



ICMS #: 2020-0289

April 27, 2020

**Complaint:** Mr. [REDACTED], complainant, alleges that Austin Police Department (APD) officers may have violated APD policy when they “tackled and subdued” a man in downtown Austin. The complainant states, in part, that, “the victim appeared to be a rough sleeper, and was walking west along [REDACTED] St from the corner of [REDACTED]. He stumbled and knocked over a Bird (or similar brand) scooter. At the time there were two officers also waiting to cross from the north west corner of [REDACTED]. One of the officers went to approach the victim, but rescinded after realizing that the victim may be intoxicated. The victim then wandered onto [REDACTED], at which time the two officers at the corner ran towards the victim and tackled him to the kerb [sic]. At the same time, approximately six officers approached from the south in marked cars and golf carts and jumped onto the already subdued victim. The force used was completely unnecessary for the severity of the situation. The impact of the victim with the ground and the multiple officers throwing themselves onto the victim was disturbing to myself and others that witnessed the incident. After the victim was subdued, police officers began walking towards the observers - and at this point I realized the intention of the heavy-handed show of force and did not want to get immediately involved. After witnessing the obvious bullying tactics of the APD, I feel obliged to speak out against such behavior.”

*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):**

**303.3.3 WHEN DEPARTMENT ISSUED BWC SYSTEM DEACTIVATION IS AUTHORIZED**

Once the BWC system is activated it shall remain on until the incident has concluded or until deactivation is permissible in accordance with this order.

**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. Nothing in this de-escalation policy requires an officer to place themselves in harm’s way to attempt to de-escalate a situation. Recognizing that circumstances may rapidly change, officers may need to abandon de-escalation efforts after they have commenced. Understanding that no policy can realistically predict every situation an officer might encounter, the Department recognizes that each officer must be entrusted with well-reasoned discretion in determining the reasonable de-escalation techniques to use in a situation. This de-escalation policy is intended to complement, not replace or supersede, other portions of the APD Policy Manual or specific officer training that addresses de-escalation.



#### 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.

#### 200.5 REPORTING THE RESPONSE TO RESISTANCE

Any response to resistance by a member of this department shall be documented promptly, completely and accurately in an appropriate report as prescribed by General Order 211 (Response to Resistance Inquiry, Reporting, and Review).

##### 200.5.2 DUTY TO GIVE AID AND MEDICAL CARE

Prior to booking or release, medical assistance shall be obtained for any subject who has sustained visible injury, expressed a complaint of injury or continuing pain or who has been rendered unconscious. Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail.

A subject who exhibits extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and impervious to pain, or who requires a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death and shall be examined by qualified medical personnel as soon practicable. Any individual exhibiting signs of distress after such an encounter shall be medically cleared prior to booking.

If any individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.



#### 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.

#### 211.8 LEVEL 3 INCIDENT INQUIRY, REPORTING, AND REVIEW REQUIREMENTS

Level 3 force incidents require the involved employees to document the incident in a report and notify their supervisors. Supervisors shall conduct a review of Level 3 force incidents as outlined below but may upgrade any Level 3 force incident to a Level 2 force incident in order to conduct a more extensive review. Any Level 3 that is upgraded to a Level 2 shall be investigated and documented in the same manner as a Level 2.

#### 301.1 PURPOSE AND SCOPE

All persons deserve protection by fair and impartial law enforcement and should be able to expect similar police response to their behavior wherever it occurs. Employees will serve the public through direction, counseling, assistance, and protection of life and property. Employees will be held accountable for the manner in which they exercise the authority of their office or position. Employees will respect the rights of individuals and perform their services with honesty, sincerity, courage, and sound judgment.

#### 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.

#### 304.3.2 WHEN DMAV USE IS REQUIRED

This order is not intended to describe every possible situation where the system may be used. In some circumstances it is not possible to capture images of the incident due to conditions or location of the camera however the audio portion can be valuable evidence and is subject to the same activation requirements.

#### 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.

#### 900.3.4 PERSONAL CONDUCT

(c) While on-duty or on the premises of City facilities, employees will not:

- (1) Use loud, indecent, profane, harsh, derogatory language, or use belittling term in any communications.
- (2) Ridicule, mock, taunt, embarrass, humiliate, or shame any person, nor do



anything that might incite that person to violence.

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

**The OPO recommends that this allegation receive an A classification.**

