



ICMS #: 2020-0333

April 6, 2020

**Complaint:** Mr. [REDACTED], complainant, alleges that Austin Police Department (APD) officers may have violated APD policy during an interaction with him and his son. Mr. [REDACTED] alleges that an APD officer who was impounding vehicles in the area was flagged down by a woman who said that the dirt bike his 12 year-old son was on was hers and had been stolen. He states that his son called him to tell him that the officer came over to him and began to ask him questions about the dirt bike. Mr. [REDACTED] alleges that when he arrived back to his home, he spoke to officers on scene and offered to go to his storage unit to find the bill of sale for the bike, but officers refused to wait, telling him that it was too late and that the tow truck was already coming. Mr. [REDACTED] alleges that the dirt bike was then impounded even though [REDACTED] [REDACTED] filed for the bike and he offered to provide a bill of sale. Complainant stated that he feels this was because he was Black and the other party and officers were White. Complainant stated that this wouldn't happen if he was not Black. Mr. [REDACTED] alleges that the officer who initially made contact with his son was rude, and that the same officer cursed in front of both he and his son during the incident. He further alleges when he confronted the officer about it, the officer admitted he was "kind of an asshole."

*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.



### 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.

### 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.

### 435.3 STOLEN VEHICLES

#### 618.4.1 STOLEN PROPERTY

(a) Employees will only seize items considered as stolen property when reasonable grounds exist to believe it is stolen or when the items are readily identifiable and traceable.

#### 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.

#### 900.4.1 DISCRETION AND REQUIREMENT TO TAKE ACTION

Sworn employees are charged with the responsibility to enforce the law, preserve the peace, and to protect lives and property.

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.**