

Formal Recommendation

Case Number: 2019-1402
October 12, 2020



OFFICE OF
POLICE OVERSIGHT

Notice of Formal Recommendations Related to #2019-1402

Section 6(a)(8) of Article 16 of the 2018 Meet and Confer Agreement between the City of Austin and the Austin Police Association, states as follows:

“For external non-critical incident cases in which discipline is imposed at the level of an oral reprimand or greater, OPO recommendations may be made public along with the corresponding oral reprimand (or greater).”

The Office of Police Oversight, after having monitored and reviewed the investigation into the above complaint, makes the following recommendations:

Chain of Command Review

1. When presented with incontrovertible evidence of a policy violation, an accused employee’s chain of command should sustain the allegation related to that policy violation. This is especially true for policies that are not open to interpretation, such as those related to report writing.

- Disciplinary decisions should be made based on the policies in existence at the time the incident occurred. Should an officer’s commander disagree with any section of Austin Police Department (APD) policy, or should the commander believe that the purpose of the policy is no longer relevant, then he or she should, without engaging in insubordination, address any concerns with those members of APD’s executive staff who are responsible for making changes to the policy. In no scenario should anyone in an officer’s chain of command impart their opinions about policy through the disciplinary process.
- Similarly, an officer’s ignorance of a policy’s existence should not play a role in whether an allegation under that policy is sustained.

2. When determining whether an officer has violated policy, the officer’s chain of command should give equal weight to all verbal and non-verbal communication used by the officer, including hand gestures.

- Some of the personal conduct policies outlined in the General Orders are broad and do not make delineations between verbal and non-verbal communication. As a result, an officer’s chain of command should give equal attention and weight to both when determining whether a violation has occurred.

- Any decisions made by the chain of command should demonstrate a clear and precise understanding of the distinctions or variations between policies, including whether the conduct must have been observed by a complainant or instead deals with general expectations related to respect and courtesy.

Internal Affairs Investigation

3. Civilian witnesses should not be asked what they would have done differently during an incident.

- Internal Affairs (IA) investigations are solely about whether an officer's conduct during an incident constitutes an administrative policy violation. Civilians are never the subject of investigation. As a result, it is both irrelevant and inappropriate to question a civilian about what they would have done differently during an incident.
- In addition, it is essential to remember that civilians are voluntary participants in IA investigations. As a result, investigators should use caution with both the tone and subject matter of their questions and avoid questions that could discourage civilians from participating in current or future investigations.

4. Interviewees should not be asked whether they believe that certain conduct meets a word's definition, especially when that word has a particular meaning in APD policy, without first having the word defined for them.

- In general, investigators should ask open-ended questions. However, if more pointed questions must be asked related to terms or phrases in APD policy, then a clear definition of those terms or phrases should first be provided. Moreover, any definition should be explained through commonly used language that can be easily understood.

5. To preserve the integrity of investigations, leading questions should be avoided.

- Given that IA serves a fact-finding function, interview questions should generally be open-ended and focus on what officers saw and heard. It is up to an officer's chain of command to determine whether certain conduct constitutes a policy violation. As a result, a witness officer's opinion about the conduct is mostly irrelevant, whereas their detailed descriptions about what they saw and heard are both relevant and essential.

6. Whenever a video is played, the nature of the video and the timestamps should be stated aloud for the record and transcription.

- The description should include the source of the video and, given that there are often multiple videos from the same officer, the total length of the video (i.e., "This is body worn camera footage from Officer _____, and it is 51 minutes in length.")
- Investigators should state the beginning timestamp before playing any video clip and state the ending timestamp at each clip's conclusion.

7. Signed copies of every transcript should be placed in the corresponding case file as soon as they are available.

- If an officer or civilian does not sign their transcript, the IA investigator should document this, along with an explanation in the shared case management system used by IA and the OPO. In addition to adding a note to the shared case management system, the OPO should be notified via email.
- If any transcript remains unsigned at the time that IA's investigative summary sent to an officer's chain of command, the IA investigator should notify the chain of command and place a corresponding note in the body of the investigative summary.



MEMORANDUM

Austin Police Department *Region I Patrol*

TO: Christopher Williams, Police Officer
FROM: Jason Staniszewski, Commander
DATE: June 15, 2020
SUBJECT: Written Reprimand IA Case 2019-1402

This memorandum is in reference to an incident which occurred on December 25th, 2019 and your conduct at that time. Specifically, I am referring to your involvement during an arrest of an individual for Pedestrian in the Roadway. During the incident you were not tactful in the performance of your duty, did not exercise patience, and was not courteous and respectful.

Your actions violated APD Policy 301.2 (b) Impartial Attitude and Courtesy which states:

Employees will be tactful in the performance of their duties, control their tempers, exercise patience and discretion, and shall not engage in argumentative discussions even in the face of extreme provocation.

You are hereby reminded that compliance with the Department's rules and regulations are a condition of your continued employment as a police officer. Failure to comply with this policy in the future may result in more severe disciplinary action against you, up to, and including an indefinite suspension.

I hereby acknowledge receipt of the foregoing Written Reprimand:



Signature of Officer Christopher Williams

6/17/20 15:37
Date / Time



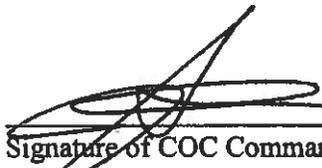
Signature of COC Sergeant Zac Reed

6/17/20 15:38
Date / Time



Signature of COC Lieutenant Karl Haverland

6-17-2020 15:38
Date / Time

 3961
Signature of COC Commander Jason Staniszewski

0/17/20 3:40 pm
Date / Time

cc: Employee Officer
Employee's Supervisor
Internal Affairs
APD Human Resources



MEMORANDUM

Austin Police Department *Region 1 Patrol*

TO: Jeffrey Hutchison, Officer
FROM: Jason Staniszewski, Commander
DATE: June 17, 2020
SUBJECT: Oral Reprimand IA Case 2019-1402

This memorandum is in reference to an incident which occurred on December 25th, 2019 and your conduct at that time. Specifically, I am referring to your involvement during an arrest of an individual for criminal trespass. During the incident you were not tactful in the performance of your duty, did not exercise patience, and was not courteous and respectful.

Your actions violated APD Policy 301.2 (b) Impartial Attitude and Courtesy which states:

Employees will be tactful in the performance of their duties, control their tempers, exercise patience and discretion, and shall not engage in argumentative discussions even in the face of extreme provocation.

The purpose of this memorandum is to document this oral reprimand. You are hereby reminded that compliance with the Department's rules and regulations are a condition of your continued employment as a police officer. Failure to comply with this policy in the future may result in more severe disciplinary action against you, up to, and including an indefinite suspension.

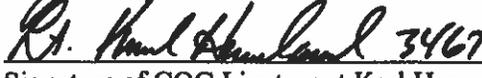
I hereby acknowledge receipt of the foregoing Oral Reprimand:

 #1307
Signature of Officer Jeffrey Hutchison

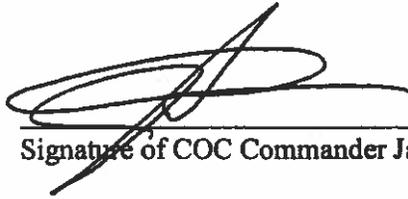
6/17/2020 15:43
Date / Time

 #6081
Signature of COC Sergeant Zac Reed

6/17/20 15:44
Date / Time

 #3467
Signature of COC Lieutenant Karl Haverland

6-17-2020 15:43
Date / Time



Signature of COC Commander Jason Staniszewski

6/17/20 3:44 PM
Date / Time

cc: Employee
Employee's Supervisor
Internal Affairs