



ICMS #: 2020-0039

January 31, 2020

Complaint: [REDACTED], complainant, alleges that officers may have violated Austin Police Department (APD) policy when they were called to her home and were “rude and difficult.” She states that she was “scared and hurt” and alleges that an officer on scene kept saying that her story wasn’t making sense, and allowed the male, whose behavior was the reason for the call, to “sit right outside my door where he could hear...” and she was “scared to talk.” She also alleges that the officers allowed the male to collect his things and then leave the scene.

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):

301.1 RESPONSIBILITY TO THE COMMUNITY—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.

303.3.1 WHEN DEPARTMENT ISSUED BWC SYSTEM USE IS REQUIRED

This section is not intended to describe every possible situation where the system may be used. In some circumstances it may not be possible to capture images of an 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. The BWC should only be activated for law enforcement purposes.

401.2 INITIAL RESPONSE AND INVESTIGATION

(c) The primary officer shall make a preliminary determination if a crime has been committed.



401.5 SECURE AND IDENTIFY WITNESSES

Officers should attempt to locate any witnesses to an offense when warranted by the seriousness of the case.

402.2 INCIDENT REPORTING

A well-written report can help make a case just as easily as a poorly written report can ruin a case. Employees have the responsibility to write clear, factual, and complete reports.

402.2.2 REPORT WRITING

- (a) All reports shall accurately reflect:
 - 2. All pertinent information seen, heard, or assimilated by any other sense.
 - 3. Any action(s) taken.
- (b) Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing.

418.2.1 ARREST REQUIREMENT FOR ASSAULTIVE OFFENSES

- (a) Officers are required to make an arrest for incidents involving family violence when:
 - 1. An assault has occurred that resulted in a minimum of bodily injury or complaint of pain; or where an officer can articulate facts from which a reasonable person could infer that the victim would have felt pain due to:
 - (a) The manner in which the suspect made contact with the victim, or
 - (b) the nature of observable physical marks on the suspect's body allegedly caused by the suspect's contact with the victim, and
 - 2. The suspect is still on-scene; and
 - 3. The assault meets the definition of "family violence" or "dating violence."
- (d) Officers shall arrest for assault by threat or assault by contact if no physical violence has occurred that resulted in bodily injury, but circumstances reasonably show that further violence is likely to happen. Supervisor approval is required when the arrest is made from inside a residence.

418.2.3 FAMILY VIOLENCE INVOLVING MENTAL ILLNESS

If there is reason to believe a suspect that is still on-scene suffers from a mental illness, an on-duty patrol officer that is a certified Crisis Intervention Team (CIT) officer shall be requested to the scene.

418.2.5 FAMILY VIOLENCE INVOLVING STRANGULATION/SUFFOCATION

When the suspect impedes the normal breathing or circulation of the blood of the victim by applying pressure to the victim's throat, neck or by blocking the victim's nose or mouth, the assault shall be enhanced to a felony of the third degree (Tex. Penal Code § 22.01(b)(2)(B)).



418.2.8 INTERFERENCE WITH EMERGENCY TELEPHONE CALL

Interference with emergency telephone call has its own arrest authority (Tex. Code of Crim. Pro. art. 14.03(a)(5)) that is separate from the arrest authority for family violence.

418.3 ADDITIONAL INVESTIGATIVE GUIDELINES

This section includes additional guidelines and required notifications when investigating any incident that involves family violence or may have involved family violence.

418.4 EMERGENCY PROTECTIVE ORDERS

Officers shall offer all victims of family violence the opportunity to file an EPO.

420.2.1 INITIAL INTERVIEW WITH THE VICTIM

Officers shall adhere to the following guidelines when conducting an initial interview of a victim involved in a sexual assault.

(c) Officers shall conduct the interview of the victim with dignity and respect, being mindful that the victim has experienced a traumatic event.

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.

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 an A classification.