

Case Number: 2004C0191
Date of Violation: 10/10/2004
Date Received: 12/03/2004
Date To Station: 05/23/2005

How Received: Not Specified
Type of Complaint: IAB
Date Back from D/C: 05/23/2005

Complainant(s): Mr [REDACTED] [REDACTED] DOB: [REDACTED]

	<u>BADGE</u>	<u>VIOLATION</u>	<u>RR</u>	<u>OMS</u>	<u>DISPOSITION</u>	<u>ASSIGNMENT</u>
1	109	Discourtesy	140		Not Sustained	District 2

2	109	Unnecessary Force	306		Not Sustained	District 2
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	<u>BADGE</u>	<u>VIOLATION</u>	<u>RR</u>	<u>OMS</u>	<u>DISPOSITION</u>	<u>ASSIGNMENT</u>
1	1042	Discourtesy	140		Not Sustained	District 2

2	1042	Unnecessary Force	306		Not Sustained	District 2
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	<u>BADGE</u>	<u>VIOLATION</u>	<u>RR</u>	<u>OMS</u>	<u>DISPOSITION</u>	<u>ASSIGNMENT</u>
1	1067	Discourtesy	140		Not Sustained	District 2

2	1067	Unnecessary Force	306		Not Sustained	District 2
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	<u>BADGE</u>	<u>VIOLATION</u>	<u>RR</u>	<u>OMS</u>	<u>DISPOSITION</u>	<u>ASSIGNMENT</u>
1	1070	Discourtesy	140		Not Sustained	District 2

2	1070	Unnecessary Force	306		Not Sustained	District 2
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CITY AND COUNTY OF DENVER

DEPARTMENT OF SAFETY

DENVER POLICE DEPARTMENT
ADMINISTRATION BUILDING
1331 CHEROKEE STREET
DENVER, COLORADO 80204-278
PHONE: (720) 913-2000

JOHN W. HICKENLOOPER
Mayor

April 4, 2005

[Redacted]
Denver, CO 80205

Dear Mr. [Redacted]

Your complaint alleging improper conduct by several Denver police officers, Officer Paul Streate (01070), Officer James Burdett (01067), Officer Michael Nuanes (00109) and Officer Jason Vincent (01042) have been thoroughly investigated by members of the District Two Police Station command staff. Command officers of the Denver Police Department have reviewed the results of that investigation.

Your statement was received through the Public Safety Review Commission (PSRC) and your complaint was reexamined. All of the original documents and any additional documentation was carefully reviewed. In order to discipline any officer there must be a preponderance of evidence that the officer violated certain Denver Police Department standards, rules and regulations. Based upon this additional investigation and review, the District Two command staff again determined that there is not enough evidence to sustain this complaint. Therefore no formal disciplinary action will be taken in this case.

I am sorry that your encounter with members of the department was not satisfactory. I hope that any future contact you may have with any member of the Denver Police Department will be a positive experience. A copy of your complaint will be maintained in the officer's files in the event there is similar conduct in the future.

If you have any questions concerning this matter, you may contact Lieutenant R.T. "Pete" Conner, Jr. at 720-913-1047.

Sincerely,

Gerald R. Whitman
CHIEF OF POLICE

By: *Rhonda Jones* 790255
Commander Rhonda Jones, District Two Station

2005 MAY 23 PM 2:19
INTERNAL AFFAIRS BUREAU

**DENVER POLICE DEPARTMENT
INTER-DEPARTMENT
CORRESPONDENCE**

TO: Rhonda Jones, Commander, District Two

FROM: R.T. "Pete" Conner, Jr., Lieutenant, 89046, Detail One Commander

DATE: March 28, 2005

SUBJECT: Internal Affairs Bureau Complaint # 2004C0191
Complainant: [REDACTED] [REDACTED] [REDACTED]
Officer James Burdett, 01067
Officer Paul Streate, 01070
Officer Michael Nuanes, 00109
Officer Jason Vincent, 01042

Incident:

Complainant was stopped by Officers Streate and Burdett for a traffic violation, speeding at an estimated speed of 100mph in a residential zone. The complainant stopped, and then pulled away as the officer approached. The officers later contacted the complainant a second time a short distance away. The officers conducted a high-risk stop, but later released the complainant on summons #B-040951.

Complaint:

The complainant's mother came to District Two to complain that officers belittled the complainant and asked why officers pointed their weapons at him. Sergeant Mark Chaffin conducted the intake and the case assigned to Sergeant Barry Gallawa for the IIR investigation. See IIR #1228 for details.

Investigation Summary:

Sergeant Gallawa thoroughly investigated the IIR and was unable to contact the complainant. The complainant was either reluctant or refused to speak with Sergeant Gallawa either by phone or in person. The case was closed as Exonerate for Improper Procedure and Not Sustained for Discourtesy. I reviewed the case and concurred with Sergeant Gallawa's findings. The complainant filed a statement with the Public Safety Review Committee (PSRC) and was returned as an Internal Affairs Bureau filing. The District Attorney's Office declined prosecution due to **No Reasonable Likelihood of Conviction.**

Sergeant John Di Paolo conducted the Internal Affairs Bureau investigation. The complainant stated in a PSRC interview that the officers called him "f****en stupid", lied about his speed, and shouldn't have searched his vehicle. The complainant also stated that officers told him to shut up or he (the officer) would knock him to the ground, when he complained that they were spreading his legs too wide during the search. Sergeant Di Paolo conducted a photo line-up of the involved officers and Officer Burdett was the only officer identified by the complainant.

I obtained additional statements from Officers Burdett and Streate under Advisement Pursuant to Internal Investigation. Both officers stated they considered the complainant's actions (driving away after being initially stopped) to be threatening. It was that threatening action which caused the officers to draw their weapons.

Conclusion:

The case was originally investigated by Sergeant Gallawa. Sergeant Gallawa attempted numerous times without success to contact the complainant to obtain his statement. The complainant then completed a statement for the PSRC. The complainant admitted he called his mother at 1330 (probably meant 0130) to state he was on his way home. The officers stated they were told by the complainant that he was late getting home and that his parents would be upset with him. Although these two statements are not the same, they are similar in nature, considering the late hour in which this incident occurred. Also the complainant admitted that after the initial stop, he moved his vehicle to a second location. His reasoning was that he was looking for the officers to contact him and nothing happened; even though the officers still had their emergency lights activated. Given the high rate of speed that that complainant was exhibiting, the officers would have been prudent to take their time approaching his vehicle. The officers would again have been prudent in drawing their weapons when the complainant moved his vehicle after the initial stop. The complainant stated the officers told him they estimated his speed at 100 mph which was confirmed by the officers. Even if the complainant was going half that speed (50 mph) that still would be 20-25 mile over the speed limit in a residential neighborhood, and that is considered reckless driving. Lastly, all of the officers stated they did not use profanity towards the complainant or belittled him. The officers did state that the complainant appeared to be naïve and didn't understand the seriousness of the situation.

On November 8, 2004, I recommended that the IIR be Not Sustained due to the complainant's failure to give a statement and the reasonableness of the officer's actions. After reviewing the complainant's statement and the additional statements of the officers, I do not find cause to change my recommendation.

Findings:

Did Officer James Burdett, 01067 violate RR-306, Unnecessary Force; Officers shall not use unnecessary force or violence in making an arrest or in dealing with a prisoner or any person. Prisoners and suspects shall be treated in a fair and humane manner. They shall not be humiliated, ridiculed or taunted.

NOT SUSTAINED

Did Officer James Burdett, 01067 violate RR-140, Discourtesy; Officers shall at all times be courteous and civil to the public and to one another. They shall be orderly, attentive, respectful, and shall exercise patience and discretion in the performance of their duties.

NOT SUSTAINED

Did Officer Paul Streate, 01070 violate RR-306, Unnecessary Force; Officers shall not use unnecessary force or violence in making an arrest or in dealing with a prisoner or any person. Prisoners and suspects shall be treated in a fair and humane manner. They shall not be humiliated, ridiculed or taunted.

NOT SUSTAINED

Did Officer Paul Streate, 01070 violate RR-140, Discourtesy; Officers shall at all times be courteous and civil to the public and to one another. They shall be orderly, attentive, respectful, and shall exercise patience and discretion in the performance of their duties.

NOT SUSTAINED

Did Officer Michael Nuanes, 00109 violate RR-306, Unnecessary Force; Officers shall not use unnecessary force or violence in making an arrest or in dealing with a prisoner or any person. Prisoners and suspects shall be treated in a fair and humane manner. They shall not be humiliated, ridiculed or taunted.

NOT SUSTAINED

Did Officer Michael Nuanes, 00109 violate RR-140, Discourtesy; Officers shall at all times be courteous and civil to the public and to one another. They shall be orderly, attentive, respectful, and shall exercise patience and discretion in the performance of their duties.


NOT SUSTAINED

Did Officer Jason Vincent, 01042 violate RR-306, Unnecessary Force; Officers shall not use unnecessary force or violence in making an arrest or in dealing with a prisoner or any person. Prisoners and suspects shall be treated in a fair and humane manner. They shall not be humiliated, ridiculed or taunted.

NOT SUSTAINED

Did Officer Jason Vincent, 01042 violate RR-140, Discourtesy; Officers shall at all times be courteous and civil to the public and to one another. They shall be orderly, attentive, respectful, and shall exercise patience and discretion in the performance of their duties.

NOT SUSTAINED


R.T. "Pete" Conner, Jr., Lieutenant, 89046

3-28-05
Date

Commander's Finding and Recommendation:

I have reviewed Lieutenant R.T. Conner's summary of the complaint against Officer James Burdett and ~~CONCUR/DISAGREE~~ with the findings. RR-306; Unnecessary Force Officer James Burdett

EXONERATED

UNFOUNDED

NOT SUSTAINED

SUSTAINED

I have reviewed Lieutenant R.T. Conner's summary of the complaint against Officer James Burdett and ~~CONCUR/DISAGREE~~ with the findings. RR-140; Discourtesy

EXONERATED

UNFOUNDED

NOT SUSTAINED

SUSTAINED

Penalty:

Comparative discipline for this violation is

I recommend

I have reviewed Lieutenant R.T. Conner's summary of the complaint against Officer Paul Streate and ~~CONCUR/DISAGREE~~ with the findings. RR-306; Unnecessary Force

EXONERATED

UNFOUNDED

NOT SUSTAINED

SUSTAINED

I have reviewed Lieutenant R.T. Conner's summary of the complaint against Officer Paul Streate and ~~CONCUR/DISAGREE~~ with the findings. RR-140; Discourtesy

EXONERATED

UNFOUNDED

NOT SUSTAINED

SUSTAINED

Penalty:

Comparative discipline for this violation is

I recommend

I have reviewed Lieutenant R.T. Conner's summary of the complaint against Officer Michael Nuanes and ~~CONCUR/DISAGREE~~ with the findings. RR-306; Unnecessary Force

EXONERATED UNFOUNDED NOT SUSTAINED SUSTAINED

I have reviewed Lieutenant R.T. Conner's summary of the complaint against Officer Michael Nuanes and ~~CONCUR/DISAGREE~~ with the findings. RR-140; Discourtesy

EXONERATED UNFOUNDED NOT SUSTAINED SUSTAINED

Penalty:

Comparative discipline for this violation is

I recommend

I have reviewed Lieutenant R.T. Conner's summary of the complaint against Officer Jason Vincent and ~~CONCUR/DISAGREE~~ with the findings. RR-306; Unnecessary Force

EXONERATED UNFOUNDED NOT SUSTAINED SUSTAINED

I have reviewed Lieutenant R.T. Conner's summary of the complaint against Officer Jason Vincent and ~~CONCUR/DISAGREE~~ with the findings. RR-140; Discourtesy

EXONERATED UNFOUNDED NOT SUSTAINED SUSTAINED

Penalty:

Comparative discipline for this violation is

I recommend

Cmdr Rhonda Jones 79025 5/2/05
Rhonda Jones, Commander, 79025 Date

Subject Officer Notification:

I have been apprised of the findings and recommendations in this investigation.

James Burdett 01-67
Officer James Burdett

5-7-05
Date

Subject Officer Notification:

I have been apprised of the findings and recommendations in this investigation.

Paul A. Streate

Officer Paul Streate

5/11/05

Date

Subject Officer Notification:

I have been apprised of the findings and recommendations in this investigation.

Jason Vincent 01042
Officer Jason Vincent

5/7/05
Date

Subject Officer Notification:

I have been apprised of the findings and recommendations in this investigation.

M. Nuñez 02109
Officer Michael Nuñez

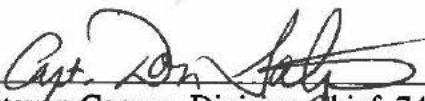
5/7/05
Date

Division Chief's Findings and Recommendations:

I have reviewed Commander Jones' findings and CONCUR/DISAGREE.

I have reviewed Commander Jones' penalty recommendation and CONCUR/DISAGREE.

Comments:



Steven Cooper, Division Chief, 74033

5-76-05
Date

IAB REVIEW		
	Initial	Date
Capt.	<i>[Signature]</i>	2/11/05
Lt.		

**DENVER POLICE DEPARTMENT
INTER-DEPARTMENT
CORRESPONDENCE**

2004C0191

TO: John Lamb, Commander, Internal Affairs Bureau

FROM: Sergeant J.N. Di Paolo, Internal Affairs Bureau

DATE: February 4, 2005

SUBJECT: Case Number: 2004C0191
Complainant: [REDACTED]
Type of Complaint: Unnecessary Force
Subject Officer: James Burdett 01067- District Two

INCIDENT

On 10-10-04 at 0205 hours Officer Burdett and Officer Streate attempted to stop Mr. [REDACTED] for speeding. Mr. [REDACTED] stopped and as the officers approached his vehicle he drove away. The officers stopped Mr. [REDACTED] a second time with the assistance of Officer Nuanes and Officer Vincent at East 29th Avenue and Monroe Street. Mr. [REDACTED] was taken out of the car at gun point, cited for Careless Driving, Failure to Yield to an Emergency Vehicle, and released.

COMPLAINT

Mr. [REDACTED] alleges that the officers stopped him without cause and after the stop the officers used Unnecessary Force.

INVESTIGATION

The complaint was initiated on 10-10-04 by Mr. [REDACTED] mother, [REDACTED]. The case was classified as an Initial Inquiry and investigated by Sergeant Gallawa and Sergeant Chaffin. (See attached Initial Inquiry Report) The complaint was reopened on 11-29-04 at the request of the Public Safety Review Commission.

On 12-06-04, I received this case for investigation and reviewed all related documentation. Included with the Complaint Summary were numerous documents containing a variety of information. These and other pertinent documents including possible audiotapes and/or videotapes are included in the case for your review. For a complete understanding of this case, it is necessary that all statements and/or tapes be reviewed in their entirety.

COMPLAINANT STATEMENT

On 11-29-04 Mr. [REDACTED] completed a written statement for the Public Safety Review Commission. The following is a synopsis of his statement.

He was driving home from an outing with friends on 10-10-04 at about 0130 hours and phoned to let his mother know he was okay and on the way.

He was traveling about thirty five miles per hour on East 26th Avenue and turned north onto Monroe Street. About six houses from his home a police car pulled up behind him with the lights on. He sat in the car and waited for the officer to get out, nothing happened. He turned his car and parked on East 29th Avenue. An officer got out, opened the car door, and with his gun drawn asked him if he was "I f***en stupid".

He was told to get out of the f***en car. He was grabbed and taken to the back of his car, his head was smashed on the trunk, and he was handcuffed very tightly. He told the officer he was hurting him and the officer told him to shut up and spread your legs. The officer said spread your legs wider or he (the officer) would knock him to the ground. After he was patted down the officer put him into the police car.

An officer checked his car while he told another officer he wanted to get home to his mom. The officers repeated he wants to get home to his mommy. The officer told him he was being cited for Careless Driving, traveling one hundred miles per hour down East 26th Avenue, and for Interfering with an Emergency Vehicle.

He went the following day to the District Two Station with his mother to file a complaint. He was given four versions of the incident by the officers. He believes the officers were looking for someone else, treated him rudely, and should not have searched the console of his car. He also believes the officers lied about how fast he was traveling and that he tried to run.

He is a student at CCD, has never been in trouble before, and has never received a ticket.

On 12-24-04 Mr. [REDACTED] reviewed the display folder admonitions and was shown four separate Photo Displays. Display folder "A" contained a photo of Officer Nuanes 00109. Display folder "B" contained a photo of Officer Vincent 01042. Display folder "C" contained a photo of Officer Streate 01070. Display folder "D" contained a photo of Officer Burdett 01067. Mr. [REDACTED] identified Officer Burdett as the officer who "pointed the gun at me", "searched my trunk without asking me", "said make sure he gets his mommy", and "asked me was I fucking stupid". He was not able to positively identify Officer's Nuanes, Vincent, or Streate.

WITNESS STATEMENTS

There are no witness statements associated with this case.

WITNESS OFFICER STATEMENTS

On 11-01-04, Officer Streate 01070 was given an Advisement Pursuant to an Internal Investigation by Sergeant Gallawa and completed a written statement. The following is a synopsis of the interview.

He and Officer Burdett were working together.

He saw a vehicle traveling at a high rate of speed eastbound on East 26th Avenue. They activated the overhead lights in the 2800 block of Monroe Street and the car pulled over. They got out of the police car and as they approached, the vehicle drove away eastbound on East 29th Avenue. They were able to stop the car a second time with the assistance of Officer Nuanes and his car partner Officer Vincent.

Officer Burdett covered him while he approached the vehicle and ordered the driver to get out. The driver got out and he immediately handcuffed him. He explained to Mr. [REDACTED] he could have been killed driving so fast and that he should not drive away when the police are approaching his vehicle.

He said Mr. [REDACTED] told him he was late getting home and his parents would be upset with him.

He explained to Mr. [REDACTED] why an officer had his gun out, why he was handcuffed, and why he was being sited for the traffic violations. Mr. [REDACTED] said he understood and he was released.

He did not use profanity or any mocking comments and did not hear any other person use profanity or any mocking comments.

On 02-01-05, I responded to the District Two Station. I gave Officer Streate 01070 an Advisement Pursuant to an Internal Investigation and asked him a series of written questions. The following is a synopsis of the interview.

He handcuffed and searched Mr. [REDACTED]

He did not mistreat or push Mr. [REDACTED] face onto the trunk of his car or see any one else mistreat or push Mr. [REDACTED] face onto the trunk of his car.

On 11-02-04, Officer Nuanes 00109 was given an Advisement Pursuant to an Internal Investigation by Sergeant Gallawa and completed a written statement. The following is a synopsis of the interview.

He was working with Officer Vincent and in the area of Officer Streate and Officer Burdett when he heard them call out a traffic stop.

He observed a marked patrol car with the overhead lights on attempting to pull a car over. As the car approached East 29th Avenue and Monroe Street it appeared to be pulling over and was in the

process of stopping. The car drove away eastbound on East 29th Avenue. The police car followed and was able to stop the car on the southeast corner of East 29th Avenue and Monroe Street.

They pulled behind both cars and activated the emergency lights.

He observed the officers get out of their patrol car, Officer Burdett draw his gun, and Officer Streate approach the vehicle. The driver was ordered out of the car, handcuffed, and taken to the rear of the car. He searched Mr. [REDACTED] right side, another officer searched his left side, and he seated him in Officer Streate and Officer Burdett's police car.

He did not use profanity or any mocking comments and did not hear any other person use profanity or any mocking comments.

On 01-31-05, I responded to the District Two Station. I gave Officer Nuanes 00109 an Advisement Pursuant to an Internal Investigation and asked him a series of written questions. The following is a synopsis of the interview.

He does not remember who handcuffed Mr. [REDACTED]

He searched Mr. [REDACTED] right side and either Officer Streate or Officer Burdett searched his right side.

He did not mistreat or push Mr. [REDACTED] face onto the trunk of his car or see any one else mistreat or push Mr. [REDACTED] face onto the trunk of his car.

On 11-01-04, Officer Vincent 01042 was given an Advisement Pursuant to an Internal Investigation by Sergeant Gallawa and completed a written statement. The following is a synopsis of the interview.

He was working with Officer Nuanes and was near Officer Streate and Officer Burdett when he saw them turn on their overhead lights to make a traffic stop.

He observed the car stop near East 29th Avenue and as they were approaching, the car drove away eastbound on East 29th Avenue. As the car was stopping a second time, they pulled behind the two cars with their emergency lights activated.

He and Officer Nuanes got out of the police car and drew their weapons. Mr. [REDACTED] was ordered out of the car, handcuffed, searched for weapons, and placed in the back of Officer Streate and Officer Burdett's patrol car. Mr. Clement told him he lived up the street and was trying to get home.

Mr. [REDACTED] was cited and released.

He did not make any mocking comments and did not hear any other person make any mocking comments. He did not use profanity and does not remember anyone else using profanity.

On 01-31-05, I responded to the District Two Station. I gave Officer Vincent 01042 an Advisement Pursuant to an Internal Investigation and asked him a series of written questions. The following is a synopsis of the interview.

He assisted in placing handcuffs on Mr. [REDACTED] and does not know who searched him.

He did not mistreat or push Mr. [REDACTED] face onto the trunk of his car or see any one else mistreat or push Mr. [REDACTED] face onto the trunk of his car.

MEDICAL RECORDS

There are no medical records associated with this case.

EVIDENCE

There is no evidence associated with this case.

DISTRICT ATTORNEY REVIEW

This case was presented to Chief Deputy District Attorney Doug Jackson on 01-27-05 at 1020 hours. He refused prosecution, citing No reasonable likelihood of conviction.

SUBJECT OFFICER

On 11-01-04, Officer Burdett 01067 was given an Advisement Pursuant to an Internal Investigation by Sergeant Gallawa and completed a written statement. The following is a synopsis of the interview.

He and Officer Streate were working together.

He saw a vehicle traveling at a high rate of speed eastbound on East 26th Avenue. They activated the overhead lights in the 2800 block of Monroe Street and the car pulled over in the through lane at East 29th Avenue. They got out of the police car and as they approached, the vehicle drove away eastbound on East 29th Avenue. They were able to stop the car a second time with the assistance of Officer Nuanes and his car partner Officer Vincent.

He drew his gun and covered Officer Streate as he approached the vehicle and ordered the driver to get out. The driver got out and was immediately placed in handcuffs. Mr. [REDACTED] was placed in their car and given an explanation of why he was stopped.

Mr. [REDACTED] told him he was late getting home and that was why he was driving so fast and he did not know why he pulled away from the officers.

He believed Mr. [REDACTED] was naïve and sheltered and he could not tell if Mr. [REDACTED] understood his explanation and actions in this situation.

Mr. [REDACTED] was cited and released.

He did not use profanity or any mocking comments and did not hear any other person use profanity or any mocking comments.

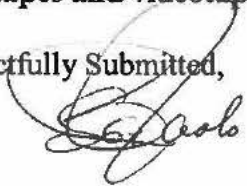
On 02-04-05, I responded to the District Two Station. I gave Officer Burdett 01067 an Advisement Pursuant to an Internal Investigation and asked him a series of written questions. The following is a synopsis of the interview.

Officer Streate handcuffed and searched Mr. [REDACTED] Officer Streate may have been assisted in the search by Officer Nuanes.

He did not mistreat or push Mr. [REDACTED] face onto the trunk of his car or see any one else mistreat or push Mr. [REDACTED] face onto the trunk of his car.

It is necessary that the reviewer read the interviews in their entirety, and review all audiotapes and videotapes for a comprehensive understanding of this case.

Respectfully Submitted,



91012

Sergeant J.N. Di Paolo 91012
Internal Affairs Bureau

POINTS TO CONSIDER

Points to be considered, in addition to any other violations that may be deemed appropriate:

Did Officer James Burdett, 01067 violate:

SPECIFICATION #1:

RR- 306 Unnecessary Force

Officers shall not use unnecessary force or violence in making an arrest or in dealing with a prisoner or any person. Prisoners and suspects shall be treated in a fair and humane manner. They shall not be humiliated, ridiculed, or taunted.