

**Denver Police Department
Internal Affairs Bureau
Complaint Summary**

How Complaint Was Received:

Date Received: 02/19/2010

Requesting Station Officer: Burbach, John (P87005)

Date Case Closed: 05/05/2010

Type of Complaint: Inappropriate Force

RR Code: 306

OMS Code:

Taken By: Lucero, Jaime (P98061)

Officer: Paez, Hector (P06146)

Assign: District 4

Notify Date: 03/08/2010

Case Type: Decline

Assign To:

Decline Reason: No Misconduct

Name	Badge	Bureau
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Witness Officer(s)	Badge #	Assignment
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Complainant	Type	Address	City	State	Phone
██████████	Complainant	██████████	Denver	CO	

Place of Occurrence:	Second Street	Date	Time	District
1870 S Lowell BV		02/18/2010	19:45	4

Incident Summary:

The complainant stated he was subjected to inappropriate force at the time of his arrest.

Internal Affairs Bureau Command Review

Assigned By:

Case Assigned To:

Assigned On:



JOHN W. HICKENLOOPER
Mayor

CITY AND COUNTY OF DENVER

DEPARTMENT OF SAFETY

DENVER POLICE DEPARTMENT
ADMINISTRATION BUILDING
1331 CHEROKEE STREET
DENVER, COLORADO 80204-2787
PHONE: 720-913-2000

May 5, 2010

Mr. [REDACTED]
[REDACTED]
Denver, CO 80219

Dear Mr. [REDACTED]

Your complaint was received by the Denver Police Internal Affairs Bureau on February 19, 2010 and assigned case number P201002066. You indicated that Officer Paez, along with another unidentified uniformed officer, threw you over a fence. You alleged that officers did not catch you, causing you to fall to the ground and dislocate your left shoulder. After reviewing all the evidence, Colorado statutes, and Denver Police operating procedures, your case has been declined for the following reasons:

- Officer Paez, along with several officers that were present at the time of your arrest, provided statements detailing their actions. The officer's statements differ from your account of the events.
- During a later interview, you stated you dislocated your shoulder some time ago, resulting in a weak shoulder. You also stated in that interview that your shoulder "always" becomes dislocated when you are arrested. Officers that witnessed your arrest stated you struggled with them as they attempted to physically take you into custody. Your actions could have resulted in the dislocation of your shoulder.
- You stated uniformed officers deliberately threw you over the chain link fence, and allowed you to fall to the ground. The officers stated you attempted to move from the backyard to the front yard by straddling a chain link fence, one leg at a time, while handcuffed. The officers stated during the process of straddling the fence, you slipped off of the fence, landed in the snow, and then slipped on the snow and fell to the ground.
- You were housed at the Jefferson County Detention Center after your arrest and treatment at Denver Health Medical Center. You were contacted by medical staff at the detention center twice a day during your stay. You did not complain to the medical staff about an injury to your shoulder during your stay.
- Due to the nature of the contact, it was determined that the officers were justified in increasing their level of authoritative commands and actions to control the situation. Per the Denver Police Department Operations Manual, the department recognizes that "police officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving. Above all, the safety of the public and the officer must be the overriding concern whenever the use of force is considered."

- You were taken into custody for an active warrant for your arrest. Per Colorado Revised Statute 18-1-707 and the Denver Police Department Operations Manual, a peace officer is justified in using reasonable and appropriate **physical force** upon another person when he reasonably believes it necessary “to effect an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized.”
- The investigation did not reveal any corroborating independent witnesses to support your allegation of inappropriate force.
- This case was presented to the Denver District Attorney’s Office on February 26, 2010, and refused for criminal prosecution.
- No evidence could be found that indicated the actions of the Denver Police officers were in violation of the Denver Police Department policies or procedures.
- Per Denver Police Operations Manual section 503.01(4) (b) (4) (d) this case is being declined for further investigation.

No Misconduct: Even if all aspects of the complaint were true, no act of misconduct would have occurred. An allegation that fails to describe at least a potential violation of federal, state, or municipal law, or City or Department policy will be dismissed. Occasionally, a complaint that fails to state misconduct may merit a referral to the Chief’s Office for policy or other considerations or to mediation as a means of improving police-community relations. A complaint may be dismissed if it is apparent that no misconduct was committed and if it is likely that additional investigation would not reach a different conclusion.

We recognize and appreciate your willingness to contact the Denver Police Department when you feel that there is a problem. We welcome you to contact us in the future if you encounter another problem. We hope your next experience with us is a positive one.

Should you have any further questions, you may contact the Office of the Independent Monitor at 720-913-3306.

Sincerely,

A handwritten signature in blue ink, appearing to read "Candi M. Burbach" with a date "8/20/10" written to the right.

John Burbach
Commander, Internal Affairs Bureau