



OMBUDSMAN'S REPORT Complaint Investigation & Findings

OMB04/0098 - May 3, 2005

THE SITUATION

The Complainant was removed from his residence on May 7, 2004. Officer #1, Officer #2, and Officer #3 believed they were serving the Complainant with a protection order. However, the document the officers had was a protection order hearing notice. The hearing notice notified the Complainant that an application for a protection order had been filed and set a date for a hearing to determine whether or not a protection order would be issued.

THE COMPLAINT

The Complainant filed a complaint based on being removed from his home on the basis of a protection order hearing notice. This allegation, if proven true, would be a violation of the Boise Police Department's Policy § 21.0102 Performance of Duty.

THE COMPLAINT INVESTIGATION

The complaint investigation included conducting an interview with the Complainant and the three involved officers, consulting with the Boise Police Department's (BPD) domestic violence expert (DV Expert), reviewing the dispatch report, listening to the audio recordings made by the officers, and reading the Protection Order Service Packet provided to Officer #1, Officer #2, and Officer #3.

WHAT THE COMPLAINT INVESTIGATION FOUND

1. The Complainant was removed from his residence on May 7, 2004 on the basis of a protection order hearing notice and not on the basis of a protection order, by Officer #1, Officer #2, and Officer #3.
2. Officer #1, Officer #2, and Officer #3, prior to this incident, were not aware that they were required to serve protection order hearing notices.
3. Officer #1, Officer #2, and Officer #3, prior to this incident, were not given training to identify the difference between serving a protection order hearing notice and serving a protection order.

OMBUDSMAN'S ANALYSIS AND FINDINGS

The BPD's Policy § 21.0102 Performance of Duty states, in part:

Employees shall perform their duties in a manner which will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department. Satisfactory performance and competence is demonstrated by:

- *Adequate knowledge of the application of laws required to be enforced*
- *Willingness and ability to perform assigned tasks properly*
- *Conformance to the work standards established for the employee's rank, grade, or position*
- *Taking appropriate and timely action when a crime, disorder, or other condition requiring police action occurs.*

Officer #2 and Officer #3, both experienced officers, and Officer #1, an officer in training (at

the time), used the knowledge and training they had received to perform the task they believed they had been assigned. The officers had no experience in serving protection order hearing notices, they had no training in serving protection order hearing notices, and the call they were assigned stated that they were to serve a protection order. Therefore, the officers were not properly prepared to serve the protection order hearing notice.

While it could be argued that the Law Enforcement Protection Order Service Packet clearly provided direction that the task to be accomplished was service of a protection order hearing notice, without the proper awareness, knowledge, and preparation that officers were to begin providing that service, the response by Officer #1, Officer #2, and Officer #3 was reasonable.

The BPD, after realizing the mistake, announced to officers that they would be required to serve protection order hearing notices. The BPD also added the information to the on-going training officers receive.

For these reasons, I have issued findings of exonerated for each officer.

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