

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

How Complaint Was Received: Walk In

Date Received: 10/25/2011

Requesting Station Officer:

Date Closed: 03/26/2012

Type of Complaint: Inappropriate Force

RR Code: 306

OMS Code:

Taken By: Parsons, Robert (P98014)

Officer: Burke, Ryan (P99069)

Assign: District 5

Notify Date:

Case Type: Decline

Assign To:

Decline Reason: No Misconduct

Officer: Wagner, Randall (P00121) Assign: District 5

Notify Date:

Case Type: Decline

Assign To:

Decline Reason: No Misconduct

Officer: Nuanes JR, Michael (P0010) Assign: District 5

Notify Date:

Case Type: Decline

Assign To:

Decline Reason: No Misconduct

Complainant	D.O.B.	Home Address	Home Phone	Notify Date
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	

Complainant Officer(s)	Badge #	Assignment

Witness Officer(s)	Badge #	Assignment

Complainant	Type	Address	City	State	Phone
[REDACTED]	Complainant	[REDACTED]	Denver	CO	[REDACTED]

Place of Occurrence:	Second Street	Date	Time	District
[REDACTED]		10/22/2011	12:04	5

Incident Summary:

Complainant alleges that officers used inappropriate force against him while arresting him for DOMV charges

Internal Affairs Bureau Command Review	
Assigned By:	Case Assigned To:
Assigned On:	



DENVER
THE MILE HIGH CITY

CITY AND COUNTY OF DENVER
DEPARTMENT OF SAFETY
FIRE • POLICE • SHERIFF
9-1-1 • COMMUNITY CORRECTIONS
CRIME PREVENTION & CONTROL • SAFE CITY

Internal Affairs Bureau
Denver Police Department
1331 Cherokee Street
Denver, CO 80204-2720
Phone: (720) 913-6019
Fax: (720) 913-7042

March 26, 2012



Denver, CO

Re: P 2011 10 061

Dear Mr. 

The purpose of this correspondence is to inform you that your complaint was declined for further investigation. A preliminary investigation of your complaint disclosed that no misconduct was evident and that the officer's actions were within policy of the Denver Police Department.

In your complaint, you alleged that officers used inappropriate force when you were arrested on October 22, 2011. After reviewing all the available evidence your case has been declined for the following reasons:

- Sergeant Penn completed a thorough investigation at the scene and concluded that the officer's actions were within policy of the Denver Police Department.
- Witness statements taken on the date of the incident contradict your allegations as to what had transpired during the reported incident.
- The witness that you identified as being present during the physical altercation with officers was not cooperative during the investigation and ultimately refused any further involvement.
- The injuries that you reported are inconsistent with the actions you alleged the officers to have taken against you.
- The Deputy District Attorney refused criminal charges against the officers, based upon allegations you have made.
- At this time, there is no substantial corroborating evidence to suggest further investigation is warranted.

It is regrettable that your experience was negative. I want to assure you that the Denver Police Department takes all complaints very seriously and a thorough review of this incident was conducted. If you have any questions, please feel free to contact the Office of the Independent Monitor at (720) 913-3306.

Sincerely,



John Burbach, Commander
Internal Affairs Bureau

U201110054

**DENVER POLICE DEPARTMENT
INTER-DEPARTMENT
CORRESPONDENCE**

LABLT
9/8

TO: Internal Affairs
THRU: Chain of Command
FROM: Sgt. Marion Penn, 92067, District 5
DATE: October 22, 2011

**SUBJECT: Arrest of suspect [REDACTED]
for Threats (DOMV), Resisting Arrest & Interference**

Incident:

On October 22, 2011, at approximately 1205 hours, Technicians Nuanes 00109 and Burke 99069 along with Officer Wagner 00121 responded to [REDACTED] on a report of Domestic Violence. Prior to arrival, the dispatcher aired that the suspect [REDACTED] had threatened the caller [REDACTED] and yelling could be heard in the background.

After conducting a preliminary investigation, officers attempted to arrest Mr. [REDACTED] for Threats/DOMV. The suspect resisted the officer's efforts and was subsequently arrested for Interference, Resisting Arrest and Threats/DOMV.

Additional Witnesses:

[REDACTED] (Video statement)
[REDACTED] (Video statement)

Investigation:

I interviewed and obtained statements from the involved officers, witnesses to the incident and a video statement from the suspect. The following information was gathered:

- Mr. [REDACTED] stated at no time did he resist arrest and he was repeatedly kicked, punched in the face, and the officers kned and stomped him in his back and left side area causing him pain.
- Mr. [REDACTED] said the officers used profanity when he initially encountered them inside his residence and that his wife and neighbor were present.
- Sergeant Penn interviewed both the suspect's wife and neighbor.

- Both denied hearing the officers use any profanity or witnessing anything that they would consider inappropriate.
- Mr. [REDACTED] neighbor stated he knew that Mr. [REDACTED] was upset and agitated and that his behavior would escalate situation.
- Although Mrs. [REDACTED] and Mr. [REDACTED] were present at the residence and Mrs. [REDACTED] described hearing a "scuffle," neither witnessed the arrest of Mr. [REDACTED]
- While photographing and documenting the scene, Sergeant Penn did observe a small amount of blood emitting from Mr. [REDACTED] mouth and on the kitchen floor.
- The arresting officers were interviewed and described the arrest of Mr. [REDACTED]
- All officers involved stated that Mr. [REDACTED] resisted arrest by tensing his body to prevent handcuffing and they along with Mr. [REDACTED] fell to the floor while attempting to place him into custody.
- The involved officers denied using profanity and stated the only force used was pinning Mr. [REDACTED] to the kitchen counter for better control before ultimately falling to the floor.
- The officers stated they observed the blood on the floor and emitting from Mr. [REDACTED] mouth and assumed it occurred during the struggle.

Based on the initial supervisor's investigation and the statements from the witnesses and officers, there is no evidence that suggests that the involved officers violated any policies or procedures. The involved officers used appropriate force to gain control of Mr. [REDACTED] and once he complied with the arresting officers all force ceased.

The photos taken of Mr. [REDACTED] lacked any evidence which would support his claim of being repeatedly punched and kicked by the officers during his arrest. The injury to Mr. [REDACTED] mouth was consistent with the officer's statements and this supervisor did not observe any other visible injuries.

Based on the information gathered, I recommend no further investigation of this matter.

Due to the location of the incident, there is no video. However, Sergeant Penn conducted a neighborhood survey with the following results:

- [REDACTED] D.O.B. [REDACTED] did not see anything [REDACTED]
- [REDACTED] D.O.B. [REDACTED] did not see anything [REDACTED]
- [REDACTED] No one home D.O.B. [REDACTED]
- [REDACTED] D.O.B. [REDACTED] did not see anything [REDACTED]