

Status: Closed

Case No: P201112040

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

How Complaint Was Received: Email

Date Received: 12/14/2011

Requesting Station Officer:

Date Closed: 03/19/2012

Type of Complaint: Improper Procedure - Other Biased Policing

RR Code: 102.1

OMS Code: 118.02

Taken By: Castellano, Gerylann (CASTEG)

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

Notify Date: 02/16/2012

Case Type: Decline

Assign To:

Decline Reason: Mediation

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

Notify Date: 02/16/2012

Case Type: Decline

Assign To:

Decline Reason: Mediation

Officer: Graves, Michael (P91075) Assign: District 5

Notify Date: 02/16/2012

Case Type: Decline

Assign To:

Decline Reason: No Misconduct

Officer: Burke, Ryan (P99069) Assign: District 5

Notify Date: 02/16/2012

Case Type: Decline

Assign To:

Decline Reason: Mediation

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

Complainant Officer(s)	Badge #	Assignment

Witness Officer(s)	Badge #	Assignment

Status: Closed

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

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

Place of Occurrence:	Second Street	Date	Time	District
[REDACTED]		12/13/2011	08:15	5

Incident Summary:

The complainants are the grandmother of the 16 yr old female and mother of the 11 year old female and 14 year old male. Complainants alleges officers were overzealous when responding to a burglary call at the children's school and that they used inappropriate force by twisting their arms. They state the officers held assault weapons on the children and that the two female minors were searched by a male officer without any female officer or family member present. They allege the officers made rude remarks to them and that this may be racial profiling due to how the children were treated.

Internal Affairs Bureau Command Review

Assigned By:

Case Assigned To:

Assigned On:



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

Insert Bureau/Unit Name
Denver Police Department
1331 Cherokee Street
Denver, CO 80204-2720
Phone: (720) XXX-XXXX
Fax: (720) XXX-XXXX

March 16, 2012

[REDACTED]

Dear Ms. [REDACTED]

The purpose of this correspondence is to inform you that your complaint was received, assigned case number P201112040 and investigated by Commander Fair of the District Five Police Station.

In your complaint you alleged that officers treated your grandchildren inappropriately when they were contacted on a call of a burglary in progress.

Three of the four officers involved in this incident attended mediation and resolved the case at that time. The fourth officer, Officer Graves, did not attend mediation. Therefore the case was sent to his work assignment for investigation.

Officer Graves was interviewed and it was determined that he was not a part of contacting the children. He was only on scene for a short time and did not have contact with the children.

The case against Officer Graves has been declined and no further investigation will be conducted.

We regret that you had a negative experience with the Denver Police Department. If you have any questions, please contact the Office of the Independent Monitor at 720-913-3306.

Sincerely,

John Burbach, Commander
Internal Affairs Bureau

COMMENDATION/COMPLAINT INTAKE FORM

Date Received: 12/13/11		Time: 0945	Complaint Nature: Discourtesy	
Incident Date: 12/13/11		Time: 0815	Applicable OMS Code(s): RR-140	
Incident Location: [REDACTED]		Pct: 534	How Complaint Received: At station	Hotline <input type="checkbox"/>
				Complaint#: P201112040
Complainant #1: (Name and DOB)	[REDACTED] Refused DOB [REDACTED]	Home Address: [REDACTED]		Home Phone: [REDACTED]
		City, State, Zip: [REDACTED]		
		Work Address: Same	Work Phone: [REDACTED]	
Complainant #2: (Name and DOB)	[REDACTED]	Home Address: [REDACTED]		Home Phone: [REDACTED]
		City, State, Zip: [REDACTED]		
		Work Address: [REDACTED]	Work Phone: [REDACTED]	
Witness #1: (Name and DOB)	[REDACTED] D.O.B.	Home Address: [REDACTED]		Home Phone: [REDACTED]
		Work Address: [REDACTED]		Work Phone: [REDACTED]
Witness #2: (Name and DOB)	[REDACTED]	Home Address: [REDACTED]		Home Phone: [REDACTED]
		Work Address: NA		Work Phone: () -
Officer #1: Officer Graves	Badge: 91075		Assignment: 533	
Officer #2:	Badge:		Assignment:	
Officer #3:	Badge:		Assignment:	

Commendation/Complaint Narrative

Witness # 3 [REDACTED] III, [REDACTED]
 Witness #4 [REDACTED], [REDACTED]
 Officer # 4 Tech. Burke, Badge# 99069

The complainants, Dr. [REDACTED] and Ms. [REDACTED] came to the District 5 station to complain on the way officers pointed guns at their children and grand children [REDACTED]. The complainants also stated that the officers should have known by the way the children were dressed that they were not burglars. They further complained that the officers asked [REDACTED] if he needed to change his pants because he was so frightened. The complainants also felt the officers did not take the handcuffs off of [REDACTED] quickly enough after they found out he was a student at the home. The complainants lastly, complained that the officers told the children to tell their friends this could happen to them if they are burglars.

Follow-up/Investigation

On 12-13-11 at about 0950 I (Sgt. Doug Brandl 80045) met with the complainants Dr. [REDACTED] and Ms. [REDACTED] at the District 5 station. Both of the complainants were upset about the way their children had been treated when officers had responded earlier to a burglary in progress call. The children, [REDACTED] and [REDACTED] are all students at a charter school located in a home at [REDACTED]. Dr. [REDACTED] is one of the teachers at the school and had arrived at the school earlier in the morning at about 0800. When she entered the school she heard footsteps upstairs. Her co-teacher's car was not in the driveway and her students never arrive before she does, so she assumed that someone had broken into the house. She retreated to her car and called for the police. Dispatch aired the call as a possible burglary in progress and Officers Wagner, Nuanes and Burke responded. Tech. Burke deployed his AR-15 and went inside the home with Officer Nuanes. Officer Wagner covered the rear of the house. As they entered the home, Officer Burke and Officer Nuanes announced themselves as Denver Police and told anyone in the house to come down with their hands up. The children appeared at the top of the stairs and were given instructions to come down and keep their hands in sight. Officer Wagner was let into the house by Officer Nuanes, and assisted with the subsequent pat downs of the juveniles. [REDACTED] and [REDACTED] were both patted down and moved over to nearby chairs at a table in the kitchen. [REDACTED] was also patted down, handcuffed and moved to a chair at the kitchen table. Officer Nuanes and Tech. Burke cleared the rest of the home.

- Informal Investigation (Indicate actions taken below)
- Debrief/Counseling Policy Provided Training Scheduled Other Recommend dismissal

Report Completed by: Sgt. Brandl, 80045

Reviewed By:	District/Unit	Concur <input checked="" type="checkbox"/>	District/Unit	Concur <input checked="" type="checkbox"/>
	Lieutenant: [Signature]	Not Concur <input type="checkbox"/>	Commander: [Signature]	Not Concur <input type="checkbox"/>

IAB RECOMMENDATION

- Commendation IAB Formal Station Formal Service Complaint Mediation Requested

Complaint Narrative (Continued)

Follow-up/Investigation (Continued)

(continued from page 1) Officer Graves arrived and entered the home and saw the officers directing some juveniles from the upstairs of the house to the downstairs. Officer Graves went outside and escorted the complainant, Dr. [REDACTED] inside because the children were saying they were students. Dr. [REDACTED] did identify them as her students. The officers removed the handcuffs from [REDACTED] and left the scene. Video statements were obtained from the children, and Officers Wagner, Nuanes, Graves and Burke completed written statements.

Neither of the complainants, Dr. [REDACTED] [REDACTED] or Ms. [REDACTED] [REDACTED] were present at the incident.

The complainants felt there was an inappropriate amount of force used when clearing the house. Dr. [REDACTED] also felt the children were spoken to in a disrespectful manner.

Officer Graves wrote in his statements that by the time he arrived the other officers were already directing the juveniles from their second floor location to the downstairs main floor. He did not assist in the moving of the juveniles and did not at any time deploy his side arm or his AR-15. Officer Graves had been at the school on a previous call and he thought he recognized one of the juveniles as a student. He immediately left the house and escorted the Dr. [REDACTED] inside the school to identify the juveniles inside. Dr. [REDACTED] did identify them as students in the school. Once the students started to explain to Dr. [REDACTED] why they were in the school before she arrived and it appeared to be only a miscommunication between the RP and the students, Officer Graves left the school and went back in service. Officer Graves did not assist in the search of the home, and did not speak to the children at anytime. He stated that his total time at the scene was less than ten minutes. According to the CAD printout Officer Graves (533B) arrived at the scene at 8:15:01 and went back in service (available) at 8:18:21.

None of the other officers' statements or the statement of Dr. [REDACTED] indicate that Officer Graves assisted in the search of the school or spoke to the students.

Summary

Based on the information obtained during the course of this investigation I recommend this complaint be dismissed. Officer Graves was at the scene for only a few minutes, never spoke to the students, never drew his weapon and did not assist with the search of the house or with taking the students into custody.