



ICMS #: 2020-1161

September 17, 2020

Complaint: Mr. [REDACTED] emailed the Office of Police Oversight stating the following:

“To the appropriate authorities, supervisors, elected officials, and whom it may concern:

Subject Officers:

- Officer [REDACTED], badge number [REDACTED]
- Officer on APD motorcycle number [REDACTED] (*license plate number ending in [REDACTED] with registration expiration 09/20*) on [REDACTED]

Sent to:

- Sergeant [REDACTED], APD – officer [REDACTED] direct supervisor
- Austin Chief of Police, Brian Manley
- Office of Police Oversight, City of Austin
- US Representative Lloyd Doggett
- State Representative, Donna Howard, District 48

categories of complaint:

- **Serious Misconduct: Law violation(s), aka lack of conformance with the law).**
- Conduct unbecoming of a law enforcement officer
- Lack of courtesy
- Lack of professionalism
- Neglect of duty

Complaint:

On [REDACTED] at [REDACTED], in two separate instances, in the [REDACTED] parking lot, in downtown Austin, at [REDACTED], **officer [REDACTED]** (badge number [REDACTED]) & the older white male officer on APD BMW motorcycle [REDACTED] (license plate ending in [REDACTED]) each separately **committed “*Serious Misconduct,*”** by violating policy, rules, regulations and law — in that he refused to wear a mask or face covering during a routine traffic stop in which he was in close proximity of a civilian (within 6 feet) repeatedly, and for several minutes, — including, but not limited to leaning into the window at very close range (a high-resolution video of 8 minutes and 5 seconds of the violations exist and can be made available via email upon request). Once made aware of his violation and non-compliance with the law, no further effort was made to comply, and he drove away — assumedly to another traffic stop.

Mr. [REDACTED] & the older white male officer’s on motorcycle [REDACTED] actions and violations have an adverse impact on the operation or integrity of the agency, and should result in formal disciplinary action.



Here is the link to Governor Abbott's executive order, for reference, dated June 26, 2020, requiring all citizens, residents, visitors, and state employees to wear a face mask while in public and not social distancing (as defined by proximity within 6 feet).

https://gov.texas.gov/uploads/files/press/EO-GA-28_targeted_response_to_reopening_COVID-19.pdf?fbclid=IwAR31krSpFcBEKUUpQFNyOnPFMTFY2LxQY2dGp-w3FaBDpVhY7oPzy136arnI

For the reason's outlined below, this is classified as a "Serious Misconduct" because his actions were/are in violation of state law, department policy, and local regulations. As proof, i am citing The Austin Police Policy Manual, issued by Chief of Police, Brian Manley, is [REDACTED]

[https://www.austintexas.gov/sites/default/files/files/Current APD Policy Manual 2017-1.5 issued 7-20-2017.pdf](https://www.austintexas.gov/sites/default/files/files/Current_APD_Policy_Manual_2017-1.5_issued_7-20-2017.pdf)

From the "Law Enforcement Code of Ethics," which all officers swear to uphold, on page 2:

• "Law Enforcement Code of Ethics

As a law enforcement officer, my fundamental duty is to serve the community ; to safeguard lives and property..."

- "I...will behave in a manner that does not bring discredit to me or to my agency"
- "i will...be constantly mindful of the welfare of others."
- "I will [REDACTED] obeying the law and the regulations [REDACTED] department."
- "I recognize the bad [REDACTED] symbol of [REDACTED] and I accept it as a public trust to be held so long as I am true to the ethics of police [REDACTED]."

From Article 7: Conduct Toward the Public

"The law enforcement officer, mindful of his responsibility to the whole community, shall deal with individuals of the community in a manner calculated to instill respect for its laws and its police service."

From PHILOSOPHY, VALUES, VISION AND MISSION Philosophy of the Austin Police Department:

"The protection of life is the primary core value and guiding principle of the Austin Police Department."

From Department Values: I. C.A.R.E.

Integrity - the cornerstone of Police work; without it, public trust is lost.

Courage - to make the right professional decision.



Accountable - to the community, the Department, and coworkers.

Respect - of the community, the Department, and most importantly, self.

Ethical - professional actions and decision making.

And in violation of the official APD mission statement: "To keep you, your family, and our community safe."

i hereby request (under 912.3, Evaluation Frequency) that officer Soto-Salvidar's upcoming performance reviews (both annual, and monthly), address this violation of the law, and hold him accountable.

Reference:

912.3 EVALUATION FREQUENCY

(a) Written performance evaluations will be conducted with the following frequencies:

1. Sworn [REDACTED]

(a) Officers will be evaluated annually with monthly performance counseling sessions being conducted by the supervisor unless they are enrolled in the Field Training Program (FTP).

Being a Texan myself, i understand that masks in July are hot and can be uncomfortable, however, personal comfort during a global pandemic — for which there is no cure or remedy, and which has already tragically claimed the lives of 2,735 fellow Texans, infecting 210,000 Texans and counting, and taken the lives of more than 133,000 Americans — simply is not an acceptable priority. And more gravely it's dangerous, life-threatening, and clearly a gross misconduct. And unfortunately, when each officer was respectfully confronted (both on video), they responded with rudeness, impatience, and failure to [REDACTED]. [REDACTED] would like to point out the policy [REDACTED] guidelines provided above, and again reite [REDACTED] health pa [REDACTED] to practice safe contact can be deadly. As has been the unfortunate and tragic tr [REDACTED] more than 2,735 fellow Texans, and more than 133,000 Americans.

As mentioned, **I have a detailed video that is 8 minutes and 5 seconds** which shows his non-compliance, and his refusal to wear the mask once confronted. I will gladly upload the video file when/if it is requested for examination.

Due to the serious violations of departmental policy and the law, and for the safety of the community at large, complainant hereby requests a formal investigation be undertaken immediately. Complainant also hereby requests the corresponding reference numbers and/or investigation numbers of this case for future reference.



This notice of formal complaint is a request for Internal Affairs to initiate an investigation in order to determine if the employee conduct is within compliance of APD policy, Civil Service Rules, and Municipal Civil Service Rules.

Recommended Administrative Policies to Review (to include but not limited to):

200.2.1 INSUBORDINATION

Employees will not be insubordinate. The willful disobedience of, or deliberate refusal to obey any lawful order of a supervisor is insubordination. Defying the authority of any supervisor by obvious disrespect, arrogant or disrespectful conduct, ridicule, or challenge to orders issued is considered insubordination whether done in or out of the supervisor's presence.

301.2 IMPARTIAL ATTITUDE AND COURTESY

Employees are expected to act professionally, treat all persons fairly and equally, and perform all duties impartially, objectively, and equitably without regard to personal feelings, animosities, friendships, financial status, sex, creed, color, race, religion, age, political beliefs, sexual orientation, gender identity or gender expression or social or ethnic background.

900.1.1 RESPONSIBILITY TO KNOW AND COMPLY

The rules of conduct set forth in this order do not serve as an all-inclusive list of requirements, limitations, or prohibitions on employee conduct and activities; employees are required to know and comply with all Department policies, procedures, and written directives.

Recommended Classification: *The OPO is permitted to make a preliminary recommendation on the classification of administrative cases.*

The OPO recommends that this allegation receive a [redacted] classification.