



ICMS #: 2020-0662

July 31, 2020

**Complaint:** The Office of Police Oversight received a phone complaint from [REDACTED], complainant, alleging that Officer [REDACTED] and three other officers searched his apartment without a search warrant and confiscated his guns. He states that the way they handled the situation was uncalled for, stating that they got in his face, were very unprofessional, and twisted his girlfriend's arm and threw her in the car.

*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.

**200.3.2 USE OF FORCE TO AFFECT A DETENTION, AN ARREST OR TO CONDUCT A SEARCH**

An officer is justified in using reasonable force when the officer reasonably believes the use of such force is immediately necessary (Tex. Penal Code § 9.51(a)):

- (a) To make or assist in a detention or an arrest, or to conduct a search that the officer reasonably believes is lawful;
- (b) To prevent or assist in preventing escape after an arrest, provided the officer reasonably believes the arrest or search is lawful; or (c) To make an arrest or conduct a search under a warrant that the officer reasonably believes is valid.

**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.

### 303.3.1 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.

### 321.3.1 GENERAL GUIDELINES

(f) While transporting a prisoner in a vehicle equipped with an MAV device, officers shall have the rear seat camera activated, or the front camera activated and faced toward the prisoner.

### 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

(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.

### 900.5 RESPONSIBILITY TO COWORKERS

Cooperation among employees of the Department is essential to effective law enforcement.

(a) Employees are expected to treat each other with respect.

1. Employees will be courteous and civil at all times in their relationships, perform their duties in a cooperative and supportive manner, and not threaten, display physical aggression toward, or use insolent or abusive language with one another.

### 914.3.2 HARASSMENT

(a) Harassment is unwelcome verbal or physical conduct toward an individual or a group because of a protected class. Harassment can create a hostile work environment when such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or otherwise adversely affects an individual's employment opportunities. Examples of prohibited conduct that constitute harassment include, but are not limited to:

1. Use of epithets, innuendos, names, comments, foul language or slurs because of an individual's protected class;
  2. Jokes, pranks or other banter, including stereotyping based on a protected class;
- or,

(b) Employees shall not engage in conduct which could reasonably create a hostile work environment at any time while on duty or on City premises, or even if not on duty, but



participating in any work-related setting outside the workplace, such as traveling on City business or attending professional conferences.

#### 914.3.3 SEXUAL HARASSMENT

(b) Sex or gender-based and/or sexually oriented jokes, remarks, gestures, or pictures may be offensive to other employees and will not be tolerated.

#### 914.6 SUPERVISOR'S ROLE

Discrimination, harassment, sexual harassment, or retaliation is viewed from the perspective of the victim, not the offender. Because of differences in individual values, supervisors and managers may find it difficult to recognize that their behavior or the behavior of others is discriminatory, harassing, or retaliatory. Supervisors should consider whether a reasonable person in the victims place would consider the conduct to be inappropriate. Supervisors and managers shall be aware of the following considerations:

- (a) Behavior of supervisors and managers should represent the values of the Department and professional law enforcement standards.
- (b) Supervisors and managers must act responsibly in the handling of such situations.

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.***