



ICMS #: 2020-0557

June 26, 2020

**Complaint:** The Office of Police Oversight received an online complaint from [REDACTED] stating as follows:

On [REDACTED], while working security for [REDACTED] site at [REDACTED], I was notified by a [REDACTED] employee that a male subject was harassing our customers while they were waiting in line to enter the store. For this site, I am in a full security uniform and licensed by the state of Texas as a level II security officer as well. The line is due to the pandemic outbreak nationwide and only a limited number of customers are allowed in the store at once. The suspect was described as a w/m with a "chicken" on his shoulder. Upon exiting the store I could see the male as described by the employee, walking up and down the line talking aggressively to our customers. The male was described as w/m, 5'7, 160 lbs, wearing red/white/blue shirt, blue pants, sandals and carrying an american flag and having a chicken on his shoulder. I waited close to the store entrance and tried calling the site security from [REDACTED] Security. Before I could get through, the subject came up towards to the entrance, still harassing customers and I met him at the tent that [REDACTED] has set up just before entering the store. The subject, immediately began saying it was his american right to protest and walk around even though it was private property. I responded by telling the subject to please leave our customers alone and to please leave the immediate area. The subject then abruptly said, "I'm going to sneeze on you if you don't move out of my way", while standing less than two feet away. I told the subject, who was not wearing a mask or any other protective gear at the time, to please leave the property and he continued to warn that he was going to sneeze and then immediately sneezed on my face, he then stated, I told you I was going to sneeze. I responded by punching him on the left side of the face and then taking him to the ground to detain him for assaulting me by spitting/sneezing on me intentionally. I then held him down until police arrived. I then summoned for a customer to call 911. Once police arrived, they placed the subject in handcuffs and I immediately went to the front of the store to get sprayed down by alcohol disinfectant and hand sanitizer. The manager of the store came over and spoke with me and stood by while the situation was sorted out. The first officer that came up to me was Officer [REDACTED], I gave him my identification as required and he said I'll return so we can do the criminal trespass warning? I immediately said, what about the assault? He slightly acknowledged that but I stood by while he went back to his patrol car. After a couple of minutes I walked towards Officer [REDACTED] location where other officers were standing by with the subject. Those officers were [REDACTED], [REDACTED]. Officer [REDACTED] then updated me that he was doing the report for CTW and not be taking the subject into custody for assault as it was just a simple assault of assault by contact? I did not feel that enough was being done based off of available Texas statues that are in place to protect security officers during instances such as this. I asked for a supervisor and was told that Sgt [REDACTED] would be en route. While standing around waiting, not one of the many officers asked me for my side of the story nor if I was injured, needed ems, needed to be decontaminated, etc. Basically no investigation was done, just an



assumption of CTW and go about the day. One officer, [REDACTED] was standing next to me as i was speaking to my store manager. The witness and person who was summoned to call 911 was walking by and leaving the area, so i asked Officer [REDACTED] to please get his information as it was pertinent to the assault and investigation. He blatantly refused after several attempts to persuade him to do so. Instead, [REDACTED] was more interested with why i even needed a supervisor to the scene and was by far the most unprofessional officer i have ever come in contact with, spoken to and was unimpressed with today's culture of policing. His snarky attitude, refusal to help gather information that was important to an investigation was unnecessary and not helpful to say the least. Shortly there after, the Sgt, [REDACTED] arrived and we discussed my concerns with the lack of investigation, questioning, attempt to gather evidence and even requested that he as a supervisor reach out to arrest review for assistance to see what can be done based off of the texas statue in place to protect security officers that are for many years considered public servants during assaults. The sgt was very hesitant, and explained that he had confidence in his officers and that they had already looked up the statute. The subject was released without further incident, I took my own photos of my injuries, (abrasions) sustained during the scuffle. E [REDACTED] with that, i was told that any injury not directly inflicted by the assailant would not constitute and assault in this case. I even pleaded with [REDACTED] and [REDACTED], what about public intoxication? the subject was clearly under the influence of an unknown substance and a clear danger to himself and others, nothing. I am disappointed in the level of training and lack of investigation done every time time an officer is called to our location. This is unprofessional, needs attention and needs to be investigated to ensure the culture of laziness or lack of knowledge decreases.

*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):**

**110.4.3 OBEDIENCE TO ORDERS**

The Department is an organization with a clearly defined hierarchy of authority. This is necessary because obedience of a superior's lawful command is essential for the safe and prompt performance of law enforcement operations. This section also applies to orders received by an employee in the field training program from a Field Training Officer (FTO).

**110.4.4 INSUBORDINATION**

Employees will not be insubordinate. The willful disobedience of, or deliberate refusal to obey any lawful order of a supervisor is insubordination. Defying the authority of any supervisor by obvious disrespect, arrogant or disrespectful conduct, ridicule, or challenge to orders issued is considered insubordination whether done in or out of the supervisor's presence.



### 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.

### 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. Since potential witnesses to an incident may be lost or the integrity of statements compromised with the passage of time, officers should take reasonable steps to promptly coordinate the following tasks with on-scene personnel:

(b) Obtain necessary identification from witnesses and an account of what they observed.

### 402.2.2 REPORT WRITING

(a) All reports shall accurately reflect:  
2. All pertinent information seen, heard, or assimilated by any other sense.

### 402.2.5 SUPERVISOR RESPONSIBILITIES

(a) All reports routed to a supervisor's queue shall be reviewed for compliance with Department General Orders. Supervisors must ensure there are no Incident Based Reporting (IBR) errors and approve the report by completing the "Date approved" field and "Approved by" field on the front page of the GO. Reports that are incomplete or inadequate shall be returned for correction

### 801.3 UNIFORM GUIDELINES

Sworn employees wear a uniform to be identified as the law enforcement authority in society. The uniform also serves to identify the wearer as a source of assistance in an emergency, crisis or other time of need. Some civilian employees also wear a uniform to be identified as part of a specific assignment (e.g., crime scene, victim services).

(a) All sworn employees shall possess and maintain a serviceable uniform and the necessary equipment to perform uniformed field duty at all times.

### 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 a B classification.***

