



OMBUDSMAN'S REPORT

Complaint Investigation & Findings

OMB08/0022 - June 27, 2008

THE SITUATION

In the late afternoon in January of 2008, a Boise resident (Complainant #2) called 911 to report that his mother, Complainant #1, may have taken an overdose of prescription medicine. Three Boise Police Department (BPD) officers and Ada County Paramedics were sent to the residence where both complainants live. A short time after arriving, the three officers entered the house. One of the officers (Officer #1) discharged a handgun inside the house, striking a dog in the mouth. The dog, an adult Rottweiler, survived.

THE COMPLAINT

Complainant #1 contacted the Office of the Community Ombudsman (OMB) by phone approximately two weeks after the incident. During a telephone intake interview, Complainant #1 alleged that Officer #1 shot Complainant #1's dog and that this could have been avoided if the officer had listened to Complainant #1's son, Complainant #2, who tried to tell the officer that there were dogs inside the house. If the facts as alleged by Complainant #1 were true, Officer #1 may have failed in the performance of a police officer's duty as required by § 11.03.02 of the BPD Policy and Procedures Manual (PM). Based on this allegation, a Class II Citizen Complaint investigation was opened by OMB.

THE COMPLAINT INVESTIGATION

In the course of investigating this allegation, I took the following investigative steps:

1. Reviewed the official police report of the incident filed by Officer #1.
2. Reviewed BPD's internal review of this incident.
3. Reviewed Dispatch records relating to this call.
4. Listened to audio recordings made during the incident by Officer #1 and one assist officer (Officer #2).
5. Interviewed Complainant #2.
6. Reviewed records relating to the veterinary treatment given the dog following the incident.
7. Interviewed Officer #1.
8. Interviewed Officer #2¹.

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, along with two other BPD officers, was dispatched to an emergency call of a possible overdose at the residence of Complainants #1 and #2.

¹ A third officer was also on-scene during the incident. However, this officer was a probationary officer in training who is no longer employed by BPD. As a result, this third officer was not interviewed by OMB.

2. Ada County Paramedics were waiting outside the residence and, according to their policy for this type of call, could not enter to treat the reported overdose victim until BPD officers declared the interior safe.
3. Before entering the residence, Officer #1 and Officer #2 asked Complainant #2 if there were people, other than Complainant #1, or weapons inside the residence. Complainant #2 answered that there were not.
4. Before entering the residence, no BPD officer asked Complainant #2 if there were any dogs inside the residence.
5. Before the BPD officers entered the residence, Complainant #2 knew there were dogs inside the residence but did not tell this to any BPD officer.
6. Prior to the moment when Officer #1 opened a bedroom door behind which two dogs were located, there were no audible or visual indicators available to Officer #1 that would point to the presence of dogs behind the door.
7. After Officer #1 opened the door, two dogs advanced on Officer #1, growling and snarling at the same time. Both dogs were adult Rottweilers weighing approximately 100 pounds each.
8. In reaction, Officer #1 backed away from the dogs.
9. As the two dogs continued to advance, Officer #1 fired one shot at the closest of the two dogs.
10. One of the two dogs was struck in the jaw by a bullet fired from Officer #1's handgun. The dog received veterinary treatment and survived the wound.

OMBUDSMAN'S ANALYSIS

The Boise Police Department's policy (§ 11.03.02) Performance of Duty states:

An employee shall perform his/her duties in a manner which will maintain the highest standards of efficiency in carrying out the Department's functions and objectives. 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 situation requiring police action occurs*

The core of the allegation made by both Complainant #1 and Complainant #2 is that Officer #1 failed to take those steps reasonably necessary to determine that two large Rottweiler dogs were behind the closed door of a bedroom in the residence. The complainants assert that Officer #1 neither asked if there were dogs inside nor allowed Complainant #2 the opportunity to disclose this fact.

The paramedics were summoned by Complainant #2 to render medical aid to his mother. Complainant #2 was concerned about her welfare and expressed the belief that she had taken a large amount of medication, perhaps an overdose. Based on the information provided to Dispatch by Complainant #2, this call was given a "code 3" priority, meaning that the need for medical attention was serious and could include a threat to life. As a result, the paramedics responded on an emergency basis and had an urgent need to enter the residence to assess the condition of Complainant #1 and render medical assistance. However, for the safety of the paramedics, standard procedure in drug overdose calls is to have one or more police officers enter the residence ahead of the paramedics. They do this to assess the presence of persons and/or weapons that may pose a threat to the paramedics.

Police officers are taught to assess the threat to themselves before they enter a residence or other building on such a mission. In this particular case, both Officer #1 and Officer #2 asked Complainant #2 about such dangers. Officer #1 asked Complainant #2 if there were any other people in the residence with Complainant #1. Officer #1 also asked if there were any weapons inside. Complainant #2 replied that there were neither other people nor weapons inside. A few seconds later, as the officers were making ready to go inside the residence, Officer #2 asked Complainant #2 if there were any guns, knives, or similar items inside.

The audio recordings of both officers make it very clear that they felt some urgency to get inside and verify that all was safe for the paramedics. While the officers' conversation with Complainant #2 prior to entering the residence was rushed, there is no basis to conclude that the officers did or said anything to prevent Complainant #2 from informing them that there were dogs inside.

None of the officers asked Complainant #2 if there were any dogs or other animals inside the residence. While asking such a question might have been prudent, the officers were under no policy or legal obligation to do so. The primary obligation to bring the presence of the dogs to the attention of the officers rested with Complainant #2. He is the one who asked for the assistance of emergency responders; he knew that the officers were about to go inside; he knew that the officers were concerned about potential dangers inside by virtue of the questions they were asking him; and he knew that there were two large and potentially dangerous dogs behind a closed door.

I find nothing in Officer #1's conduct that constituted an inadequate performance of duty. On the contrary, Officer #1 exercised reasonable caution when clearing the residence of any potential dangers prior to the entry of the paramedics. Opening the door to verify that no persons or dangers lay behind it was consistent with Officer #1's training and experience, as was the decision to use a firearm in self-defense.

For these reasons I find no misconduct on the part of Officer #1 and have issued a finding of exonerated for the allegation made by the complainants.

OMBUDSMAN'S FINDINGS

Based on the preponderance of the evidence and for the reasons articulated above, I have issued the following policy finding for the allegation made by the complainants:

Officer #1

P.M. § 11.03.02 – Performance of Duty

EXONERATED



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