



OMBUDSMAN'S REPORT

Complaint Investigation & Findings

OMB03/0079 - June 9, 2004

THE SITUATION

The Complainant observed an interaction between a police officer and an intoxicated man, who had passed out on the sidewalk. A second police officer was also present and assisted the first police officer.

THE COMPLAINT

The Complainant said that an elderly man was lying on a sidewalk and she was not sure if he was breathing. A report was made to the police. Officer #1 arrived and, according to the Complainant, felt around the man's pockets, did not ask the man to stand up or sit up, but instead grabbed the man and yanked him to his feet. The Complainant said that Officer #1 told the man that he was wasting tax-payer dollars by having the police baby-sit him. The Complainant said that Officer #1 directed the man to sit down, as the man was swaying and Officer #1 immediately kicked the man's legs out from under him, without providing the man an opportunity to sit himself. The Complainant said that the man took a cigarette out and put it in his mouth and Officer #1 grabbed the cigarette and threw it to the ground.

The Complainant said that she thought Officer #1 was disrespectful with the man. If this allegation was true, it would be a violation of § 21.0307 of the Boise Police Department's Policy and Procedure Manual. This section of the policy governs police officer interactions with members of the public, prisoners, or others an officer has contact with.

THE COMPLAINT INVESTIGATION

In the course of this investigation, audio recordings made by the officers present were reviewed and both officers were interviewed.

WHAT THE COMPLAINT INVESTIGATION FOUND

Based on the preponderance of the evidence obtained and reviewed in the course of this investigation, I issued the following findings of fact:

1. Officer #1 performed a leg sweep on the man shortly after arriving to the scene.
2. Officer #1 removed an unlit cigarette from the man's mouth and threw it to the ground.
3. Officer #1 told the man he was wasting the public's money by being so intoxicated in public that he passed out and the police had to come and check on his safety.
4. Officer #1 gave the man a ride to his residence.

OMBUDSMAN'S ANALYSIS AND FINDINGS

The Policy and Procedure manual (PM) for the Boise Police Department (§ 21.0307) that governs interactions between police officers and members of the public states:

An employee shall treat all other persons in a civil and respectful manner. He/she shall not use profanity or uncomplimentary speech in the presence of

members of the public, prisoners, or other people he/she has contact with nor shall he/she intentionally antagonize any person.

The Complainant requested police assistance based on a concern she had for the welfare of the man lying on the sidewalk. She observed the contact Officer #1 had with the man and felt Officer #1 was disrespectful. Officer #1, however, described his contact with the man as direct and gruff. Officer #1 stated that the police had responded to reports of the man being passed out several times that day. Officer #1 was concerned about the welfare of the man and took him home.

While it is true that Officer #1 could have spoken with the man in a more sensitive manner, the way in which he addressed him does not rise to the level of a policy violation. Officer #1 did continue to interact with the man while taking him home. The man thanked Officer #1 for providing him with a ride home.

I did not identify a violation of PM § 21.0307 during the course of this investigation. I have issued a finding of unfounded.

Pierce Murphy
Community Ombudsman
P.O. Box 500
Boise, Idaho 83701-0500
(208) 395-7859
mailbox@boiseombudsman.org