



OMBUDSMAN'S REPORT Complaint Investigation & Findings

OMB03/0102 - December 14, 2004

THE SITUATION

Boise police were conducting an investigation of a fraudulent use of a credit card and arrested the Complainant. As police were about to arrest the Complainant's husband, he fled the area, and a search was conducted. The search took several hours. During the ensuing hours, the Complainant primarily had contact with Officer #1 and Officer #2.

THE COMPLAINT

The Complainant said that, after her arrest, she was handcuffed and held in a patrol car for three hours. The Complainant said that after the three-hour period, she was transported to the Criminal Investigation Division (CID) of the Boise Police Department (BPD). She said she was left at CID overnight, not provided any water or food; nor was she allowed to use the restroom.

THE COMPLAINT INVESTIGATION

The investigation included a review of the police reports, the incident history reports from Ada County Dispatch, the audio recordings made by the officers, and interviews with Officer #1 and Officer #2.

WHAT THE COMPLAINT INVESTIGATION FOUND

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

1. The Complainant was detained by Officer #1, upon his arrival at her residence.
2. The Complainant was detained in a patrol car from approximately 8:50 PM to 11:35 PM.
3. The Complainant was transported to CID, in custody, and held for questioning from approximately 11:45 PM to 5:30 am.
4. Officer #1 removed the Complainant's handcuffs once the Complainant was held in an interview room at CID.
5. Officer #2 provided water for the Complainant to drink and allowed her to use the restroom.
6. Officer #2 had numerous interactions with the Complainant throughout her detention.
7. Officer #2 secured and served a search warrant for the Complainant's residence at 4:15 am.
8. Officer #2 pursued an active investigation, from his arrival at the Complainant's residence after his initial call-out, until he completed the search of the Complainant's residence at approximately 5:00 am.

OMBUDSMAN'S ANALYSIS AND FINDINGS

The BPD Policy § 1.1005 Removal of Prisoners states:

When a person is taken into custody, the arresting officer shall remove (or cause to be removed) the prisoner from the scene without unnecessary delay and as inconspicuously as possible. The transporting officer shall then transport the prisoner directly to the place of detention or a place determined by investigative necessity. In the latter case, the prisoner shall be transported directly to the place of detention once the investigative necessity has been satisfied.

The investigation into the matter involving the Complainant was long and complicated due to the amount of items and issues that Officer #2 was required to research. Officer #2 was responding to a report that the Complainant and her husband had used stolen credit cards to purchase over \$2,800 worth of items from five retail stores and had also used the stolen credit cards to rent two vehicles.

Upon Officer #1's arrival at the Complainant's residence, the Complainant's husband fled, and eluded police for several hours. Officer #1 secured the Complainant in handcuffs and placed her in his patrol car while additional officers responded to the residence.

Officer #1 agreed that the Complainant was in the patrol car for an inordinate amount of time. However, based on the circumstances of the investigation, it was necessary that the Complainant remain present to respond to questions posed by Officer #2 during his investigation. Once the investigative need to keep the Complainant at her residence was satisfied, she was transported to CID.

For these reasons I have issued a finding of exonerated for both officers regarding this policy.

The BPD's Policy § 21.0309 Cruel Treatment of Persons or Animals states:

No employee shall at any time or for any reason willfully subject any person or animal to cruel treatment or willfully neglect the necessary humane action which the circumstances may require.

There is no independent evidence to suggest that the Complainant was treated in a cruel or neglectful manner during the evening of her arrest. While she was detained in a patrol car and in handcuffs for a period lasting close to three hours, officers were in direct contact with the Complainant throughout that time.

The Complainant also had immediate access to police officers while she was in custody at CID. Officer #2 spoke with the Complainant several times during his investigation. Officer #1 recalled that he observed Officer #2 provide water to the Complainant and allowed her to use the restroom. Officer #2 recalled allowing the Complainant to use the restroom and providing her with water to drink. In addition, the Complainant's mother was also in contact with Officer #2 during the Complainant's detention. There is no indication that the Complainant or her mother raised any concerns with Officer #1 or Officer #2 during the Complainant's detention, though each were in contact with the officers several times.

For these reasons I have issued a finding of unfounded for both officers regarding this policy.

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