

LAGUNA BEACH POLICE DEPARTMENT

505 Forest Avenue, Laguna Beach, CA 92651
(949) 497-0701 (Phone) / (949) 497-0772 (Fax)

DATE:

FILE:

DR:

COMPLAINTS BY MEMBERS OF THE PUBLIC

READ VERBATIM TO COMPLAINANT: You have the right to make a complaint against a police officer for any improper police conduct. California law requires this agency to have a procedure to investigate complaints by members of the public. You have the right to a written description of this procedure. This agency may find after an investigation that there is not enough evidence to warrant action on your complaint, even if that is the case, you have the right to make the complaint and have it investigated if you believe an officer behaved improperly. Complaints by members of the public must be retained by this agency for five years.

SUPERVISOR'S SIGNATURE: _____ DATE _____

**** PLEASE PRINT OR TYPE AND FILL OUT COMPLETELY ****

<u>COMPLAINANT NAME:</u> Edgar Eduardo Torres Gutierrez	<u>HOME ADDRESS:</u> 246 Cozumel Laguna Beach, 92651	<u>D.O.B.:</u> 7/17/1990
<u>BUSINESS ADDRESS:</u> c/o UCI Immigrant Rights Clinic P.O. Box 5479, Irvine, CA 92616	<u>HOME TELEPHONE:</u> (714) 583-2255	<u>WORK TELEPHONE:</u> (949) 824-9660
<u>EMPLOYEE(S) INVOLVED:</u> Officer M. Meyer Unknown: John/Jane Does #1-10	<u>LOCATION OF OCCURRENCE:</u> Laguna Beach City Jail	<u>DATE OF OCCURRENCE:</u> June 3, 2018
		<u>TIME OF OCCURRENCE:</u> ~1:25 a.m. - ~11:00 a.m.
<u>NAME OF WITNESS:</u>	<u>ADDRESS:</u>	<u>TELEPHONE:</u>
<u>NAME OF WITNESS:</u>	<u>ADDRESS:</u>	<u>TELEPHONE:</u>

DECLARATION (Write your name): Edgar Eduardo Torres Gutierrez declare that: See attachment

(Write additional information on page two)

To the best of my knowledge the statements I have made are truthful and accurate.

Executed on 01, 09, 20 20. Time: 1:30 pm at: Irvine, CA.

COMPLAINANT'S SIGNATURE: 

SUPERVISOR'S SIGNATURE: _____ WITNESS, if applicable: _____

COMPLAINANT RECEIVED BY(check one): MAIL IN PERSON TELEPHONE

COMPLAINANT RECORDED:(check one): YES NO COPY TO COMPLAINANT: IN PERSON MAIL

See attachment

ATTACHMENT TO TORRES GUTIERREZ LBPD M-213 COMPLAINT

On June 3, 2018, at approximately 1:30 a.m., I was arrested on suspicion of driving under the influence by Officer M. Meyer (Badge #31273) of the Laguna Beach Police Department. I was booked into the Laguna Beach City Jail. At the City Jail, Laguna Beach officers asked me a few questions and then placed me in a cell. I was not offered a phone call.

I fell asleep shortly after being placed in the cell. I woke up around 8 or 9 a.m. and expected to be released soon thereafter. Guards repeatedly checked on me, but they did not seem to be doing anything to gauge my sobriety. The guards would walk down to my cell, which was the last one in the hall, glance my way, and then simply walk back up the hall without interacting with me. I asked the guards what time it was and when I would be released. At least one guard misrepresented the time, telling me it was 3 p.m. when it must have been much earlier. I later heard the same guard laugh and tell another guard that he had lied to him about the time. The guards told me that they did not know when I would be released.

At last, one of the guards said he had to check with his supervisor and that they would release me. I expected to be released shortly thereafter, since the officers no longer believed detention to be necessary. But then the officer returned and said that Homeland Security was coming. Although I am a recipient of Deferred Action for Childhood Arrivals (“DACA”) and maintain valid DACA status, the U.S. Immigration and Customs Enforcement (“ICE”) lodged a Form I-247A Immigration Detainer for him with the Laguna Beach City Jail. *See* Exhibit A (Form I-247A). The Form I-247A requests that the Laguna Beach City Jail notify ICE “as early as practicable ... before [Mr. Torres Gutierrez] is released from your custody.” The Form I-247A further requests that the Laguna Beach City Jail “[m]aintain custody of [Mr. Gutierrez Torres] for a period not to exceed 48 hours beyond the time when he/she would otherwise have been

released from your custody to allow DHS to assume custody.” The same guard who informed me DHS was coming read me the Form I-247A detainer, issued at approximately 3:59 a.m., which said that I could be held for up to 48 hours. However, the guard was hesitant and said that they could only hold me for 24 hours, and that if Homeland Security did not get to the station in a timely manner that I could be released. The guard did not provide me with a copy of the Form I-247A.

Homeland Security arrived at the Laguna Beach Police Department approximately one and a half hours after I was told that ICE/DHS was coming for me. The Laguna Beach Police Department officers then transferred me into ICE custody. The same officer who read me the detainer placed me in a different room where two Homeland Security agents met with me. The Laguna Beach Police officers had me sign some paperwork acknowledging that I would report to the Justice Center for the criminal case arising from my DUI arrest. The Laguna Beach Police officers then uncuffed me so that I could be taken into ICE custody. The ICE agents chained me up and put me into a van. I recall that some Laguna Beach Police officers snickered as I left. After ICE officers assumed custody of me, they transported me to an ICE facility in Los Angeles, California, interrogated me, and then released me at approximately 11:00 p.m. on June 3, 2018.

This series of actions by the Laguna Beach Police officers not only violated my constitutional rights under the Fourth and Fourteenth Amendments, but also violated explicit state law and the Laguna Beach Police Department’s own internal policy. First, the Laguna Beach Police officers complied with the ICE detainer Form I-247A, notifying ICE that I was in their custody and maintaining custody of me beyond the time I would have otherwise been released from their custody to allow ICE to assume custody of me. This compliance with the ICE

Form I-247A and detainment on the basis of the ICE hold request violated the California Values Act. *See* Cal Gov. Code § 7284.6(a)(1)(B). Moreover, the officers also violated the department's own internal policies. In a policy released on February 12, 2018, the Laguna Beach Police Department states: "no individual shall be held solely on a federal immigration detainer" Laguna Beach Police Department, Policy 428.9.1 (Feb. 12, 2018).

The delay in my release also constituted an unlawful seizure because it was not justified by probable cause. The Laguna Beach Police officer relied on an immigration detainer request to delay my release from custody. The detainer request was signed by a deportation officers and not a judge, and therefore did not contain the necessary probable cause to justify further detention. Because the Laguna Beach Police officers detained me without a judicial finding of probable cause, the detention violated my Fourth Amendment, Fourteenth Amendment, and California constitutional rights.

Second, the Laguna Beach Police officers at the Laguna Beach City Jail violated the Truth Act when they did not provide me with a copy of the Form I-247A. *See* Cal. Gov. Code § 7283.1(b). This failure to provide me with a copy of the Form I-247A was also in violation of Laguna Beach Police Departments own internal policy. *See* Laguna Beach Police Department, Policy 428.9.2 (Feb. 12, 2018) ("Individuals in custody shall be given a copy of documentation received from U.S. Immigration and Customs Enforcement (ICE) regarding a hold, notification, or transfer request....")

Third, by effectuating the transfer to ICE custody, the officers again violated the California Values Act and Laguna Beach Police Departments own internal policy. The same policy from above states that "[m]embers shall not transfer an individual to immigration

authorities unless one of the following circumstances exist.” Laguna Beach Police Department, Policy 428.9.4. In this case, none of the exceptional circumstances existed.

The Laguna Beach Police officers’ actions throughout this incident were not only contrary to Laguna Beach Police Department’s own internal policies and unlawful under California law, but they also violated my rights and harmed the trust that I had in the police department of the city where I reside. Instead of ensuring my safety, these officers violated the law and endangered my safety as a California resident.

I request that the Laguna Beach Police Department investigate why these violations and errors occurred. My hope is that an investigation into this incident will also reveal whether this was an isolated occurrence or whether there may have been other incidents of the Department communicating with ICE or responding to Form I-247 detainer requests over the past couple years. If this complaint is sustained, or other incidents of violations of California law or department policy are discovered, I request that the Department provide a summary of what remedial actions will be taken, including any additional training and monitoring or disciplinary action against the officers involved.