

Case Number: 98C0078
Date of Violation: 3/15/98
Date Received: 3/16/98
Date to D/C:

How Received: Not Specified
Type of Complaint: IAB
Date Back from D/C: 10/29/98

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 | 95054 | Improper Procedure - Other SSR Entry | 102 | OMS-105.01 (1) b | Sustained | District 6 |

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|---|-------|-------------------|-----|--|------------|------------|
| 2 | 95054 | Unnecessary Force | 306 | | Exonerated | District 6 |
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| | <u>BADGE</u> | <u>VIOLATION</u> | <u>RR</u> | <u>OMS</u> | <u>DISPOSITION</u> | <u>ASSIGNMENT</u> |
|---|--------------|---|-----------|---------------------|--------------------|-------------------|
| 1 | 95105 | Improper Procedure - Other SSR Entry | 102 | OMS-105.01 (1) b | Sustained | District 6 |

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| 2 | 95105 | Unnecessary Force | 306 | | Exonerated | District 6 |
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| | <u>BADGE</u> | <u>VIOLATION</u> | <u>RR</u> | <u>OMS</u> | <u>DISPOSITION</u> | <u>ASSIGNMENT</u> |
|---|--------------|---|-----------|---------------------|--------------------|-------------------|
| 1 | 96001 | Improper Procedure - Other SSR Entry | 102 | OMS-105.01 (1) b | Sustained | District 6 |

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| 2 | 96001 | Unnecessary Force | 306 | | Exonerated | District 6 |
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**DENVER POLICE DEPARTMENT
INTER-DEPARTMENT
CORRESPONDENCE**

| | | REVIEWED BY | |
|-------|--------------------|-------------|--|
| | INITIAL | DATE | |
| CAPT. | <i>[Signature]</i> | 11-4-98 | |
| LT. | <i>[Signature]</i> | 11-3-98 | |

TO: John W. Lamb, Captain, Commander, District Six
FROM: Jimmy Martinez, Lieutenant, District Six, Sector Three Commander
DATE: October 9, 1998
SUBJECT: IAB Complaint #C98C0078
Re: Officers Rounph #95105, Ciempa #96001 and Schledwitz #95054

COMPLAINT

The complainant, Mr. [REDACTED] claims that he and another party had stopped to talk with several parties who were arguing with one another. During the course of the incident, he was arrested for interference, at which time he had his arm twisted, as well as being hit in the face and choked.

INVESTIGATION

This complaint originated as a walk-in complaint at the Internal Affairs Bureau and was investigated by Sergeant Hon. The case was then forwarded to me for my review. A synopsis of the case is as follows:

In his statement, Mr. [REDACTED] stated that he and a friend ([REDACTED] unknown last name) were walking on E. Colfax Avenue, when they saw three people arguing. His friend stopped to talk with the people that were arguing and he kept walking. When he was a short distance away he saw three police cars pull up and he saw the people sitting down. He waited about ten minutes and then asked one of the officers if his friend was under arrest. This officer told him to "go away." He advised the officer that he had his friends keys and if he was under arrest he would like to give the keys to him. The officer again told him to leave. Again he told the officer that he wanted to give the keys to his friend, at which time another officer walked up and "pushed me to the ground hard." Once on the ground, the officer twisted his arm so hard that his watch was broken and his wrist and shoulder were sprained. Next, the officer choked him to the point that he could not breathe, or speak. The officer threw him into the police car, with such speed and force, that he struck his head. He was taken to the police station and the officer took him out of the car and hit him with a closed fist, once in the eyebrow area, once in the nose and once in the teeth. There was another officer that was watching and smiling. Mr. [REDACTED] could not identify officer Rounph in a photo lineup, but he claims that the officer who reportedly assaulted him, was the officer who served him with the GSSC, this would have been Officer Rounph.

In his initial statement, Mr. [REDACTED] indicated that his friends name was [REDACTED] but later on he told Sergeant Hon that his friend's name is actually [REDACTED] He did not know why he had said that his name was [REDACTED]

Mr. [REDACTED] related that he had been drinking earlier, but that he was not intoxicated.

In his statement, Mr. [REDACTED], who is a reported witness, stated that he knows Mr. [REDACTED] but does not remember this particular incident. He did not provide any other usable information.

In his statement, **Officer Roumph** stated that he had covered Officers Schledwitz and Ciempa on a fight. While contacting several parties, Mr. [REDACTED] attempted to get the parties to fight with one another. He told Mr. [REDACTED] several times to leave, but he refused, at which time he took a hold of him by the arm and handcuffed him. He stated that never took Mr. [REDACTED] to the ground. He did not break his watch and he did not choke him, or cause him to strike his head while putting him into the police car. He also claims that at no time did he strike Mr. [REDACTED] (who he claims was intoxicated) and that no one else was around when he took him out of the police car at Headquarters. *Officer Roumph further stated "attempted to place him in handcuffs at which time he pulled away."*

In his statement, **Officer Schledwitz** stated that he and Officer Ciempa had contacted several parties who were fighting. Officer Roumph had stopped to assist them. During this time, Mr. [REDACTED] began asking the combatants what had happened. He became verbally abusive after the officers asked him several times to leave. After refusing to leave, Officers Roumph and Ciempa took a hold of him by the arms and took him to the ground and handcuffed him, *as he was struggling and trying to get away*. He did not know anything about a broken watch. He saw no one put any type of a choke hold on Mr. [REDACTED]. He also saw Mr. [REDACTED] walk over to the police car and get in unassisted. *Officer Schledwitz further stated "the suspect began to resist and he violently pulled away from the officers...WE were able to secure his hands with handcuffs at this point"*

In his statement, **Officer Ciempa** stated that he and Officer Schledwitz had contacted several parties who were fighting, when Officer Roumph came upon them and assisted. Mr. [REDACTED] walked up to them and started talking with the combatants. The officers asked him to leave several times, but he refused and became argumentative and aggressive. When he and Officer Roumph attempted to arrest him, *Mr. [REDACTED] began to resist* and he was taken to the ground where he was handcuffed. He states that no officer physically, or verbally mistreated Mr. [REDACTED]. He did not know anything about any watch being broken. He remembered that prior to being arrested, Mr. [REDACTED] had red marks on his face, but other than that, he was not injured. *Officer Ciempa further stated "Officer Roumph attempted to restrain [REDACTED] by grabbing his arms to prevent any further violence."*

Chief Deputy District Attorney Diane Balkin refused prosecution, citing "insufficient credible evidence to support the claim."

Medical Records: A review of the Denver Sheriff Department Medical Services-Admission Assessment Record, shows that Mr. [REDACTED] did not have any injuries and made no complaint of any injury.

Point of Clarification: Mr. [REDACTED] stated that the officers took him to the ground. Officer Ciempa stated that he and Officer Roumph were the ones who took him to the ground. Officer Schledwitz confirmed this, as he witnessed the arrest. In his initial statement, Officer Roumph stated that he did not take Mr. [REDACTED] to the ground. A follow-up statement was taken on October 2, 1998, from Officer Roumph (see C-13B). He stated that the way he remembered the incident was that Mr. [REDACTED] had voluntarily bent at the waist, but he could still not remember taking him to the ground, however, he could not be 100% certain.

CONCLUSION

Mr. [REDACTED] did not have any injuries. He never made any out cry of being injured, either at the scene, or at PADF. His admission record indicates that he had no injuries. Mr. [REDACTED] claims that the officers pushed him to the ground "hard," caused him to strike his head while getting in the police car, then punched him three times. The fact that he had no injuries is in contradiction with his claims of abuse at the hands of the officers. In addition to this, in his initial statement he referred to his friend "[REDACTED]" only to later change his statement, that his friend's name is [REDACTED]. He could give no explanation for the differences in his statement.

Mr. [REDACTED] has cleared demonstrated that he is far from credible and that the incident did not happen as he claimed it did.

By his own admission, Mr. [REDACTED] refused to leave when asked by the officers to do so. As he continued to interfere with the investigation that the officers were attempting to conduct, they were justified in arresting him. When he refused to be handcuffed, the officers took him to the ground in order to control him. They did this with minimal force and they did not cause him to be injured. However, the officers all admitted that they did use force, as Mr. [REDACTED] was resisting them. They failed to complete a use of force report, which was required of them.

FINDINGS

My findings are as follows:

As to whether Officers Roumph, Ciempa and Schledwitz violated **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.

I find the allegation should be carried as **EXONERATED**.

As to whether Officers Roumph, Ciempa, and Schledwitz violated **RR-102**, as it pertains to **OMS 105.01(1)b. Use of Force in Making Arrest:**

- b. Resistance reports shall be made, giving a detailed account of the resistance incident including the nature and extent of the force used, and be signed by the supervisor or command officer when:
1. *It becomes necessary to use force against any person in order to overcome resistance to arrest.*
 2. Warding off a physical attack.
 3. The officers have determined to charge a defendant with "resistance."
 4. An officer injures a person by any means, excluding traffic accidents.

5. Non-lethal chemical agent or tear gas agent is used, whether or not arrests are made.

I find the allegation should be carried as **SUSTAINED**.

Respectfully submitted,

LT Jimmy Martinez 82028
Lieutenant Jimmy Martinez

I agree/disagree with the findings of Lieutenant Martinez *Capt Lamb* Date *10-16-98*
Captain John W. Lamb

SSR
Recommended Penalty

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

[Signature] *9554* *10-21-98*
Officer Signature Date

[Signature] *95105* *10-21-98*
Officer Signature Date

ON VACATION - NOTIFICATION *10-22-98*
Officer Signature *LEFT BY LT. MARTINEZ* Date

Concur:

G. R. Whitman 82028
Division Chief G. R. Whitman, Patrol Division

102798
Date