



OMBUDSMAN'S REPORT
Complaint Investigation & Findings

OMB03/0138 – December 22, 2003

THE SITUATION

The Complainant went to the Boise Airport to pick up her 10 year old brother at approximately 11:00 am on July 24, 2003. While waiting for her brother, she was approached by a Boise Airport Police lieutenant (the Lieutenant) and a Boise Airport Police officer (the Officer). The Lieutenant notified the Complainant that her mother, who was also present, would pick up her son (the Complainant's brother). During the encounter, the Complainant made physical contact with the Lieutenant. The Complainant was taken to the floor and handcuffed. The Complainant was cited for Obstructing an Officer and Disorderly Conduct. The Complainant's 18 year old brother and a neighbor were present during the incident. An airline representative was also present.

THE COMPLAINT

The Complainant phoned the Office of the Community Ombudsman to file a complaint against (the Lieutenant), on July 24, 2003. The Complainant said that she went to the airport to pick up her 10 year old brother, who had been visiting their father. The Complainant said that her name had been given to the airline representative as the responsible party to pick up her brother. She said that her parents, who are divorced, had an agreement that she (Complainant) would pick up her brother, keep him until 5:00 PM and then transport him to her mother's residence.

The Complainant said that as she was waiting for her brother, she observed her mother, her ten-year old brother, and two police officers approaching from the airline gate area.

She said that as they came closer, she also observed her 18 year old brother and a neighbor with her mother. The Complainant said that she prepared to introduce herself to the officers, but when the Lieutenant got within two to three inches of her face he began waiving her parents' divorce decree and telling her that she wasn't the mother and couldn't pick up her brother. He also told her to sign the airline release form so that her mother could take her brother.

The Complainant said that her mother started to talk to her and she told her (mother) not to talk at that moment. She said her mother started talking again and she (Complainant) told her mother to, "shut the f--- up." The Complainant said that the Lieutenant told her he would arrest her for cursing in front of a minor.

The Complainant said that as she moved around the Lieutenant, who was standing in front of the airline's flight attendant, to sign the release form, the Lieutenant pushed her into the chest of a younger officer. The Complainant said that the Lieutenant told her that he had warned her and she would be arrested for battery on a police officer. The Complainant said that he (Lieutenant) threw her to the ground and handcuffed her. She said that her shoe came off and everything spilled out of her purse. She said that she saw someone at the airport she knows and asked him to contact her father. She said that she pushed her cell phone in his direction.

The Complainant said that she was taken to a room within the airport and left, locked in the room, for approximately 15 minutes. She said that the Lieutenant came back into the room and told her he could either arrest her and take her to jail or he could write a citation. He told her that it was up to her to decide. The Complainant said that she chose the citation.

The Complainant said that she was escorted to the entrance of the airport by the younger officer who had also been involved. She said that she asked him what prompted the officers' involvement and he told her that he didn't want to get involved. She said she was escorted to her car by another officer. The Complainant said that as she was leaving the

airport, she saw the younger officer (the one that told her he didn't want to get involved) "chatting it up" with her mother.

The Complainant said that she was given a citation for Obstructing an Officer and for Disturbing the Peace. She said that the Lieutenant did not fill in the part that explains when to appear in court. She was not given a police report number.

Allegation

Boise Airport Police Policy and Procedures Manual (PM) §1.0100 - Use of Force. The Complainant alleges the Lieutenant used excessive force in his contact with her.

THE COMPLAINT INVESTIGATION

The investigation was conducted by Michelle Callaham, the Assistant Ombudsman.

Ms. Callaham reviewed the police report filed by the Lieutenant. The police report contained the general report that included a summary of events provided by the Lieutenant; a supplemental report provided by the Officer; a copy of the citation for Obstructing an Officer and for Disorderly Conduct; and statements provided by the mother, the mother's neighbor, the airline representative, and the 18-year old brother.

According to the Lieutenant's report, the Officer brought the mother to his office at approximately 9:00 am. The mother told him that her 10-year old son was flying in, but her ex-husband had not made her aware of the flight number and time. The Lieutenant told the mother to check with the airline and retrieve a pass to meet her son at the gate. The Lieutenant was contacted again by the Officer at approximately 11:00 am, as the 10-year old had arrived and there was some dispute over who was allowed to transport him from the airport. According to the Lieutenant's police report, the airline employee was required to have the unaccompanied minor released to the person designated on the airline form. The person designated was the Complainant, who was also the estranged

daughter of the mother.

According to the police report, the Lieutenant told the Complainant that she would need to sign the release and that he would contact the City Attorney's Office for direction about who could take the 10-year old. The Lieutenant recorded that immediately after that the mother said something to the Complainant, the Complainant responded by yelling "F--- you," at her mother. The Lieutenant, based on the large crowd present and the fact that the statement was made in front of a minor, told the Complainant not to use such language. The Lieutenant's report stated that the Complainant stepped into him and pushed him with her right hand against his chest. The Lieutenant's report states that he grabbed her hand and told her that she was under arrest for disorderly conduct. According to the report, the Complainant pulled away, spun to her left into the Officer. The Officer grabbed her left arm, the Complainant was taken to the floor and handcuffed. The Complainant was cited and released.

According to the Officer's supplemental report, he was contacted by the mother at approximately 9:00 am on July 24, 2003. She explained to the Officer that her 10-year old son was flying in that day, but she did not know the time or flight number. She reported to the Officer that she was concerned there may be a custody problem when he arrived because she did not know who her ex-husband had listed as the responsible party.

The Officer consulted with the Lieutenant. The Lieutenant advised that the mother check with the airline, obtain an airline pass and meet her 10-year old at the gate. The Lieutenant also offered police assistance.

According to the Officer's supplemental report, at 11:00 am, he met with the mother and escorted her and her 10-year old son from the airline gate into the terminal. The airline representative remained with the 10-year old son, as well. The Officer reviewed the airline release form and found that the 10-year old was to be released to the Complainant. The Officer contacted the Lieutenant for direction. The Lieutenant met them at the airline gate and walked with them outside the security checkpoint area. When they met

with the Complainant, she was made aware that she needed to sign the airport release form and they would figure out to whom the 10-year old should be released by contacting the City Attorney's office. The Officer heard the mother tell the Complainant that she could visit the 10-year old anytime. The Officer stated that the Complainant responded by telling the mother, "F--- you." According to the Officer, the Lieutenant stepped in front of the Complainant and warned her not use that kind of language or she would go to jail. The Officer stated that the Complainant pushed the Lieutenant to the side. The Lieutenant told the Complainant he was placing her under arrest and grabbed her right arm to detain her. According to the Officer, the Complainant began to struggle and he (Officer) grabbed her left arm and took her to the ground using an arm-bar takedown. The Officer said that he placed the Complainant in handcuffs. The Officer and the Lieutenant escorted her to the airport police interview room where she was cited and released.

The neighbor's statement, contained in the police report, states that when the officers approached the Complainant, the Complainant became verbally abusive to her mother. When the police told the Complainant to stop using foul language, the Complainant shoved the officer and he (Officer) restrained her.

The airline representative's statement explained that she was warned by a police officer that a custody dispute may arise involving the 10-year old boy. The airline representative explained that she is required to match the identification of the party picking up the child against the information listed in her paperwork. The airline representative stated that when she approached the rotunda area with the 10-year old, she observed the Lieutenant approach the Complainant and request her identification. The Lieutenant informed the Complainant that she needed to show her identification and sign the airline release form. The airline representative stated that the mother spoke quietly to the Complainant and the Complainant began yelling and using the "f-word". The Lieutenant intervened and told the Complainant to stop using foul language. The Complainant, according to the airline representative's statement, pushed the Lieutenant and continued to yell and curse. The Lieutenant and the Officer placed the Complainant on the ground and told her that she

was under arrest. The airline representative stated that she took the 10-year old boy to her office and did not release him until she received approval from the airport police. The airline representative stated that she received approval to release the boy to his mother at approximately 11:30 am.

The mother's statement explained that she was receiving assistance from the Officer and the Lieutenant when she arrived at the airport to pick up her 10-year old son. She said that her ex-husband had listed the Complainant as the responsible party on the airline's release form. She stated that, as the Complainant was approached by the officers, the Lieutenant told the Complainant that her name wasn't listed in the court documents and that could be problematic in releasing the 10-year old. The mother stated that she told the Complainant that she could visit her 10-year old brother any time, but was interrupted by the Complainant and the Complainant told her that she was "welcome to stay the f--- out of her life." According to the mother's statement, the Lieutenant warned the Complainant not to use such language in the presence of a minor and the Complainant pushed the Lieutenant in the chest with her hand and told him that he was "welcome to stay the f--- away from her." The mother's statement explained that both the Lieutenant and the Officer reacted by telling the Complainant that she was under arrest. The Complainant, according to the mother's statement, began to struggle with the officers and continued to yell obscenities. According to the mother's statement, she (mother) turned away and gave the airline representative permission to take her 10-year old son to the airline office. When she turned back, she observed the officers escorting the Complainant up the stairs.

The statement provided by the 18-year old explained that when the Lieutenant approached the Complainant, he (Lieutenant) told her that he couldn't allow her to take the 10-year old because she wasn't listed in the court paperwork. The 18-year old stated that the Complainant told the Lieutenant that he should check the paperwork again. The 18-year old stated that his mother told the Complainant that she was welcome to visit the 10-year old anytime. The 18-year old stated that the Complainant told her mother that she was welcome to, "stay the f--- out of her life." According to the 18-year old's statement, the Lieutenant told the Complainant not to use such language in front of the

10-year old or he would place her under arrest. The 18-year old stated that the airline representative approached the Complainant and asked her to sign the release form and the Complainant walked up to the Lieutenant and shoved him aside. While shoving him, the Complainant said that he could, “get the f--- out of her way.” The 18-year old stated that the Complainant was placed under arrest for assault on an officer. He said that the Complainant reached for her cell phone and began resisting and flailing her arms about. The 18-year old stated that the officers took the Complainant to the ground, removed her cell phone, placed her in handcuffs and escorted her up the stairs.

Ms. Callaham interviewed both the Lieutenant and the Officer. Both of them provided statements similar to what was contained in their police reports.

Ms. Callaham also determined that neither the Lieutenant nor the Officer created an audio recording of their contact with the Complainant, or any other portion of the incident.

WHAT THE COMPLAINT INVESTIGATION FOUND

Based on the preponderance of the evidence from the investigation, the following factual findings were issued:

1. The Officer and Lieutenant became involved at the request of the mother.
2. The Lieutenant told the Complainant to sign the airline release form.
3. The Complainant, after her mother spoke to her, used the word. “F---” more than once.
4. The Lieutenant told the Complainant that he would arrest her for using foul language in the presence of a minor.
5. The Complainant pushed the Lieutenant with her hand against his chest.

6. The Lieutenant took hold of the Complainant's right hand.
7. The Officer took hold of the Complainant's left hand, guided her to the ground and handcuffed her.
8. The Lieutenant and Officer escorted the Complainant to the airport police interview room.
9. The Complainant suffered no injury.
10. The Complainant was cited and released.

OMBUDSMAN'S ANALYSIS AND FINDINGS

The Officer and Lieutenant became involved in this situation at the request of a parent who was concerned about who would be picking up her minor child. The Officer and Lieutenant were aware that the parent was divorced and that her 10-year old son was flying in from a visit with her ex-husband. The Lieutenant made the decision to monitor the situation, to ensure that the 10-year old was released appropriately upon arrival.

The Lieutenant directed the Complainant to sign the airline release form and explained to her that he would contact the city attorney's office to get a legal opinion about who the 10-year old should be released to. According to the witness statements, the Complainant became angry and began yelling expletives towards her mother and the Lieutenant. The Complainant pushed the Lieutenant, possibly as she was moving toward the airline representative. That physical contact, no matter the intent of the contact, caused the Lieutenant to tell the Complainant that she was being placed under arrest. The Officer assisted the Lieutenant by taking the Complainant to the ground, using an approved method (arm-bar take down) and handcuffing her. No injury to the Complainant resulted in that contact.

The Use of Force policy, PM §1.0100 states (in part):

Officers shall use only the amount of force that is reasonable and necessary to protect life, affect a lawful arrest, and/or gain control in any lawful circumstance.

Additionally, the criteria for use of force (also in PM §1.0100) states:

a. The appropriateness of an officer's actions will be determined by the totality of the circumstances and by the reasonableness of the officer's perceptions at the time of the incident.

b. The criteria for determining use of force shall include but not be limited to:

(1) The severity of the crime.

(2) The nature and extent of the threat posed by the suspect.

(3) The degree to which the suspect resists arrest or detention.

(4) Attempts by the suspect to evade arrest by flight.

(5) Other factors including:

(a) Nature and quality of intrusion upon the individual.

- (b) Duration of that intrusion.*
- (c) Severity of injuries inflicted, if any.*
- (d) Officer/Subject size and other physical attributes.*
- (e) Environmental considerations.*
- (f) Reaction time.*
- (g) Totality of circumstances.*

The Lieutenant and the Officer observed that the Complainant was angry. Her behavior included yelling and using obscenities. When she moved towards the Lieutenant, no matter what her intent was, the Lieutenant and witnesses observed her push him. The Officer saw the Lieutenant lose his balance which indicated to him that the Complainant pushed the Lieutenant. The Lieutenant and Officer responded to the threat they perceived in a manner consistent with Airport Police policy and the training they have received. The amount of force used was both reasonable and necessary to gain control in a lawful circumstance.

PM 1.0100 - Use of Force - **Exonerated**



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