



ICMS #: 2020-1609

December 10, 2020

**Complaint:** An anonymous complaint alleged:

[REDACTED]

[REDACTED] was driving on [REDACTED], with two passengers in his car. He signaled to turn right into a used car lot, because he noticed he had a flat tire. Officer [REDACTED] had been driving some distance behind [REDACTED] on [REDACTED], and after he saw [REDACTED] signal to turn right, and then turn right, Officer [REDACTED] then turned on his police lights and turned in right behind [REDACTED]. There was no signal to [REDACTED] until after he was parked and police lights turned on that there was something wrong. Officer [REDACTED] immediately starts yelling to put hands up and pointing a gun at the car. [REDACTED] got out of the car after several confusing commands were issued. [REDACTED] follows him, tases him twice. After the second discharge, [REDACTED] slams [REDACTED] to the ground. During the interaction [REDACTED] punches him, uses profanity, and pepper sprays him. While down and handcuffed Officer [REDACTED] yells "I'm going to punch you in your [REDACTED] face." He also says "shut up" many times. Profanity is continually used throughout the interactions. While he is handcuffed and on the ground Officer [REDACTED] arrives and immediately punches [REDACTED] in the face. Another officer comes and kneels on [REDACTED] head/neck while he's on the ground. [REDACTED] repeatedly asked why he was stopped and the officer would not tell him. He was arrested and charged with resisting search or transport and was held in jail for 13 days before the [REDACTED] Attorney decided to reject the charges and release him. Several other officers hold the rest of the passengers at gunpoint.

*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 DE-ESCALATION OF POTENTIAL FORCE ENCOUNTERS**

When safe and reasonable under the totality of circumstances, officers shall use de-escalation techniques to reduce the likelihood for force and increase the likelihood of voluntary compliance.

**200.2.1 ASSESSMENT AND DE-ESCALATION**

As officers arrive on the scene, observe conditions, and interact with the persons there, they should continue to gather additional relevant information and facts. These assessments, along with reasonable inferences help to develop an understanding of the totality of the circumstances of the incident.



### 200.3 RESPONSE TO RESISTANCE

While the type and extent of force may vary, it is the policy of this department that officers use only that amount of objectively reasonable force which appears necessary under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this order.

#### 200.3.1 DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE

Any interpretation of objective reasonableness about the amount of force that reasonably appears to be necessary in a particular situation must allow for the fact that police officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving, and the amount of time available to evaluate and respond to changing circumstances may influence their decisions. The question is whether the officer's actions are "objectively reasonable" in light of the facts and circumstances confronting him.

#### 200.3.2 USE OF FORCE TO AFFECT A DETENTION, AN ARREST OR TO CONDUCT A SEARCH

An officer is justified in using reasonable force when the officer reasonably believes the use of such force is immediately necessary (Tex. Penal Code § 9.51(a)):

- (a) To make or assist in a detention or an arrest, or to conduct a search that the officer reasonably believes is lawful;
- (b) To prevent or assist in preventing escape after an arrest, provided the officer reasonably believes the arrest or search is lawful; or
- (c) To make an arrest or conduct a search under a warrant that the officer reasonably believes is valid.

#### 200.3.3 NOTICE OF AUTHORITY AND IDENTITY

If it is not already reasonably known by the subject to be searched or arrested, or it is not reasonably impracticable to do so, officers should make clear their intent to arrest or search and identify themselves as a peace officer before using force (Tex. Penal Code § 9.51(a)(2)).

#### 206.4.3 TREATMENT FOR CHEMICAL AGENT EXPOSURE

Subjects who have been affected by the use of chemical agents should be afforded means of cleansing the affected areas as soon as practicable. Those subjects who complain of further severe effects shall be afforded a medical examination by competent medical personnel.

#### 208.3208.3 VERBAL WARNINGS

A verbal announcement of the intended use of the TASER Device shall precede its application unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances.



#### 208.4.1 APPLICATION OF THE TASER DEVICE

Authorized personnel may use the TASER Device when circumstances known to the officer at the time indicate that such application is objectively reasonable to control a subject in any of the following circumstances: (a) Apprehend a subject fleeing lawful arrest or detention. (b) A violent or physically resisting subject. (c) There is reasonable expectation that it will be unsafe for officers to approach within contact range of the subject. (d) A subject who by words or action has demonstrated an intention to be violent or to physically resist and who reasonably appears to present the potential to harm officers, himself, or others. 1. Officers should give a verbal warning of the intended use of the TASER Device followed by a reasonable opportunity for the subject to voluntarily comply, when practicable. 2. Officers must be able to articulate their use of the TASER Device in an incident report.

#### 208.4.2 PROHIBITED USES

The following are prohibited uses of the TASER Device:

(d) Against passively resisting subjects.

#### 208.4.4 TARGETING CONSIDERATIONS

While manufacturers generally recommend that reasonable efforts should be made to target lower center mass and to avoid intentionally targeting the head, neck, chest and groin, it is recognized that the dynamics of each situation and officer safety may not permit the officer to limit the application of the TASER Device darts to a precise target area. As such, officers should take prompt and ongoing care to monitor the condition of the subject if one or more darts strikes the head, neck, chest or groin until he is released to the care of paramedics or other medical personnel.

#### 208.5 MEDICAL TREATMENT

Officers will remove TASER Device darts as trained once the subject is in custody. Used TASER Device darts shall be considered a sharp biohazard, similar to a used hypodermic needle. Universal precautions should be taken accordingly.

#### 211.4.1 EMPLOYEE REPORTING GUIDELINES FOR ALL FORCE LEVEL INCIDENTS

The following outlines the reporting guidelines for involved employees, employees that witness an incident and employees designated to assist at the scene of any response to resistance incident.

(b) Supplements shall be completed by:

3. Employees assisting at the scene of a force incident.

#### 211.5 DESIGNATION OF SUPERVISOR TO CONDUCT INQUIRY

The supervisor of the employee involved in the force incident shall typically be the primary supervisor conducting the force inquiry.



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.

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 A classification.**

