



OMBUDSMAN'S REPORT

Complaint Investigation & Findings

OMB03/0256 - December 21, 2004

THE SITUATION

Officer #1 and Officer #2 responded to the Complainant's residence based on a referral from the Idaho State Department of Health and Welfare, regarding medical neglect of a 10-year old boy who suffered from severe asthma. After notifying the Complainant that her son was going to be placed in protective custody, she (Complainant) was arrested for resisting and obstructing.

THE COMPLAINT

The Complainant said that Officer #1 and Officer #2 used excessive force on her. She said that Officer #1 put his hand on her forehead and shoved her back. She said that Officer #2 "yanked" her arm when she (Officer #2) was attempting to handcuff her (Complainant). She also said that the officers wrestled her to the ground. The Complainant said that Officer #1 told her he was going to arrest her and she responded by telling him, "No, you're not." The Complainant also said she moved her arms out of the way so the officers could not place her in handcuffs.

THE COMPLAINT INVESTIGATION

The investigation included a review of the police report, the Ada County Dispatch 911 recordings of calls placed by Officer #2, the audio recording made by Officer #2 during her

response at the Complainant's residence, and interviews with both Officer #1 and Officer #2.

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 #2 told the Complainant that she (Officer #2) was going to remove her (Complainant) son as his medical needs were not being met.
2. After Officer #2 told the Complainant she was going to remove her son, the Complainant told her son to run away.
3. The Complainant's son ran into his backyard and sat on a fence.
4. The Complainant's son complied with Officer #1's directives by getting down from the fence and walking with him (Officer #1).
5. The Complainant followed and continued to tell her son to run away. The Complainant interfered with her son's removal by attempting to strike Officer #1.
6. Officer #1 told the Complainant that she was going to be arrested for obstructing.
7. The Complainant told Officer #1 that he was not going to arrest her.
8. The Complainant resisted Officer #1 and Officer #2 by moving her arms away from the officers when they were attempting to handcuff her.
9. Officer #2 handcuffed the Complainant, after she (Officer #2) and Officer #1 took the Complainant to the ground.
10. Officer #1 used a "jugular notch" technique to seat the Complainant after she attempted to approach her son while she was in handcuffs.

OMBUDSMAN'S ANALYSIS AND FINDINGS

The Boise Police Department's Policy Manual § 1.0101 Use of Force states:

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. Officers may use deadly force when necessary to defend themselves or others when the officer reasonably believes that imminent danger of death or serious bodily injury exists. Officers may also use deadly force when necessary to effect the capture or prevent the escape of a suspect whose freedom is reasonably believed to represent an imminent danger of death or serious bodily injury to the officer or to others. Officers may also use any other reasonable force to gain control of the situation provided authorized techniques are not available or practical.

Boise Police Department Policy § 1.0102 Criteria for Use of Force 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 Complainant actively encouraged her 10-year old son to run away from the police officers, after the officers declared her son in imminent danger. By the Complainant's own admission, she resisted the officers in their attempts to handcuff her, by telling Officer #1 that he was not going to arrest her and by pulling her arms away from the officers. Officer #2 observed the Complainant attempt to strike Officer #1 while he was guiding her (Complainant) son away from the residence. Officer #1 reported that the Complainant also kicked him while she was being placed under arrest. Officer #2 stated that the Complainant attempted to bite her.

As the situation escalated, the officers had a safety obligation to gain control, which included controlling the actions of the Complainant. The officers used only the force necessary to place the Complainant in handcuffs and under arrest. The Complainant did not suffer any injuries that required medical attention or that would have required the officers to contact a supervisor.

For these reasons, I have issued findings of exonerated for both Officer #1 and Officer #2 regarding the use of force allegations made by the Complainant.

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