD#: 130015

System #: 22

The information contained in this report is CONFIDENTIAL.

File Class: CLASS II

Date Occurred: 08/30/2013

Date Reported: 08/30/2013

Comp Type: CITIZEN

Time Occurred: 0746

Time Reported: 0746

Location: 4704 WAVERTREE DR
MISSOURI CITY TX

Beat: **Zone:** B

Date IA/PSD: 08/30/2013 **Date to Chain:**

Date to Chief:

Date Expired:

Status: Unfounded

Status Date: 10/16/2014

Assnd To:

ASSOCIATED NAMES

CO FEW, JOHNATHIAN L

Sex:M Race:B Age:38 4019 FLORAL WAY CT

IE LAMPE, BEN A

Sex:M Race:W Action:NONE

IE SMITH, DARYL L

Sex:M Race:B Action:NONE

SUMMARY/NOTES

No summary added

IA/PSD (MCPD 13-0015) Tracking

Time	Action	Description	Officer	Time Spent (Mins)
10/16/2014 08:16	UNFOUNDED	UNFOUNDED The original complaint in thi sinvestigation ahs been ruled as UNFOUNDED. However, during the investigation, violations of policy were discovered and ruled as sustained. Discipline was rendered. [10/16/2014 08:23, KDW823, 456, MCPD] (Case status was changed to UNFO)	WILLIAMS, K. D.	15.00
09/12/2013 16:33	FORMAL	FORMAL COMPLAINT RECEIVED. On said date and time I met with Mr. Few at the Missouri City Police Department, at which time he presented a two page typed letter, serving as his official complaint. I read the complaint, but did not see any need to address it` s content, because of the extensive investigation that was previously conducted. I did however, ask Mr. Few if the information was trauthful, to which he replied "yes". I asked Mr. Few if he needed to add any additional information or exclude any information and he replied "no". I then asked Mr. Few to sign the document, at which time I notarized and signed the document. The document was then turned over to Supervisor Curry. [09/12/2013 16:38, PXE336, 23, MCPD]	ENGLISHBEE, P.	0.15
Total Time Spent in Minutes:				15.15

IA/PSD CASE REPORT

IA/PSD#: 140014

System #: 42

The information contained in this report is CONFIDENTIAL.

File Class: CLASS II

Date Occurred: 04/08/2014

Date Reported: 05/08/2014

Comp Type:

Time Occurred:

Time Reported:

Location: 11800 MCLAIN BLVD
MISSOURI CITY TX

Beat: Zone: A

Date IA/PSD: 05/09/2014 Date to Chain: 05/09/2014

Date to Chief: 05/09/2014

Date Expired:

Status: Sustained

Status Date: 09/30/2015

Assnd To: ENGLISHBEE, P.

ASSOCIATED NAMES

CO MORRIS, ROGER C	Sex:M Race:W Age:75	15426 W RITTER CIR
CO ORLOFF, BERNARD	Sex:M Race:W Age:73	11802 S PERRY AVE
CO ORLOFF, SHERYL R	Sex:U Race:W Age:66	11802 S PERRY AVE
CO BURKS, NELLIE	Sex:F Race:W Age:83	11822 S WILLOW CIR
WI KUENZEL, VALERIE	Sex:F Race:W Age:	11734 N LITTLE JOHN CIR
IE SMITH, DARYL L	Sex:M Race:B Action:NONE	

SUMMARY/NOTES

No summary added

IA/PSD (MCPD 14-0014) Tracking

Time	Action	Description	Officer	Time Spent (Mins)
09/30/2015 08:31	SUSTAINED	SUSTAINED- Previous "Not Sustained" entry was made in error. [09/30/2015 08:32, PXE336, 23, MCPD] (Case status was changed to SUST)	ENGLISHBEE, P.	1.00
09/29/2015 12:15	NOT SUSTAINED	NOT SUSTAINED (Case status was changed to NOTS)	ENGLISHBEE, P.	1.00
05/13/2014 15:58	STATEMENT	STATEMENT from Valerie Keunzel finalized and notarized following phone interview on May 12, 2014. [05/13/2014 16:00, PXE336, 23, MCPD]	ENGLISHBEE, P.	0.20
05/12/2014 09:00	INTERVIEW	INTERVIEW [05/13/2014 16:00, PXE336, 23, MCPD- I conducted interviews with the complainants and verified their individual statements. [05/13/2014 16:02, PXE336, 23, MCPD]	ENGLISHBEE, P.	1.30
05/09/2014 09:57	PHONE CALL	PHONE CALL CONDUCTED- I contacted each complainant and scheduled interviews with them. [05/09/2014 09:59, PXE336, 23, MCPD]	ENGLISHBEE, P.	0.05
05/08/2014 09:57	FORMAL	FORMAL COMPLAINT RECEIVED	ENGLISHBEE, P.	0.01
Total Time Spent in Minutes:				3.56



Police

**Michael Berezin (Interim)
Chief of Police**



Memorandum

To: Officer Sergeant D. Smith
From: Chief Michael Berezin
CC: Assistant Chief Keith Jemison
Captain Lance Bothell
Date: May 30, 2014
Re: PSI Complaint # 14-00014

LETTER OF DISCIPLINE

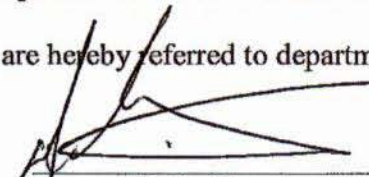
The Missouri City Professional Standards Division has investigated the above mentioned complaint and the charges along with their results are as follows:

Policy 10-01 Code of Conduct V. D. 28	Unbecoming Conduct
Policy 10-01 Code of Conduct V.D.2	Discourteous Temperament Actions
Policy 30-16 Mobile Video Recording III.A.4	Fail to Activate

The results of this investigation were presented to the Chief of Police, who, upon review, accepted the findings of the investigating officer and now invokes the following discipline:

You will be suspended for twenty ^{KTS} days (20 hours) without pay. The suspension date will begin on June 16th at 0600 hrs and end on June 17th, 2014 at 1600hrs. You are hereby directed to surrender your police identification, police badge and city issued handgun to your supervisor at the start of your suspension at 0600 hrs on June 16th. Your supervisor will return these items at the end of your suspension. During your suspension you are relieved of all official police authority. Additionally, you are hereby ordered to be subject to the provisions of a Performance Improvement Plan (PIP) for a six month period.

You are hereby referred to department policy regarding an appeal of this decision.


Sergeant D. Smith


Mike Berezin, Chief of Police



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Interim Chief of Police



MEMORANDUM FOR RECORD

To: Michael Berezin, Chief of Police

From: Keith Jemison, Assistant Chief of Police

Date: May 30, 2014

Subject: Sergeant Daryl Smith Disciplinary Recommendation

I have reviewed the circumstances surrounding encounters that occurred on April 8, 2014 and May 3rd 2014 involving Sergeant Daryl Smith. After reviewing the investigation, I am satisfied with it as to form and content. Please see my findings and recommendations below along with the attached investigation and supporting documentation.

With specific regard to the May 3rd, 2014 incident, the details surrounding the encounter are somewhat in dispute. The following details however, are not in dispute:

- Sergeant Smith responded to a personal entreaty by [REDACTED] ^{11/7/14} regarding a civil dispute, while on duty and driving a marked MCPD vehicle.
- Sergeant Smith was aware of an acrimonious situation and had prior conflict with those involved and still responded to the situation rather than addressing the situation either when he was off duty or waiting until a less contentious time.
- During his response, Sergeant Smith subsequently became involved in an interaction that later deteriorated and involved several witnesses.
- At some point during the interaction, Sergeant Smith verbally asserted his police authority even though he was there under the premise of a private and civil matter wholly unrelated to the responsibilities of his employment.
- At one point during the interaction, Sergeant Smith activates his vehicle camera pursuant to his police authority to record the interaction and subsequently turns it off without capturing the entire encounter.
- Sergeant Smith alerts dispatch that he would be out "for a sec" thereby causing dispatch staff to place him on a field investigation that he subsequently clears without properly correcting it to a more appropriate code or giving details. That "sec" ended forty-five (45) minutes later.



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As I evaluated the investigation, while some of the details are somewhat disputed, there are themes and commonalities that begin to emerge. Several of the complainants and witnesses describe occasions of behavior on the part of Sergeant Smith, with similar descriptors including the words arrogant, intimidating, and bullying. The occasions described are not exclusive to the circumstances covered by this investigation. These words are troubling especially since they are being attributed to a supervisor whose behaviors should be dedicated to and modeling the tenets, mission, and vision of the Missouri City Police Department, particularly while on duty.

Even taking into consideration that there is a prior acrimonious relationship between Sergeant Smith and the complainants, this still doesn't account for the similar content of the statement provided by another witness (Kuenzel), who is not a complainant, and who appears to support Sergeant Smith generally, but indicates that she too feels that he "bullied" her and that he had "stepped over the line". Kuenzel describes Sergeant Smith interrupting her performing other duties and saying "I need to see you right now" and after being advised that he would have to wait his turn, saying to her "I want my pool tag, how long are you going to be?" Kuenzel continues to describe Smith's demeanor as very "agitated". Kuenzel describes Sergeant Smith as having acted "unprofessionally", and being "fit to be tied". She stated that she was of the opinion that he used his position as a police officer to intimidate and that his "temper and attitude" shown on May 3rd.

While I am reticent to give full faith and credit to the statements of the witnesses with which Sergeant Smith has had prior negative interactions with, I cannot completely discount those areas of the statements that coincide with Kuenzel's assessment of Sergeant Smith's actions and behaviors on that day. Further, Sergeant Smith's mere retorts that the statements are "lies" aren't enough to shift my belief that his actions were inappropriate given his position and responsibilities within this and any other police organization. At least one witness (Jramail Tyler) identified by Sergeant Smith as likely to be supportive of his position gave a written statement that was materially contradictory to even Smith's statement.

Within the prior twelve months, Sergeant Smith has been disciplined for multiple violations of the policies of the Missouri City Police Department. In part, the disciplinary analysis included the notion that "a police supervisor's responsibilities may cover a variety of tasks and your position is held accountable for decisions made, balancing the police culture, statutory laws and agency policies." It further admonishes that "a critical aspect of your responsibility of this position is to maintain a working environment and keep the priorities and perspectives in balance for both professional and personal relationships...". Frankly, I am concerned that the circumstances surrounding this investigation demonstrates that Sergeant Smith still has not fully embraced this concept and that without the expected requisite understanding that goes along with it, he is likely to repeat behaviors that mirror the behaviors previously disciplined for.



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I am supportive of the following charges with the listed outcomes:

Policy 10-01 Code of Conduct V.D.2 Discourteous-Temperament Actions	Sustained
Policy 10-01 Code of Conduct V.D. 23 Use of Position/Identification for Personal Gain	Not Sustained
Policy 10-01 Code of Conduct V.D. 28 Unbecoming Conduct	Sustained
Policy 30-16 Mobile Video Recording Fail to Activate	Sustained

I am making a recommendation that Sergeant Smith receive forty (40) hours suspension without pay. This recommendation takes into the consideration his prior discipline for the same length of time and for a similar violation. It should be noted that I am concerned that this behavior on the part of Sergeant Smith seems to be a part of a continuing pattern of behavior whereby he fails to separate professional and personal responsibilities and relationships. This behavior is particularly concerning given his position and tenure within that position. Left unaddressed, it is likely that his behavior will continue and ultimately will have a detrimental effect on good order within the organization.

A part of my recommendation necessarily includes Sergeant Smith be ordered to be placed under the supervision of a strict Performance Improvement Plan (PIP) that details a weekly review of his work performance by at least the shift lieutenant, as well as an articulated expectation of immediate improvement. The PIP should be authored with provisions outlining potential outcomes in the event of success not being achieved. Ultimately, the disciplinary sanctions and/or tools are designed for behavior or performance modification and are done in the spirit of positioning Sergeant Smith for future success.



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Subject: Professional Standards Investigation (PSI) Results
Subject Employee: Sgt. Daryl Smith
Assigned Investigator: Sergeant Phillip Englishbee
PSI Number: 14-0014
Date: May 28, 2014

On May 09, 2014, I Sergeant Phillip Englishbee was assigned the above mentioned Professional Standards Investigation (PSI) and served Sergeant Daryl Smith the Notification Letter on May 15, 2014, charging him with allegedly violating departmental policies in regards to a Fondren Park Home Owners Association (HOA) Meeting he attended on April 08, 2014 and a Field Investigation he conducted on May 03, 2014 at the Fondren Park club house located at 11800 McLain Blvd. The policies in question are;

Policy 10-01 Code of Conduct V.D.2 (Discourteous-Insulting Language / Temperament Actions)
Policy 10-01 Code of Conduct V.D.23 (Use of Position / Identification for Personal Gain)
Policy 10-01 Code of Conduct V.D.28 (Unbecoming Conduct)
Policy 30-16 Mobile Video Recording III.A.4 (Fail to Activate MVR)

On May 27, 2014, additional alleged policy violations against Sergeant Smith regarding this PSI were brought to my attention by Supervisor Robert Girndt, who stated Sergeant Smith, on the morning of May 27, 2014, entered his office and requested to listen to audio recordings between he and dispatch on May 03, 2014. As a result of his actions, Sergeant Smith violated a direct order, not to communicate with anyone other than myself, Captain Kevin Williams or Assistant Chief Keith Jemison, regarding the PSI. The policy violations being investigated as a result of his actions are;

Policy 10-01 Code of Conduct V.B.1 (Disobey Law, Policy, etc)
Policy 10-01 Code of Conduct V.G.4 (Interfere with Operations)

On May 28, 2014, I served Sergeant Smith, in the presence of Assistant Chief Keith Jemison, the second Notification Letter, outlining the additional alleged policy violations.



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The meeting took place in Assistant Chief Jemison's office, at which time the two policy violations were discussed and handled by means of counseling, whereas Sergeant Smith was told to adhere to the orders of Notification Letters and not to conduct his own investigation pertaining to Professional Standards Investigations.

In regard to the four original alleged policy violations, on May 08, 2014, the day prior to my assignment to this PSI, I met with Mr. Roger Morris, the president of the Fondren Park HOA, in the lobby of the Missouri City Police Department. Mr. Morris presented an envelope containing statements from him and three other residents of Fondren Park, who wanted to file a complaint against Sergeant Smith. I took possession of the envelope, at which time I obtained additional information from Mr. Morris and then explained to him I would review the four statements then contact him and the remaining complainants the following day, to arrange an interview date with each of them. On May 09, 2014 after reviewing the statements, I contacted Mr. Morris, along with Mrs. Nellie Burks, Mr. Bernard Orloff and Mrs. Sheryl Orloff, at which time I arranged separate interview times for each person, to be conducted on May 12, 2014.

The first appointment on May 12, 2014 was with Mr. Morris. I advised Mr. Morris I read his complaint and asked him if there was anything else he wanted to add to it or subtract from it. He advised there wasn't, and further stated the information was truthful. I then handed Mr. Morris a Perjury & Written Statement Notification form, instructing him to read the form in its entirety, then sign and print his name, which he did. I then notarized his statement and began my interview with him. In his statement, Mr. Morris identifies his complaint against Sergeant Smith as "conduct unbecoming an officer", stating his conduct at the monthly Fondren Park HOA meeting on April 08, 2014 was arrogant, intimidating and inexcusable. I first asked Mr. Morris why, if the event took place on April 8th, he was just now reporting the issue a month later, to which he replied "I did not know how to handle it properly". Mr. Morris further stated, after the May 3rd event involving the other three complainants occurred, it triggered him to complain. He stated, after hearing they were harassed by Sergeant Smith, he realized perhaps there was a potential pattern with Sergeant Smith, and thought it should be brought into the open.

The basis of Mr. Morris' complaint revolves around a presentation timeframe, whereas Sergeant Smith, who was the acting police department liaison for the Fondren Park HOA at the time, attended the meeting to present crime stats and to discuss other police related issues, if there were any. Mr. Morris stated there hasn't been a specific amount of time allotted to Sergeant Smith for speaking purposes, but typically his reports take between 5 - 7 minutes. He stated Sergeant Smith, after presenting the crime stats began talking



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about topics on his own, that were possibly police and deed restriction related, but could not recall exactly. Mr. Morris said he asked Sergeant Smith to “wind it down” due to a scheduled closed door Board meeting, at which time Sergeant Smith continued to talk and conduct what amounted to be his own meeting, having “brushed him off” as explained by Mr. Morris. Mr. Morris stated Sergeant Smith continued speaking for at least 10 minutes, at which time he advised Sergeant Smith he must close down due to the other scheduled meeting. Mr. Morris stated he did not want to become confrontational with Sergeant Smith; therefore he’d taken a step back before once again trying to regain control of the meeting. He stated Sergeant Smith was out of line and did not apologize for monopolizing their time.

When I asked Mr. Morris to describe or explain why he felt Sergeant Smith was acting arrogant, he said it was because he felt that Sergeant Smith thought it was his right to talk as long as he wanted and that he was in charge of the meeting, as opposed to the Board President (Mr. Morris) being in charge. In regard to Sergeant Smith’s intimidating factor, Mr. Morris said it was in sense of his (Sergeant Smith’s) command presence, but did not elaborate further. Mr. Morris provided no other details in reference to his complaint against Sergeant Smith, but stated he wants Sergeant Smith warned and counseled for his actions. He stated he wanted Sergeant Smith removed as the Fondren Park HOA liaison and that future attendance by Sergeant Smith at HOA meetings be done so in plain clothes, not in uniform.

Sergeant Smith’s written statement in reference to the statement given by Mr. Morris stated Mr. Morris was not correct, and requested I speak with Councilwoman Ford and others who were present at the HOA meeting, regarding his professionalism. When I interviewed Sergeant Smith about this portion of the complaint, he stated he did attend the April 08, 2014 HOA meeting and was on the agenda to speak. Sergeant Smith advised he spoke and answered questions for approximately 5-10 minutes. Sergeant Smith at this time did not recall Councilwoman Ford being present, as originally stated in his written statement, but said if she was there, she would have spoken first. Regardless, I reached out to Councilwoman Ford via email on May 22, 2014. The email I sent to her was;

“Councilwoman Ford,

I am currently conducting an Internal Affairs investigation against Sergeant Daryl Smith, whereas the substance of the complaint against him is “Unbecoming Conduct”, with one alleged incident occurring at a Fondren Park HOA meeting on April 08, 2014. In his



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statement, Sergeant Smith identified you as being present at the meeting and a possible witness to his actions, and requested I speak with you in that regard. If you wish to provide insight, feel free to contact me at 713-837-6201, it shouldn't take more than a couple of minutes. If you do not wish to be involved, simply reply to this email, stating so, if you don't mind."

I did not receive a call or any other reply from Councilwoman Ford regarding my email to her. In terms of the length of discussion, Sergeant Smith stated his presentation length has always been based on the amount of information needing to be presented, and any discussion, comments or questions that follow. Sergeant Smith said Mr. Morris never asked him to bring his presentation to a close and that he did not "brush" Mr. Morris off, nor did he conduct what amounted to be his own meeting, as stated by Mr. Morris. Sergeant Smith said he was never "out of line" as stated by Mr. Morris, and that the statement made that his conduct was arrogant, intimidating and inexcusable, is a lie.

In addition to the April 8th HOA complaint against Sergeant Smith, three additional complaints in reference to the same alleged policy violations were received, stemming from a civil issue that occurred on May 03, 2014 at the Fondren Park club house located at 11800 McLain Blvd. On said date, while on duty in uniform and operating a marked Missouri City Police Department vehicle, Sergeant Smith, after receiving a call from [REDACTED], advised Missouri City dispatch at 10:37 hours, he would be out for a second at the Fondren Park club house. Sergeant Smith's response was based on a civil issue pertaining to the issuance of swimming pool tags being presented to residents of Fondren Park for the upcoming summer season, whereas [REDACTED] were being denied pool tags. Sergeant Smith's alleged actions on that date and time brought about the complaint from three Fondren Park representatives, identified as Mrs. Nellie Burks, Mr. Irvin Bernard Orloff and Mrs. Sheryl Orloff. Sergeant Smith was adamant he advised dispatch to place him on a premise check, however the Unit Activity Report and Event Report indicates dispatch placed him on a field investigation, due to a lack of communication on his part when checking out on scene, as well as a lack of observation as to his busy status code when clearing the event 45 minutes later. Regardless of whether or not the correct busy status code was used, both premise check and field investigations are deemed "official police business", thus requiring the use of mobile video recording when necessary, as stated in policy. Sergeant Smith however, with the belief he was not conducting official police business the entire time, failed to activate his mobile recording device at key moments as required by policy. Therefore, there is no audio or subsequent video recording of the conversations between the complainants and Sergeant Smith.

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In an effort to save repeating information, the circumstances as stated by all three complainants in their individual written statements, state Sergeant Smith's [] after being advised she could not be issued summer swimming pool tags due to the fact she was not an active resident of Fondren Park, called [] (Sergeant Smith) who later arrived on location. Sergeant Smith, along with [] owns a residence located at [] however neither of them resides at said residence, but rents the property to an additional [] Sergeant Smith's actions while on scene are the foundation for the complaints, not the civil issue between him and the Fondren Park HOA.

Release

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I conducted interviews with each complainant on May 12, 2014, first speaking to Mrs. Burks. Mrs. Burks confirmed she was assisting with issuing pool tags on May 3rd at the Fondren Park club house, when the altercation between her, the other complainants and Sergeant Smith occurred. I advised Mrs. Burks I read her complaint and asked her if there was anything else she wanted to add to it or subtract from it. She advised there wasn't, and further stated the information was truthful. I then handed Mrs. Burks a Perjury & Written Statement Notification form, instructing her to read the form in its entirety, then sign and print her name, which she did. I then notarized her statement and began my interview with her.

Mrs. Burks stated, after Sergeant Smith's [] called him, and everyone expected him to show up. She said when [] doesn't get her way, she calls [] so they knew it was coming and that Sergeant Smith would arrive "shortly", which he did, approximately 10 minutes after the phone call was made. Mrs. Burks stated, Sergeant Smith "stormed" into the building, leaving his patrol car parked in front of the door with the engine running. She stated he was ranting he was a property owner and that he could have pool tags or else he would sue. Mrs. Burks could not recall the names of other residents who were in line being helped, but stated Sergeant Smith "butted" in front of them in "bullying and intimidating" manner and was obnoxious towards her while she was distributing the pool tags. She stated Sergeant Smith at that point, moved behind her, at which time she stood up to face him. She said Sergeant Smith pointed his finger at her and told her "you listen to me", at which time she replied, "No, you listen to me". Mrs. Burks stated she told Sergeant Smith they were being denied pool tags because they were not residents of Fondren Park, a requirement that's listed on the pool tag application form.

Release

Mrs. Burks stated Sergeant Smith at some point, interrupted Valerie Kuenzel, the Fondren Park HOA Vice President, who was at the club house in a separate room,



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conducting unrelated pool tag business with other residents. Mrs. Burks stated it would be hearsay on her part since their conversation took place in another room, but believes Mrs. Kuenzel told Sergeant Smith the same thing, but that Sergeant Smith told her he wanted his pool tags and wanted them then. Mrs. Burks stated Mrs. Kuenzel later entered the room where the pool tags were being distributed, with a signed pool tag application, at which time instructions were given to issue 8 pool tags to Sergeant Smith and [REDACTED]. She stated it wasn't her choice to issue the tags, it was Mrs. Kuenzel who made the decision, but had it been, she would not have issued them.

Mrs. Burks stated when Sergeant Smith's [REDACTED] stepped forward to collect the pool tags from Mr. Orloff, [REDACTED] called Mr. Orloff an uneducated old man. When Mr. Orloff stood up to hand [REDACTED] the pool tags, she stated Sergeant Smith said "I'm acting as a police officer now, Bernard, you sit down". She stated Sergeant Smith was acting like a bully and overstepped his authority. Mrs. Burks said his conduct was unbecoming and that Sergeant Smith was a poor representation of the Missouri City Police Department. Mrs. Burks further stated his behavior was unacceptable and that Sergeant Smith reminds her of "Banty Rooster", who "struts" around as if he's "mister important". Mrs. Burks explained the incident was not the first run in she's had with Sergeant Smith, stating two years prior during a Water Board election that [REDACTED] lost, Sergeant Smith accused her and the election judge in front of other people, of telling the voters how to cast their vote.

Mrs. Burks stated she is not a dishonest person and fully expects retaliation from the Smith [REDACTED] due to the complaint being filed. When I asked her why she felt there would be retaliation, she stated "it's just a feeling I have". She stated she doesn't know what form of retaliation it would be, but anything wouldn't surprise her. When asked, Mrs. Burks said Sergeant Smith's attitude and other manners need to be addressed due to his "bullying" nature. She stated he uses his position as a police officer to intimidate others into getting what he wants, and that she has had those feelings about Sergeant Smith for a very long time. Mrs. Burks stated she would hate to see Sergeant Smith lose his job, and feels a written reprimand would be appropriate discipline, but that he needs to "clean up his act".

In his response to Mrs. Burk's statement, Sergeant Smith said when he arrived at the club house, he parked legally in the curved portion of the parking lot that has no specific designation and that Mrs. Burk's statement was "grossly inaccurate".



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My second interview on May 12, 2014 was with Mr. Irvin Bernard Orloff. I advised Mr. Orloff I read his complaint and asked him if there was anything else he wanted to add to it or subtract from it. He advised there wasn't, and further stated the information was truthful. I then handed Mr. Orloff a Perjury & Written Statement Notification form, instructing him to read the form in its entirety, then sign and print his name, which he did. I then notarized his statement and began my interview with him.

Mr. Orloff, on two occasions in his written statement, refers to himself in third person, which prompted me to ask him if someone else wrote his statement. He stated his wife typed the statement for him as he provided the information, due to poor eyesight. Mr. Orloff provided the same information that led to the initial arrival of Sergeant Smith. He stated Sergeant Smith entered the clubhouse shouting at the pool tag committee, that he was there to get his pool tags. Mr. Orloff described Sergeant Smith's tone of voice as disruptive, very loud and direct. He said Sergeant Smith has a "mush mouth", meaning he "rambles" on and on, and that he continued to shout and wave his arms in a disruptive manner, until he stepped outside to call Valerie Kuenzel, not knowing she was on location in a separate room. Mr. Orloff, stated when Sergeant Smith stepped outside to make the phone call, he followed him in order to ask him a question about an incident that happened in the Fondren Park clubhouse parking lot on April 30, 2014. Mr. Orloff said Sergeant Smith asked him to step in front of his vehicle so their conversation could be recorded on video tape. He said he declined to do so because he felt he was being harassed due to the fact he hadn't done anything wrong. This mentioned encounter with Mr. Orloff, is the only brief audio/video recording of the entire 45 minute field investigation, whereas Sergeant Smith activated his body mic at 10:46 hours and then turns it off at 10:48 hours. The only conversation recorded picks up during Mr. Orloff's and Sergeant Smith's discussion about a Water Board issue, at which time you can hear Mr. Orloff refusing to discuss the issue any further with Sergeant Smith, and Sergeant Smith advising Mr. Orloff he would address the issue if need be. The conversation took place out of view of the camera, and the portion of the conversation that Mr. Orloff states he was asked to step in front of the camera, was not recorded.

Mr. Orloff stated he stepped back into the club house where the other pool tag committee members were, at which time Sergeant Smith asked him if he got the citation. He stated he did not know what Sergeant Smith was talking about, but felt as if he was being threatened by Sergeant Smith. Mr. Orloff said his wife asked Sergeant Smith to explain what he meant, but he did not provide an explanation. Following that conversation, Mr. Orloff said Sergeant Smith, after realizing Mrs. Kuenzel was on location, stepped into the room where she was at without recognizing the other people she was assisting, and



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interrupted her. He stated Sergeant Smith's [redacted] entered the room as well and were very disruptive, preventing Mrs. Kuenzel from completing the business with the other residents she was assisting. He said Mrs. Kuenzel, after finishing with the other residents, addressed Sergeant Smith and [redacted]; however Sergeant Smith remained loud and very abusive. Mr. Orloff stated Mrs. Kuenzel exited the room where she was at, stating "we don't want a lawsuit", and after making changes to the pool tag application form to reflect correct [redacted] who in-turn would be entitled to receive pool tags, instructed the pool tag committee to issue 8 pool tags to [redacted]. During the process of asking Sergeant Smith's [redacted] and [redacted] to verify the pool tags, he stated the [redacted] called him and old ignorant man. Mr. Orloff stated Sergeant Smith at that time announced from across the room, he was a Missouri City police officer and that he (Mr. Orloff) needed to sit down, having stood to hand [redacted] their pool tags.

Mr. Orloff stated Sergeant Smith was completely out of line by asking him to sit down, and that he has shown that particular attitude many times, both when running for the Constable position and when [redacted] ran for the Fondren Park Water Board. Mr. Orloff stated Sergeant Smith is always disruptive when issues arise, dealing with [redacted]. He stated Sergeant Smith in his opinion, misused his authority, further explaining he feels he pushes his weight around, uses scare tactics, threats and unwarranted verbal commands to get what he wants, when he wants it. When I asked Mr. Orloff if he felt Sergeant Smith should be punished for his actions, he stated he did not want to see any punishment per say, just wants him to stay "out of their hair". He also said he did not want Sergeant Smith acting as the HOA liaison, but that he could attend HOA meetings as a property owner.

When interviewed, Sergeant Smith stated Mr. Orloff lied when he said he entered the club house shouting. Instead, he said he entered and said "hi, I'm here to get my pool tags". Sergeant Smith stated he never raised his voice or waved his arms as stated by Mr. Orloff, but did ask if anyone else was at the club house, and was told no by Mr. Orloff. He said he then told Mr. Orloff he was going to step outside to call Mrs. Kuenzel. Sergeant Smith stated he didn't think at anytime he was disruptive and that the statement made was opinionated. When asked about the citation comment made to Mr. Orloff, Sergeant Smith said he did make the comment, but that it was made in the sense of telling Mr. Orloff he's received a citation before for similar situations of being aggressive and wanting to jump on someone. Sergeant Smith stated he did not get in Mrs. Burks' face as stated by Mr. Orloff, but that she stood up telling him (Sergeant Smith) to leave, or "something to that effect". He said Mrs. Burks was waving her finger in his face, at which time he told her she didn't need to do that.



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In reference to the comments Mr. Orloff made about his [redacted] Sergeant Smith said it's a false statement and that they were never out of line or disruptive towards Mrs. Kuenzel, and that Mr. Orloff was not in the room where they were at. Sergeant Smith stated, once Mrs. Kuenzel approved the issuance of the pool tags, and the pool tags were being handed out by Mr. Orloff, at no point did [redacted] call Mr. Orloff an old ignorant man. Sergeant Smith stated the conversation that took place involved Mr. Orloff asking [redacted] if he understood a particular procedure regarding the pool tags, at which time the [redacted] replied "I'm educated and understand". He said [redacted] then asked Mr. Orloff why they were always giving [redacted] a hard time and that he was tired of it, at which time Mr. Orloff stood up and Sergeant Smith said he stated "this is now official police business", instructing Mr. Orloff to sit down. Sergeant Smith stated he then told his [redacted] they all needed to leave. Sergeant Smith stated Mr. Orloff is a liar, in response to the statement Mr. Orloff made about Sergeant Smith using scare tactics and other means to get what he wants. Sergeant Smith said he has never used scare tactics or his position in general for personal gain.

The third interview I conducted regarding the May 03, 2014 incident was with Mrs. Sheryl Orloff. I advised Mrs. Orloff I read her complaint and asked her if there was anything else she wanted to add to it or subtract from it. She advised there wasn't, and further stated the information was truthful. I then handed Mrs. Orloff a Perjury & Written Statement Notification form, instructing her to read the form in its entirety, then sign and print her name, which she did. I then notarized her statement and began my interview with her.

Mrs. Orloff's statement provided the same lead in information as the two previous complainants. She stated, after Sergeant Smith's [redacted] called him, he sped into the driveway and parked in a no parking zone with his police car. Mrs. Orloff said Sergeant Smith proceeded to enter the building and demanded in front of other people, in a hostile manner towards the pool tag committee members, that he wanted his pool tags. I asked Mrs. Orloff to explain what she meant by "demanded", at which time she said Sergeant Smith stated "I'm a homeowner, I want my tags now", and continued to argue about the pool tags. She said when Sergeant Smith made reference to the citation issue with her husband; she felt he was just being rude, arrogant, hateful and obnoxious, and that he tries to use the badge to push his authority around.

Mrs. Orloff stated Sergeant Smith continued to "rant and rave", then brought [redacted] back in and tried to start more, at which time she stated she told him