



## **OMBUDSMAN'S REPORT**

### **Complaint Investigation & Findings**

*OMB08/0101 - August 15, 2008*

#### ***THE SITUATION***

The Complainant called the Ada County Emergency Dispatch Center (Dispatch) on a weekday afternoon in July 2008. She called to report a break-in at her residence in Boise. The Complainant told Dispatch that two male juveniles who are known to her as acquaintances of her son had entered her house at 4:00 a.m. that same day and stolen some food. The Complainant also reported that the two boys cut her daughter's hair while the Complainant and her family, including the daughter, were sleeping. Finally, the Complainant told Dispatch that the two suspects attempted to steal a television and video games. Officer #1 of the Boise Police Department (BPD) was dispatched to this call and made contact with the Complainant at her residence. Officer #1 cleared the call about 20 minutes later and went back into service.

#### ***THE COMPLAINT***

The Complainant contacted the ombudsman's office several days after her contact with Officer #1 about the reported "break-in" at her house. She complained about the lack of action taken by Officer #1 in response to her call for service. The Complainant alleged that Officer #1 did not take a police report following her report to him that her house had been broken into. If Officer #1 either refused or failed to file a crime report of a crime reported to him by the Complainant and supported by facts and evidence, this would be a violation of the BPD Policy and Procedures Manual (PM) § 11.03.14 Requests for Service or Assistance. As a result, I began an investigation into the Complainant's allegations.

## ***THE COMPLAINT INVESTIGATION***

In the course of investigating the Complainant's allegation, I took the following steps:

1. Review of the Dispatch records of the Complainant's call to Dispatch for an officer to come to her house.
2. A search for any police report that may have been filed in connection with the break-in described by the Complainant. No such report was found.
3. A search for any audio recordings that Officer #1 may have made of his contact with the Complainant. No such audio recordings were found.
4. An interview with Officer #1.

## ***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. The Complainant called the Ada County Dispatch Center to report a break-in at her residence that took place at around 4:00 a.m. that same day.
2. This call was assigned to Officer #1 and he was dispatched to the Complainant's house to meet with her.

3. Officer #1 arrived at the Complainant's residence and made contact with her. This contact was not an enforcement contact, nor was there any reason for Officer #1 to anticipate that the contact was likely to become confrontational.
4. Officer #1 did not create an audio recording of his conversation with the Complainant, nor did he record his interview with her son.
5. Officer #1 interviewed the Complainant and the one witness to the incident, the Complainant's son.
6. The Complainant did not specifically ask Officer #1 to file a police report.
7. Officer #1 and the Complainant discussed that she would contact the two suspects' parents as an alternative to filing a police report.
8. Officer #1 did not file any police report in connection with this incident.

### ***OMBUDSMAN'S ANALYSIS***

The Boise Police Department's policy (§ 11.03.14) Requests for Service or Assistance states:

*When any subject requests service or assistance, all pertinent information will be obtained in an official and courteous manner and will be acted upon properly and judiciously. Each employee shall properly and expeditiously report or act on any information given to him/her in good faith by any person regarding matters that indicate the need for action by the Department.*

The Complainant called Dispatch and asked for a BPD officer to come to her residence about a break-in that had taken place the night before. Officer #1 responded and made contact with the Complainant. He interviewed both the Complainant and her son, who was a witness to

the events of the night before. Based on what Officer #1 learned from both of them, he concluded that there was insufficient evidence to support a charge of burglary. He also concluded that there might be enough evidence to support two misdemeanor charges, theft and battery.

As Officer #1 was interviewing the Complainant's son, he noticed some inconsistencies in what the youth was telling him, particularly with regard to how the two "suspects" may have entered the house the night before. It also seemed to Officer #1 that the Complainant's son had withheld some information from the Complainant and might not be telling Officer #1 everything he knew about the incident. Based on these observations, the absence of any physical evidence of forced entry, and the lack of other witnesses, Officer #1 concluded that prosecution for burglary would be difficult, if not impossible.

Officer #1 then discussed with the Complainant the option of handling the matter informally between her and the parents of the two boys who were allegedly involved in the incident. The Complainant did not insist that Officer #1 file a police report. In fact, the Complainant herself says that she did not specifically ask Officer #1 to file a report. Furthermore, at the time that Officer #1 ended his contact with the Complainant, he was under the impression that she was satisfied with the service he had provided.

BPD policy requires that an officer obtain, "all pertinent information ... in an official and courteous manner." Officer #1 did this. He spoke to the Complainant and interviewed a witness to the incident. The policy also required that Officer #1, "properly and expeditiously report or act on any information given to him/her in good faith by any person regarding matters that indicate the need for action by the Department." Given the relatively minor nature of the two possible crimes involved theft and battery, the age of the "suspects," the fact that the two "suspects" had been invited into the home just hours earlier, and the possibility that the Complainant's son had not fully disclosed all pertinent facts to Officer #1, an informal disposition of this incident was a reasonable alternative to a police report. In

addition, the Complainant appeared willing to handle the matter informally. For these reasons, Officer #1 was under no obligation to file a police report charging the two suspects with theft and battery.

For all the reasons stated above, I find that Officer #1 took reasonable and appropriate action in response to the Complainant's request for service and her report of information. I have issued a finding of exonerated for the allegation that Officer #1 either refused or failed to file a necessary police report.

### ***OMBUDSMAN'S POLICY FINDINGS***

Based on the preponderance of the evidence available, I have issued the following finding in response to the Complainant's allegation that Officer #1 refused and/or failed to take a police report as required:

#### Officer #1

Policy Manual § 11.03.14 Requests for Service or Assistance

**EXONERATED**



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