



ICMS #: 2019-1358

January 8, 2020

Complaint: Mr. [REDACTED], complainant, alleges that Austin Police Department officers may have used excessive force with him during an encounter, stating that officers applied pressure to his legs and “they felt like they were going to break.”

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):

200.3 RESPONSE TO RESISTANCE

While the type and extent of force may vary, it is the policy of this department that officers use only that amount of objectively reasonable force which appears necessary under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this order.

200.3.1 DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE

Any interpretation of objective reasonableness about the amount of force that reasonably appears to be necessary in a particular situation must allow for the fact that police officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving, and the amount of time available to evaluate and respond to changing circumstances may influence their decisions. The question is whether the officer's actions are "objectively reasonable" in light of the facts and circumstances confronting him.

306.7 VEHICLE INVENTORY

An inventory is a legitimate law enforcement activity that is not a search and that sometimes, incidentally, results in the discovery of evidence. Vehicle inventories will be conducted in accordance with General Order 350 (Vehicle Towing and Impound).

306.6 SEARCH INCIDENT TO ARREST

The general authority to search incident to a lawful custodial arrest is not qualified or limited by the type of arrest. Objects of the search are weapons, evidence, and/or means of escape.

306.8 PROBABLE CAUSE

306.9 FRISK (PAT-DOWN) FOR WEAPONS

A frisk is a mere pat-down of the outer clothing, area, vehicle or container to which a detained person may have immediate access. The purpose of a limited weapons frisk after an investigatory stop is not to discover crime, but to allow the officer to pursue the investigation without fear of



violence. An officer does not need to be absolutely certain that an individual is armed; the issue is whether a reasonably prudent person would justifiably believe that he or others were in danger.

306.10 PLAIN VIEW

Because an individual does not have an expectation of privacy as to items that are in plain view, no search has taken place in a constitutional sense when an object is viewed from a location where the officer has a right to be.

350.4 VEHICLE INVENTORY

318.5.1 MIRANDA WARNING

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.

900.3.4 PERSONAL CONDUCT

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.