



ICMS #: 2020-1155

July 17, 2020

**Complaint:** The Office of Police Oversight was contacted by multiple complainants regarding a woman's arrest by the Austin Police Department (APD). Complainants allege that an APD officer improperly conducted a search/frisk of the woman's breasts while she was handcuffed.

*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):**

**200.2 DE-ESCALATION OF POTENTIAL FORCE ENCOUNTERS**

When safe and reasonable under the totality of circumstances, officers shall use de-escalation techniques to reduce the likelihood for force and increase the likelihood of voluntary compliance. Nothing in this de-escalation policy requires an officer to place themselves in harm's way to attempt to de-escalate a situation. Recognizing that circumstances may rapidly change, officers may need to abandon de-escalation efforts after they have commenced. Understanding that no policy can realistically predict every situation an officer might encounter, the Department recognizes that each officer must be entrusted with well-reasoned discretion in determining the reasonable deescalation techniques to use in a situation. This de-escalation policy is intended to complement, not replace or supersede, other portions of the APD Policy Manual or specific officer training that addresses de-escalation.

**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.

**306.3.1 SEARCH PROTOCOL**

Nothing in this order supersedes officer safety tactics.

- (a) Officers will conduct person searches with dignity and courtesy
- (e) When safety permits:



1. Officers should explain to the person being searched the reason for the search and how the search will be conducted.
2. 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.
3. If a subject requests a search by an officer of the same gender, an attempt should be made to have a same gender officer conduct the search.

#### 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.

#### 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 an A classification.**