



May 28, 2019

ICMS: 2019-0272

Date of Complaint: March 22, 2019

Complaint:

[Redacted], complainant, contacted the Office of Police Oversight alleging he observed an Austin Police Department officers specifically, a white male officer, in the [Redacted], chewing tobacco and spitting while arresting someone “leaving a bunch of puddles around the victim.”

Additional information:

Request for formal complaint recorded and You Tube video submitted by complainant, [Redacted], submitted as part of the formal complaint.

Administrative Policies to Review:

946 Smoking/Tobacco Use

946.2 POLICY

- (a) Employees shall not use tobacco products (e.g., cigarettes, chewing tobacco, electronic cigarettes) while engaged in official police business with the public or in any City building or City vehicle.
 - 1. This provision does not apply when conducting a custodial interrogation in an interview room, which is designated as a smoking area in accordance with the City ordinance and when the person being interrogated is also a user of tobacco.
- (b) Employees who smoke or use electronic cigarettes on-duty while working at a Department facility must do so during authorized breaks and in designated smoking areas.
- (c) Employees shall not use tobacco products in the sally port and shall not carry tobacco products into the booking area of any jail facility.

General Conduct and Responsibilities

900.1 PURPOSE AND SCOPE

It is the policy of the Austin Police Department that employees conduct themselves at all times in a manner that reflects the ethical standards consistent with APD written directives. This order shall apply to all sworn and civilian members, including volunteer, part-time, auxiliary, and nonpaid civilians affiliated with the Department through a Department-sponsored program while under the direction of a Department employee.

This order is intended to guide employees in conducting themselves and their affairs, both on-duty and off-duty, in a manner that reflects the professionalism required of Department personnel.



Furthermore, this order is intended for internal use only and shall not be construed to increase or establish an employee's civil or criminal liability, nor shall it be construed to create or establish a higher standard of safety or care.

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.

- (a) Employees will maintain a working knowledge and comply with the laws, ordinances, statutes, regulations, and APD written directives which pertain to their assigned duties.
- (b) Employees who do not understand their assigned duties or responsibilities will read the relevant directives and guidelines, and will consult their immediate supervisor for clarification and explanation.
- (c) A lack of knowledge of an APD written directive is not a defense to disciplinary action.

900.2 REQUIRED REPORTING OF VIOLATIONS

Employees have an obligation and responsibility to report all facts or credible information they know regarding any criminal activity by other employees or any breach of APD written directives.

- (b) Suspected General Order Violations
 1. Employees will report any employee known or believed to be guilty of any violation of a rule, regulation, or order issued by the Department to their immediate supervisor.
 2. Supervisors will immediately take action as outlined in General Order 902 (Administrative Investigations) when a violation of a directive comes to their attention, regardless of the supervisor's or violator's assignment or rank within the Department.

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

The OPO recommends that this allegation receive a B classification.