



Report of Police Misconduct
IG04/11230821 (G)

Pertaining To

Largo Police Department
Largo, Florida

November 2004

Office of the Director
Investigations Group
Public Integrity Unit

"It is a crime for one or more persons acting under color of law willfully to deprive or conspire to deprive another person of any right protected by the Constitution or laws of the United States. (18 U.S.C. §§ 241, 242). 'Color of law' simply means that the person doing the act is using power given to him or her by a governmental agency (local, State, or Federal). A law enforcement officer acts 'under color of law' even if he or she is exceeding his or her rightful power. The types of law enforcement misconduct covered by these laws include excessive force, sexual assault, intentional false arrests, or the intentional fabrication of evidence resulting in a loss of liberty to another. Enforcement of these provisions does not require that any racial, religious, or other discriminatory motive existed."

Source: US Department of Justice

DATE: 30 NOVEMBER 2004

TO: CRIMINAL SECTION
CIVIL RIGHTS DIVISION
U.S. DEPARTMENT OF JUSTICE
WASHINGTON, DC. 20035-6018

SUBJ: COLOR OF LAW VIOLATIONS
LARGO POLICE DEPARTMENT
PINELLAS COUNTY FLORIDA

REFS: (1) COMPLAINT OF POLICE MISCONDUCT
PERTAINING TO LARGO POLICE DEPARTMENT
LARGO, FLORIDA
[PIU04/03282358 (G)]

EXTRACTED FINDING FROM

LAW ENFORCEMENT AND JUDICIAL FAILURES IN THE CASES OF
ROBIN JENNIFER LONGTIN-CAMP
AKA CARLY ELISE MARCHETTI
[IG03/0907005026 (G)]

REPORT OF POLICE MISCONDUCT

FOR: COLOR OF LAW VIOLATION(S):

DESTRUCTION OF PRIVATE PROPERTY
ASSAULT AND BATTERY
CONSPIRACY TO COMMIT UNLAWFUL ARREST
UNLAWFUL ARREST
CONSPIRACY TO COMMIT FALSE IMPRISONMENT
FALSE IMPRISONMENT
KNOWINGLY FILING A FALSE AND INCORRECT AFFIDAVIT OF ARREST
KNOWINGLY FILING A FALSE AND INCORRECT POLICE REPORT
INTENTIONAL MISREPRESENTATION
PERJURY
ABUSE OF PROCESS
ARBITRARY GOVERNMENT MISCONDUCT

Date / Time of Incident: [REDACTED]

Location: [REDACTED], LARGO, FL. [REDACTED]

Agency: LARGO POLICE DEPARTMENT, LARGO, FL.

Officer(s) Involved: (1) MARTENS, JUSTIN
(2) ALLRED, STEVEN
(3) ARADI, LESTER

Arrest Affidavit #: 04-[REDACTED]

Charge: LOITERING & PROWLING

Complainant (s): JOHN DOE II

Witness(es): [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
LARGO, FL. [REDACTED]
TEL: [REDACTED]
[REDACTED]
[REDACTED]
LARGO, FL. [REDACTED]

STATEMENT: In the late evening/early morning hours of [REDACTED], while seated at a picnic table in a courtyard of his residence, the complainant observed Largo police officer Justin Martens on a second-floor landing questioning a white male subject of visibly diminished mental and physical capacity in an antagonistic and instigative manner. Complainant observed officer Martens, without provocation, strike the hand of the subject, causing the subject's portable telephone to fall to the concrete on the ground floor where it shattered into several pieces. Complainant observed officer Martens immediately deny the act, then grab the subject and pull him from inside an apartment, throw him against a wall, handcuff the subject and deliver a single, closed-fisted blow to the subject's lower left abdomen. As officer Martens and officer Allred led the subject down a corridor toward the front of the building out of complainant's line of sight, complainant heard the subject shout in a distressed manner "What are you doing?" Complainant then walked to the first-floor corridor to a well-lighted position in plain view where he was able to continue to observe the police activity. The handcuffed subject was thrown forcefully against the right rear of a police vehicle before being placed inside the vehicle. Complainant remained in the corridor and observed subsequent interaction between the two uniformed officers and residents of the apartment where the subject was arrested. Over a period of approximately five to ten minutes, while speaking with the residents, officer Martens and officer Allred established eye contact with the complainant multiple times, clearly noting his plain-view observation of the activity. Neither officer Martens nor officer Allred attempted to approach the complainant or gave any outward indication of concern regarding complainant's overt presence.

After concluding their interaction with the residents, one resident, ■■■■■■■■■■, approached the complainant and began to inform him of the incident. Complainant noted that ■■■■■■■■■■'s tone was loud and he appeared to be impaired. Complainant asked ■■■■■■■■■■ to lower his voice and suggested ■■■■■■■■■■ return to his apartment. Complainant advised ■■■■■■■■■■ that he would come to his apartment and speak with him about the incident after the police had departed the area. Complainant then noticed that both officers were now intently observing ■■■■■■■■■■'s contact with the complainant. ■■■■■■■■■■ turned and began to ascend the stairs to his residence. As he ascended the stairs, ■■■■■■■■■■ gestured in the complainant's direction and said to the officers "There is somebody you don't want to mess with." Complainant states that he found ■■■■■■■■■■'s remark to be inappropriate and was generally disappointed by ■■■■■■■■■■'s conduct. Complainant then walked back to the picnic table in the courtyard and sat down to consider whether to speak to ■■■■■■■■■■ at that time in light of his impaired condition or to make contact with him the following day.

Approximately one minute later, complainant observed officers Martens and Allred appear in the corridor facing the courtyard. Complainant observed officer Martens to appear anxious as he quickly scanned the courtyard before observing the complainant seated at the picnic table. The two officers approached the complainant. Officer Martens asked the complainant "Do you live here?" Complainant responded "Yes, Why?" Officer Martens then demanded complainant's name and address. Complainant informed officer Martens that that information was "none of his business" and asked officer Martens what probable cause he had to approach and question the complainant. Officer Martens did not respond and again demanded complainant's name and address. Complainant again asked officer Martens what his probable cause was to question the complainant. Officer Martens responded that complainant was "hanging around". Officer Martens continued to demand complainant's name and address. Complainant continued to refuse. Officer Martens then asked officer Allred to remain with the complainant and returned toward the front of the building. At that time, officer Allred asked complainant to "just tell us your name and where you live and we can be done with this." Complainant asked officer Allred if it was their intention to question anyone standing outside their home. Officer Allred replied that it was. Complainant then advised officer Allred that he was "aware of his rights and that if they [LPD] intended to violate those rights, then that is what they were going to do." Shortly thereafter, officer Martens returned and approached around and behind to complainant's left. Complainant states he was aware at this point that it was officer Martens' intent to effect complainant's arrest. Officer Martens demanded that complainant produce identification, to which complainant responded that he had no legal obligation to carry or produce identification. Officer Martens responded, "Oh, you don't?" Complainant replied, "No, I do not." Officer Martens stated that he was going to ask complainant one more time for his name and address. Complainant refused. Officer Martens then looked at officer Allred and tilted his head in complainant's direction. Officer Allred responded "Hmm?" Officer Martens repeated his gesture. Complainant stood, placing his hands behind his back, was handcuffed and led to the front of the building. Complainant asked ■■■■■■■■■■ to inform ■■■■■■■■■■ of the situation and was placed in the second police vehicle. Neither officer conducted a physical search of the complainant. Upon arrival at the Pinellas County Jail, officer Allred asked officer Martens if he had searched the complainant. Officer Martens replied that he had not and further stated, "Just tell them he was cooperative".

Later, during daylight hours on [REDACTED], for unspecified purposes, officer Martens entered the management office of the [REDACTED] Apartments at [REDACTED] in Largo, Florida, and spoke to a management assistant regarding the overnight incident. The staff member expressed surprise upon being informed of complainant's arrest and, finding officer Martens description of complainant's alleged actions to be out of character, questioned officer Martens as to what he meant when he stated that complainant "fled". According to the staff member, officer Martens stated, "Well, he walked."

In his sworn arrest affidavit, Officer Martens states the complainant "was in a place, at a time, or in a manner not usual for law abiding individuals, to wit: while investigating a crime, I observed a white male in dark jeans, a dark blue sweatshirt & a dark 'skullcap' at the end of the corridor. Upon me seeing him and him seeing me, the Δ fled southbound through the courtyard. I made contact with the individual. The Δ refused to provide me with his name, address or his reason for being there. The Δ was given multiple opportunities to do so prior to his arrest. The Δ continued to refuse for PCJ staff."

On or about [REDACTED], the Pinellas County State Attorney's office filed a notice of "No Information" with the Pinellas County Clerk of Court, declining to attempt prosecution.

FINDINGS: Officer Martens's description of a "fleeing" suspect is at odds, not only with his later statement to the property management assistant, but also with his immediate statement to the complainant himself that he was "hanging around". In officer Martens's version of events, the complainant was "fleeing" while simultaneously "hanging around".

Further in conflict with officer Martens's sworn arrest affidavit describing a "fleeing" suspect in "dark" clothing is his failure to initiate immediate pursuit of said suspect, only initiating a search for the complainant after approximately one minute had elapsed -- sufficient time for the complainant to walk back to the picnic table, resume his seat, light a cigarette, and be observed sitting alone at the table by a witness residing across the courtyard with a direct line of sight to the complainant. In addition, officer Martens's description of the complainant's clothing as "dark" is an intentionally misleading and demonstrably inaccurate construction of the complainant's actual appearance.

Officer Martens's "fleeing" suspect in "dark" clothing -- the very basis of his probable cause, according to his affidavit -- factually did not exist.

Based on witness accounts as well as officer Martens's own statements, his sworn arrest affidavit is a demonstrably and knowingly false description of the complainant's actions and appearance prior to his detainment and questioning. Officer Martens, lacking probable cause or reasonable suspicion to believe that a crime had occurred or was about to occur, nevertheless granted himself the authority to unlawfully detain and attempt to question the complainant where no lawful premise existed to do so. Despite the absence of any lawful justification that would grant officer Martens the legal authority to demand the complainant's identity, address or reason for being in the proximity and openly observing police activity, officer Martens acted under color of authority in an attempt to compel the

complainant to satisfy officer Martens's personal curiosity as to the complainant's identity only after observing ██████████ make contact with the complainant subsequent to the officers' termination of their contact with ██████████. As a result of the complainant's repeated refusal to comply with officer Martens's unlawful demands, officer Martens, again acting under color of authority and in retaliation, knowingly fabricated probable cause in a sworn and filed arrest affidavit for the purpose of justifying his unlawful detainment, questioning and subsequent arrest of the complainant.

On ██████████, Largo Chief of Police Lester Aradi received an information message from PIU informing him that officer Justin Martens was under investigation by PIU for multiple civil rights violations. Directly contravening DOJ guidelines for promoting police integrity, Mr. Aradi responded to the information in an adversarial manner by stating that he viewed the information as a hoax and threatening to initiate a complaint to the source's Internet Service Provider. Mr. Aradi subsequently made contact to an employee of the Florida Department of Law Enforcement (FDLE), directing said employee's attention to the source of the information in an adversarial manner. The FDLE employee subsequently ██████████ ██████████ ██████████. In addition, Mr. Aradi's second response to the information message was an e-mail message to ██████████ ██████████ ██████████ in which he purported to express doubt that the information message originated from PIU, and provided reference to what he described as the originating IP address of the message. Notably absent in Mr. Aradi's second communication was reference to the actual originating IP address of the information message sent to him. In order to accept this omission as a simple oversight, it would be necessary to conclude that Mr. Aradi and/or the Largo Police Department is incapable of correctly identifying an originating IP address. This possibility can not be discounted, based on PIU's documented observations of incidents involving the Largo Police Department between ██████████ 2003 and ██████████ 2004. The alternative, more supported conclusion, is that Mr. Aradi intentionally omitted reference to the actual originating IP address of the message for the purpose of concealing his knowledge of that information from PIU.

Based on the sum of these facts, it is our conclusion that Mr. Aradi was acting with investigative intent against the source of the complaint.

The facts gathered by this inquiry reveal the following:

- Largo police officers Justin Martens and Steven Allred conspired to unlawfully detain and question the complainant in direct response to the complainant's lawful exercise of his Constitutional rights.
- In response to the complainant's subsequent refusal to cooperate with the officers' unlawful acts, officers Martens and Allred further conspired, knowingly and with malice, to effect the unlawful arrest of the complainant and to falsify a sworn affidavit for the purpose of justifying the aforementioned unlawful detainment, questioning and arrest of the complainant.
- Upon being informed of an investigation into the officers' unlawful conduct, Chief of Police Lester Aradi knowingly and deliberately acted in an adversarial manner ultimately intended to protect or otherwise conceal the unlawful conduct of officers under his command and to antagonize the source of the information.

The apparent ease with which officer Martens fabricated probable cause and submitted a falsified affidavit for the purpose of justifying the unlawful detainment and arrest of a citizen who had committed no crime and who was conducting himself well within his Constitutionally-protected rights provides a troubling indication that officer Martens may pose a significant threat to the Constitutional liberties of law-abiding citizens with whom he comes into contact. Despite documented instances of perjury and fabrication of evidence across the law enforcement community -- a practice well-known within law enforcement and often referred to as "testilying" -- such behaviors and actions are nonetheless criminal offenses punishable under state and federal statutes.

Officers Martens and Allred's unlawful conduct and Mr. Aradi's actions in response to receiving information reporting misconduct by his officers, in conjunction with multiple, documented violations of Ch. 119 Florida Statutes (Public Records Act) by the Largo Police Department as referenced in IG03/0907005026(G), suggests a troubling and potentially systemic pattern of disregard for statutes and guidelines intended to protect citizens against official misconduct, abuse and color of law crimes.

ADDITIONAL INFORMATION: On or about [REDACTED], approximately two weeks preceding complainant's arrest, complainant registered a complaint against Largo police officer Francis Schelah regarding an incident in which Schelah, using profanities and abusive language, aimed a shotgun at the complainant and [REDACTED] as the two men departed the complainant's residence. According to Lt. James Precious and Sergeant Michael Loux of the Largo Police Department, officer Schelah was subsequently "counseled" for violating multiple departmental policies. At the time of the complaint, several uniformed Largo police officers were present and observing the complainant and [REDACTED]. While further investigating the complaint, the complainant also advised Lt. James Precious and Sergeant Melanie Holley that he [complainant] was reporting information to a private organization investigating the Largo Police Department's handling of a case involving a Rhode Island fugitive.

EOR

This complaint is filed in accordance with Department of Justice Principles for Promoting Police Integrity