



OMBUDSMAN'S REPORT

Complaint Investigation & Findings

OMB06/0121 - December 11, 2006

THE SITUATION

Officer #1, a Boise Police Department (BPD) officer, contacted the Complainant in the C. W. Moore Park at the corner of Grove and 5th Street in Boise on August 22, 2006, during the daytime. The Complainant, who appeared to be intoxicated at the time, was sleeping in the park. Officer #1 had prior knowledge that the Complainant had a warrant for his arrest. Officer #1, along with Officer #2, made contact with the Complainant and arrested him on the outstanding warrant. The Complainant was then taken to jail and booked.

THE COMPLAINT

The Complainant walked into the offices of the community ombudsman on September 1, 2006, and stated his intention to file a complaint. An intake interview was conducted at that time and a complaint case opened.

The Complainant alleged that Officer #1 refused to inform him of the reason for his arrest. If this were true, it could be a violation of § 11.03.02 (Performance of Duty) of the BPD Policy and Procedures Manual.

The Complainant further alleged that he informed Officer #1 that his (the Complainant's) unlocked bicycle was nearby and asked that it be secured, but Officer #1 refused this request. If this were true, it could be a violation of § 10.02.00 (Damage or Loss of Property Belonging to Others) of the BPD Policy and Procedures Manual. The Complainant claimed that, as a result of the officer's refusal to secure the bicycle, it was stolen sometime after he

was arrested. The Complainant said that he recovered his bicycle about one week later when he located it parked behind the Boise Rescue Mission.

THE COMPLAINT INVESTIGATION

In the course of this investigation, the following steps were taken:

1. An intake interview of the Complainant was conducted.
2. The Dispatch records related to this arrest were reviewed.
3. The police report of Officer #1's arrest of the Complainant was reviewed.
4. The digital audio recordings made by Officer #1 throughout his contact, arrest, and booking of the Complainant were reviewed.

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 finding of fact.

1. On or about August 22, 2006, Officer #1 observed the Complainant asleep on the ground in C. W. Moore Park at 5th Street and Grove.
2. Based on previous contacts, Officer #1 recognized the Complainant and asked Dispatch to check for any outstanding warrants for the Complainant's arrest.

3. Officer #1 received confirmation from Dispatch of an outstanding arrest warrant for the Complainant.
4. Officer #1 and Officer #2 made contact with the Complainant and placed him under arrest for the warrant.
5. The Complainant asked Officer #1 several times why he was being arrested.
6. Officer #1 told the Complainant several times that he was being arrested because of an outstanding arrest warrant.
7. The Complainant asked Officer #1 a question about a bicycle.
8. Officer #1 asked the Complainant to explain what bicycle and to tell him where the bicycle was.
9. The Complainant did not provide Officer #1 with sufficient information about his bicycle to enable Officer #1 to locate and secure it.

OMBUDSMAN'S ANALYSIS AND FINDINGS

Allegation #1: That Officer #1 failed to take reasonable precautions to safeguard the security of the Complainant's bicycle.

The Boise Police Department's policy (§ 10.02.00) Damage or Loss of Property Belonging to Others states:

Each employee shall take reasonable precautions in protecting the property of another subject or entity from damage or loss. If an employee damages or

loses property, the employee shall promptly notify his/her supervisor. Where no other procedure is provided, the supervisor shall report the incident on an AIR.

The audio recording made by Officer #1 during his contact with the Complainant on August 22, 2006, makes it clear that the Complainant did not give Officer #1 enough information for him to take any steps to secure or otherwise safeguard the Complainant's bicycle. As a result, Officer #1 cannot be held responsible for the alleged (temporary) loss of the Complainant's bicycle. For this reason, I have issued a finding of unfounded for this allegation.

Allegation #2: That Officer #1 refused to inform the Complainant of the reason for his arrest.

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*

Clearly, Officer #1 had a duty, as soon as circumstances reasonably permitted, to inform the Complainant as to the reason for his arrest. Equally as evident is the fact that Officer #1 provided the Complainant with this information shortly after the Complainant's arrest and immediately after the Complainant asked why he was being arrested. Officer #1 answered this same question several times. For this reason, I have issued a finding of unfounded for this allegation.



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