



ICMS #: 2020-0206

March 27, 2020

**Complaint:** Mr. [REDACTED], complainant, alleges that Austin Police Department officers may have violated APD policy during an incident in which he and his brother were pulled over by Officer [REDACTED]). Mr. [REDACTED] states that he was pulled over for no reason by an unmarked black Explorer and the officer told him he was stopped for speeding, but he didn't get a speeding ticket. He alleges that the officer told him to get out of the car and go to the back to speak, and then asked him to search the vehicle. He alleges that when he said "no," the officer said they were going to bring a K-9. He states that "four plus" unmarked cop cars came and patted him down, and then the dog searched and got an alert. He states that he was handcuffed and that when he asked if they were arresting him they said that they were just detaining him. He states that nothing was found and that he was given a warning, but not a paper warning.

*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 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 DEPARTMENT ISSUED BODY WORN CAMERA**

BWC equipment is to be used primarily by uniformed personnel as authorized per assignment by the Department and must be used unless otherwise authorized by a Commander or above.

- (c) Unless otherwise authorized by the Chief of Police or his/her designee, BWC's will be worn consistent with the training and manufacturer's recommendations, in regards to fields of view and employee safety. Employees will adhere to the following dimensions for placement of the BWC:



1. From the center of the sternum, no more than four inches to the right or left on the outermost layer of clothing such that the camera has an unobstructed view.
2. No higher than four inches below the top button of the uniform shirt and no lower than six inches below the top button of the uniform shirt.
3. Exemptions to the placement of the BWC in accordance with this order will be authorized by a Commander or above. Examples for exemptions may include, but are not limited to, SWAT, OCD, Executive Protection, and Mounted Patrol.

#### 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.

#### 318.3.1 HANDCUFFING DETAINEES

If not documented in a report, officers will document their justification for handcuffing a detainee for a limited investigation, with a Street Check/Field Interview report.

1. Officers will check “detained” in the Reason field dropdown list.
2. Officers will justify handcuffing the detainee in the Remarks field.

#### 328.3.2 REQUIRED DOCUMENTATION

Every member of the Department is required to document and report to the Department any detention, frisk, search, nonconsensual stop and/or arrest of a person. Officers shall document the following information in the appropriate fields of an incident report, field release citation, warning, field observation card or electronic street check:

- (a) a physical description of any person who is detained or arrested, including (if applicable) passengers in a motor vehicle, including: 1. the person’s gender; and 2. the person’s race or ethnicity, as stated by the person or, if the person does not state the person’s race or ethnicity, as determined by the officer to the best of the officer’s ability.
- (b) whether the officer knew the race or ethnicity of the individual detained before detaining that individual;
- (c) the initial reason for the stop;
- (d) whether the officer conducted a search during the stop and, if so, whether the person detained consented to the search;
- (e) whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;
- (f) the reason for the search, including whether:
  1. any contraband or other evidence was in plain view;
  2. any probable cause or reasonable suspicion existed to perform the search;



3. the search was performed as to inventory a motor vehicle or other package being impounded or seized; or
  4. the search was performed incident to arrest.
- (g) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;
- (h) the street address or approximate location of the stop; and
- (i) whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop; and
- (j) whether the officer used physical force that resulted in bodily injury during the stop.

#### 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.**