



ICMS #: 2020-1732

January 27, 2021

Complaint:

Complainant, [REDACTED], submitted a phone complaint to the Office of Police Oversight alleging the following:

After an officer pulled her over for not having a front license plate, the officer asked if there was marijuana in her front seat and the complainant said she didn't know. The officer asked if he could search her vehicle and she said no. The officer pointed out ashes in her front seat and she explained that the ashes were from her friends smoking in her car and that she does not smoke because she has bronchitis and COVID. The officer told her he had probable cause and proceeded to put her in handcuffs and searched her car along with two other officers. The officer asked her to sit in the back of his car and the complainant felt it was a command, and so she complied. The three officers asked her multiple times when she last smoked marijuana. After the officers found nothing, they apologized and let her go but they had torn her vehicle apart and money was missing.

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):

301.2 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.

318.3.1 HANDCUFFING DETAINEES

As a practice, officers should not handcuff lawfully detained individuals. However, situations may arise where it may be reasonable to handcuff a lawfully detained individual . . . Officers should weigh the safety interests of all involved individuals against unreasonable intrusion upon a detainee when deciding to place handcuffs on a detainee . . . 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.

306.3.1 SEARCH PROTOCOL

When practical, an officer of the same gender should be called to the scene when officers believe the subject is concealing items in a sensitive area, such as, evidence or narcotics in the groin, buttocks, or breast areas. This does not apply to items that pose an immediate threat to officer safety . . . Officers will use the backside of their hands and fingers to frisk/search sensitive areas of the opposite gender to include the breast, crotch, and buttocks.



306.8 PROBABLE CAUSE

When officers have probable cause to believe that evidence or contraband is located on a person they are permitted to conduct a search of the person . . . Officers may conduct a warrantless search of a readily movable vehicle (e.g., automobile, mobile home, boat or airplane) if there is probable cause to believe that evidence or contraband is inside and the search cannot safely be delayed in order to obtain a warrant.

308.9 MISDEMEANOR POSSESSION OF MARIJUANA (POM)

For Class A and B POM offenses, officers should only make an arrest or issue a citation as otherwise permitted by section 308.3 and 308.4 of this order if doing so as part of: (a) the investigation of a high priority, felony-level narcotics case, or (b) the investigation of a violent felony. In all other Class A or B POM cases, and when officers have probable cause to believe the substance is marijuana, officers shall seize the marijuana, write a detailed report titled “possession of marijuana” and release the individual if POM is the sole charge. Officers shall deposit the marijuana according to GO 618.6.2 Submitting Narcotics and Narcotics Paraphernalia . . . In addition, the officer will complete a “(POM) Class A/B with no charges filed” template which is required for the disposal of the marijuana.

402.1.1 GENERAL GUIDELINES

Officers will not write an offense report when they are the victim of a crime. The victim officer will write a supplement. The offense report will be written by an officer who is not a victim. An incident number will be assigned and all required fields completed during documentation anytime an employee observes or receives any information concerning the following, but not limited to: (a) Criminal or suspected criminal offenses, regardless of the victim’s level of cooperation.”

402.2.4 REPORT WRITING

All reports shall accurately reflect: (1) the identity of the persons involved. (2) All pertinent information seen, heard, or assimilated by any other sense. (3) Any action(s) taken. (4). Any property which the employee takes possession of, clearly documenting the: (a) events that led up to the taking possession of the property; (b) purpose for taking the property; (c) identification of the property and/or description; (d) location where the property was taken; (e) complete identifiers, as available, for anyone who may claim ownership of the property.

402.2.5 REPORT COMPLETION

Employees will complete and download all reports written, including CR-3s, during their shift.

618.3 GENERAL PROVISIONS

Employees will not convert to their own use, manufacture, conceal, destroy, remove, tamper with, or withhold any property or evidence in connection with an investigation or other departmental action.



618.6 EVIDENCE PROCESSING AND SUBMISSION

Employees will process and submit all property taken into their custody as expeditiously as possible while following established guidelines.

618.6.2 SUBMITTING NARCOTICS AND NARCOTIC PARAPHERNALIA

Narcotics and narcotic paraphernalia may be turned in at the Evidence Section located at the East Substation or any temporary evidence drop box/locker location when: (a) Charges have been direct filed (affidavit turned in at the time of the arrest); or (b) A Field Release citation has been issued; or (c) Charges will not be filed . . . All narcotics and/or paraphernalia will be submitted in accordance with procedures established by the Evidence Section. This includes prescription medication.

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.

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.