



OMBUDSMAN'S REPORT

Complaint Investigation & Findings

OMB09/0035 - August 14, 2009

THE SITUATION

During a late spring evening of 2009, the Complainant parked her car on a two-way street while she attended a music performance. The car was parked facing south in a parking spot that was on the northbound side of the street. After the concert, the Complainant and two companions went back to the car. To leave the parking spot, the Complainant drove the wrong direction in order to cross the street diagonally to get to the southbound lane. The Complainant got in the southbound lane, stopped at a stop sign at the end of the block, and then proceeded on her way.

Two Boise Police Department (BPD) officers, Officer #1 and Officer #2, were working together in the same police car that night. They followed the Complainant for three blocks, and then pulled her over. Officer #1 and Officer #2 approached the car, using their flashlights to look inside. Upon Officer #1's request, the Complainant provided her license, insurance, and registration. Officer #1 and Officer #2 returned to the patrol car, and requested that Dispatch conduct a remote inquiry on the information the Complainant had provided. The officers returned to the Complainant's vehicle; and Officer #1 gave her a citation. Upon the Complainant's request for a badge number, Officer #1 provided his Ada number. An "Ada number" is a unique employee identification number issued to all law enforcement employees in Ada County. In the case of the BPD, an officer's badge does not have a number on it. Each officer's Ada number is the equivalent of his or her badge number. One of the Complainant's passengers asked Officer #2 for his badge number. Officer #2 stated that he did not have a badge number. The contact then ended.

THE COMPLAINT

The day after receiving a citation for driving the wrong way, the Complainant contacted the Office of the Community Ombudsman by email. Two days later, an intake interview of the Complainant was conducted by telephone. During the intake, the Complainant said that Officer #1 was unprofessional and took too long to check her driver's license. She stated that Officer #1 had followed her for a mile before pulling her over. After she was pulled over, Officer #1 and Officer #2 shined flashlights into the car. She further stated that Officer #2 failed to provide his badge number when requested to do so. She also claimed that the citation was invalid. In a subsequent interview, the Complainant alleged that she had been the subject of racial profiling. However, the facts as presented by the Complainant were inadequate to support allegations of racial profiling or allegations that Officer #1 had been uncivil or disrespectful. The case was opened as a Class II Complaint with one allegation against Officer #2 for failing to provide identification when asked. This allegation, if proven true, would be a violation of the Boise Police Department's Policy § 11.03.23 Responsibility for Providing Identification.

THE COMPLAINT INVESTIGATION

In the course of this investigation the following steps were taken.

1. Interviews of the Complainant and Officer #2.
2. A review of the Ada County dispatch system's computerized Incident History of the traffic stop.
3. Digital audio recordings made by Officer #1 and Officer #2 during their contacts with Complainant and her passengers during the incident.

4. A digital audio recording made by the Complainant during the traffic stop.
5. A review of the citation issued by Officer #1, along with a Notice of Hearing from the Court regarding the Complainant's appearance on the citation.
6. Consultation with the BPD commander responsible for the department's policy unit.

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 parked the vehicle she was driving in a parking spot facing the wrong way on a two-way street: her car was parked facing southbound on the northbound side of the street.
2. In order to get to the southbound lane, the Complainant drove diagonally across the northbound lane.
3. Officer #1 and Officer #2 pulled the Complainant over approximately three blocks from where she had been parked. In addition to the Complainant, there were two passengers in the vehicle.
4. Officer #1 obtained the Complainant's drivers' license, along with her insurance and registration documents. He and Officer #2 returned to the patrol vehicle.

5. Approximately nine minutes and fourteen seconds later, Officer #1 and Officer #2 returned to the Complainant's vehicle. Officer #1 gave the Complainant a citation for driving the wrong way.
6. The Complainant asked Officer #1 for his badge number; and Officer #1 gave the Complainant his assigned Ada number.
7. One of the passengers asked Officer #2 for his badge number; and Officer #2 responded that he did not have a badge number.
8. This exchange between Officer #2 and one of the passengers was audio recorded by Officer #2 and can be clearly heard on that recording.

ANALYSIS

BPD policy specifically requires that, when an officer is asked for his badge number, that officer must provide his or her Ada number. This policy was revised in 2008 in order to clarify this specific type of situation. Officers receive policy updates by email, and are required, by policy, to check their email. They are also required to be aware of and understand updates to the policy manual.

The Boise Police Department Policy (§ 11.03.23) Responsibility for Providing Identification, as amended by BPD Special Order 08-11, effective May 1, 2008, states:

An employee shall provide his/her name or Ada number to any person requesting that information, with the exception of undercover operations. If a badge number is requested, the employee shall provide their Ada number.

The second sentence was included when the policy was amended. This amendment became effective May 1, 2008. The first sentence of the policy makes it mandatory that an officer provide his or her name or Ada number to any person who requests that identifying information. The second sentence makes it clear that, if someone asks an officer for his or her badge number, the officer must provide his or her Ada number. An officer is required to provide his or her Ada number, even if the person requesting the information uses the wrong term. In other words, an officer cannot refuse to identify himself or herself simply because the person making the request did not know that BPD officers have Ada numbers rather than badge numbers.

The evidence in this case clearly shows that a passenger in the Complainant's car asked Officer #2 for his badge number. With equal clarity, the evidence shows that, rather than giving the passenger his Ada number, Officer #2 stated that he did not have a badge number.

For these reasons I have issued a sustained finding with respect to the allegation that Officer #2 violated BPD Policy § 11.03.23.

OMBUDSMAN'S FINDINGS

Officer #2

P.M. § 11.03.23 Responsibility for Providing Identification **Sustained**



Pierce Murphy
Community Ombudsman
P.O. Box 500
Boise, Idaho 83701-0500
(208) 395-7859
mailbox@boiseombudsman.org