



ICMS #: 2021-0151

March 12, 2021

Complaint: The complainant, [REDACTED], alleges: I dropped my friend visiting from out of state at [REDACTED], [REDACTED]. After I intentionally made a wide left turn out of the driveway essentially hoping to avoid any body damage to my vehicle due to the lack of shocks. I was quickly stopped by APD. Without asking my permission, receiving my consent or having any probable cause, Officers with the Austin Police Department conducted an illegal search of my vehicle. This search resulted in 4 new criminal charges and my arrest. I do not understand how a simple traffic violation ram extremely disappointed by

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):

110.4.4 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.

306.5 CONSENT

(a) Entry into a location or vehicle for the purpose of conducting a search for any item reasonably believed relevant to any investigation is permitted once valid consent has been obtained. Officers should be aware that overuse of the consent search can negatively impact the Department's relationship with our community and only request a consent search when they have an articulable reason why they believe the search is necessary and likely to produce evidence related to an investigation. A search by consent is only allowed if the following criteria are met:

1. The officer has explained the reason for the consent search request to their supervisor (or their Corporal/Detective if their supervisor is unavailable) and received their approval prior to requesting consent. If the officer is:

(a) Assigned to a specialized unit that has received specific training on consent searches; or

(b) The officer has completed the department's Interdiction for the Protection of Children (IPC) training and is actively conducting an IPC investigation; then the officer would not need supervisor approval prior to requesting consent.

2. Consent is voluntary (e.g., clear, specific and unequivocal).

3. Consent is obtained from a person who has the authority to give the consent (e.g., care, custody and control of the location or vehicle).

4. The search does not exceed the scope of the consent given.



(b) Consent must be obtained as the product of a free will. It cannot be obtained through submission to authority, either expressed or implied.

306.8 PROBABLE CAUSE

(a) Person: 1. 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.

(b) Vehicles:

1. 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.

900.4.1 DISCRETION AND REQUIREMENT TO TAKE ACTION

Sworn employees are charged with the responsibility to enforce the law, preserve the peace, and to protect lives and property.

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.