

Status: Closed

Case No: P201005009

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

How Complaint Was Received: Letter

Date Received: 05/04/2010

Requesting Station Officer:

Date Closed: 06/18/2010

Type of Complaint: Unnecessary Force

RR Code: 306

OMS Code:

Taken By: Hull, Kimalee (P78020)

Officer: Steele, Daniel (P99023)

Assign: Vice/Drug Control Bureau

Notify Date:

Case Type: Decline

Assign To:

Decline Reason: No Misconduct

Officer: Ryan, Michael (P97020)

Assign: Vice/Drug Control Bureau

Notify Date:

Case Type: Decline

Assign To:

Decline Reason: No Misconduct

Complainant	D.O.B.	Home Address	Home Phone	Notify Date
█ # █ █ D.	█	11560 County Road FF-75 Unit Las Animus, CO 81054	() -	05/04/2010

Complainant Officer(s)	Badge #	Assignment

Witness Officer(s)	Badge #	Assignment

Complainant	Type	Address	City	State	Phone
█ # █ █ D.	Complainant	11560 County Road FF-75	Las Animus	CO	

Place of Occurrence:	Second Street	Date	Time	District
2800 Arkins CT	Platte River	06/04/2009	19:20	6

Incident Summary:

The complainant alleged that when he was arrested on June 4, 2009 the officers used excessive force.

Internal Affairs Bureau Command Review

Assigned By:

Case Assigned To:

Assigned On:



CITY AND COUNTY OF DENVER

DEPARTMENT OF SAFETY

DENVER POLICE DEPARTMENT
ADMINISTRATION BUILDING
INTERNAL AFFAIRS BUREAU
1331 CHEROKEE STREET
DENVER, COLORADO 80204-2787
PHONE: (720) 913-6019

JOHN W. HICKENLOOPER
Mayor

June 14, 2010

Mr. [REDACTED]
11560 County Road FF-75
Las Animas, CO 81054

P201005009

Dear Mr. [REDACTED]

The purpose of this correspondence is to inform you that an investigation of your complaint of inappropriate force disclosed that no misconduct was evident by the involved officers.

Your complaint was received by the Denver Police Department Internal Affairs Bureau on May 4, 2010, and was assigned case number P20105009. Sergeant Kimalee A. Hull reviewed your letter and all the reports completed on the night of your arrest.

On the night of June 4, 2009, you became angry when undercover detectives would not smoke crack cocaine in front of you. The reports reflect that you threatened to use bodily harm against the officers once you learned their identity.

When the officers attempted to place you into custody, you ran north down the dirt path where you jumped into the Platte River in an effort to elude the officers. You injured your mouth when you jumped into the shallow water.

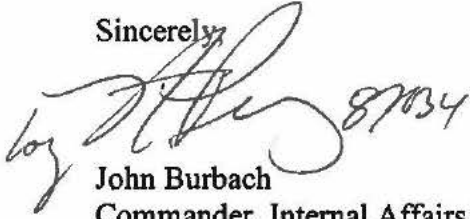
Your complaint has been declined for the following reasons:

- Sergeant Steele and Officer Ryan used approved Denver Police control techniques to gain control of your physical actions during your arrest. Per the Denver Police Operations Manual, "officers may either escalate or de-escalate the use of force as the situation progresses or circumstances change. When a suspect is under control, either through the application of physical restraint or the suspect's compliance, the degree of force shall be de-escalated accordingly."
- The on scene supervisor, Sergeant Mark Fall, thoroughly investigated the incident that night and concluded there were no violations of the Denver Police Department Use of Force policy or Colorado State law.

- On June 11, 2010, Assistant Denver District Attorney Doug Jackson reviewed the case and refused prosecution citing: No reasonable likelihood of conviction.

I want to assure you that the Denver Police Department takes all complaints seriously. 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

U200906047

**DENVER POLICE DEPARTMENT
INTER-DEPARTMENT
CORRESPONDENCE**

ENTERED

TO: Internal Affairs Bureau

FROM: Sergeant Mark Fall, 88036

DATE: 06-04-09

SUBJECT: Use of Force - [REDACTED] [REDACTED] [REDACTED]

ORIGINAL

Incident

On June 4, 2009, at approximately 1920 hours, members of the Denver Police Department's Vice/Drug Control Bureau were conducting a plain-clothes narcotics enforcement action (buy/bust) in the area of 29th Street and Arkins Court. Prior to the operation commencing, all participants were briefed that potential suspects in this area could be armed due to recent aggravated crimes in and around the area and an increase in narcotics and prostitution activity.

Officer Vince Young, 05081 and Officer Shanna Michael, 03008, acted as the undercover officers for the operation and were monitored through audio and visual surveillance. Sergeant Daniel Steele, 99023 and Detective Michael Ryan, 97020 monitored the audio surveillance equipment and served as cover officers for the UC's. Officer Young and Officer Michael established contact with a subject later identified as [REDACTED] [REDACTED] ([REDACTED]), while located along the "pedestrian path" on the South side of the Platte River, in 2800 block of Arkins Court. [REDACTED] was described as a white male wearing a black t-shirt and blue jeans. [REDACTED] spoke with the UC's at length about the "drug trade" in the area and related he had connections to get the UC's crack cocaine. The suspect [REDACTED] then led the UC's westbound down the pedestrian path and [REDACTED] brought the two UC's to a second male party, [REDACTED] [REDACTED] [REDACTED] ([REDACTED]). The suspect [REDACTED] was described by Officer Young as a white male, six feet tall, wearing a blue plaid shirt and blue jeans with brown hair.

The suspect [REDACTED] took \$20 dollars of pre-recorded US currency from Officer Young and took the \$20 to the suspect [REDACTED] told the UC's to leave, but the UC's refused. [REDACTED] angered and made comments about "killing" the UC's and/or cops if anyone tried to set him up. However, [REDACTED] commenced the deal, retrieving an amount of suspected crack cocaine from his backpack and then handing said narcotics to the suspect [REDACTED]. The suspect [REDACTED] then gave the suspected crack cocaine to Officer Young. Officer Young then provided the pre-arranged bust signal. [REDACTED] became agitated and stopped the UC's before they could leave the area. The suspect [REDACTED] demanded that the UC's smoke the narcotics in front of him. When the UC's declined, the suspect [REDACTED] became increasingly angry, and again threatened to bodily harm to the UC's. The information regarding [REDACTED]'s violent threats and behavior was relayed to all covering officers by Sergeant Steele as he instructed uniformed officers to move in to arrest the suspects.

Uniformed officers initially parked their vehicle and walked to the pedestrian path on foot near 29th Street and Arkins Court. As the officers walked to the path to affect the arrest of [REDACTED] and [REDACTED] [REDACTED] began walking briskly toward a small dirt path that led from the pedestrian path to Arkins Court. Officer Michael transmitted over the audio surveillance equipment that the suspect [REDACTED] was walking Westbound down the pedestrian path and was approximately 100 yards in front of the uniformed officers. Sergeant Steele and Detective Ryan, who were monitoring the audio surveillance equipment, were parked directly to the South of this dirt path and observed a male matching the description of [REDACTED] walking up the aforementioned dirt path. As there were no uniformed officers in proximity to affect the arrest of [REDACTED] Sergeant Steele and Detective Ryan exited their unmarked police vehicle and began to walk toward [REDACTED]. Both officers were dressed plain-clothes (out of police uniform) with their Denver Police badges and Denver Police Identification cards displayed on lanyards around their necks, hanging in the center of their chests. Detective Ryan stated, "Denver Police, stop right there." [REDACTED] began to turn away from the officers and Detective Ryan stated, "Denver Police, don't run." The suspect [REDACTED] then sprinted North back down the dirt path, across the pedestrian path then dove head first into the Platte River (**Verbal Non-Compliance**). Sergeant Steele and Detective Ryan ran after the suspect [REDACTED] and followed [REDACTED] into the river.

[REDACTED] immediately got up out of the shallow water and Sergeant Steele observed he was bleeding from his mouth. Sergeant Steele grabbed [REDACTED]'s left arm and attempted to place [REDACTED] into a control hold so that [REDACTED] could be handcuffed. [REDACTED] attempted to jerk his hand away from Sergeant Steele and reached for a closed pocket knife that was attached to his belt, on the right side of his pants. (**Defensive Resistance**) Detective Ryan saw this and stated, "He has a knife." Detective Ryan then grabbed the suspect Solt's right arm and Sergeant Steele and Detective Ryan forced [REDACTED] downward. The two officers and the suspect fell into the water. The suspect [REDACTED] began to violently attempt to escape, pulling away from the officer's grip, attempting to stand and shouting, "Fuck you motherfuckers!" Sergeant Steele and Detective Ryan tried to bring the suspect's hands behind his back to be cuffed but repeatedly fell into the water as the suspect tried to pull away. Due to the suspects aggressive attempts to escape and the fact all three were soaked with water, the officers could not retain a proper grip on the suspect [REDACTED]. As such, Sergeant Steele attempted to strike [REDACTED] in the brachial plexus origin; a nerve motor center is on the side of the neck. Sergeant Steele used repeated strikes to the area in an effort to stun the suspect and cause temporary dysfunction of the suspects left arm. Due to the suspects constant movement, some of these strikes hit the suspect [REDACTED] in the face, neck and arm. During this, Detective Ryan struggled with the suspect [REDACTED] right arm as he was continuously attempting to grasp the pocket knife on his belt. (**Active Aggression**) Detective Ryan additionally struck the suspect in the face and upper torso with a closed fist, trying to prevent the suspect from gaining control of the weapon. The suspect made his way to his feet completely and moved toward the edge of the river bank. Sergeant Steele then employed several knee strikes to the suspect's common peroneal nerve (a strike to the side of the leg, just above the knee that causes a temporary loss of motor control of the leg) and torso region. The strikes caused the suspect to bend over at the waist and loosen his arms so that Sergeant Steele and Detective Ryan could then place the suspect into handcuffs. Officer Rudy Magat, 00127 observed the suspect [REDACTED] struggling with officers and quickly moved in to place handcuffs on the suspect. During the entire incident, Sergeant Steele and Detective Ryan repeatedly shouted, "Denver Police" and "stop resisting."

Officer Magat took custody of the suspect [REDACTED] and the three walked [REDACTED] to the street level (Arkins Court). Officers Michael and Young then positively identified [REDACTED] as the party who sold them

suspected crack cocaine. Sergeant Steele then spoke with [REDACTED] at the scene. Sergeant Steele asked [REDACTED] if he was hurt in anyway. [REDACTED] replied, "Fuck you." Sergeant Steele looked at [REDACTED] and noticed blood around the suspect [REDACTED] mouth and mild swelling and redness to [REDACTED] forehead. The suspect [REDACTED] and the suspect [REDACTED] (who was apprehended without incident) and several other related suspects were transported to Headquarters. Due to the suspect [REDACTED] obvious injuries, Sergeant Steele contacted an ambulance to respond to Headquarters to check [REDACTED] injuries. DHMC Ambulance #23 responded to the location and attending medic [REDACTED] examined [REDACTED] injuries. [REDACTED] was then transported to DHMC for a laceration inside his bottom lip.

The suspect [REDACTED] was charged on case #09-327099 for Possession of a Controlled Substance.

Sergeant Steele immediately notified Sergeant Mark Fall, 88036, who is assigned to the Vice/Drug Control Bureau, but was currently supervising the night shift detective unit for Crimes Against Persons. As Sergeant Fall was not currently at Headquarters, Sergeant Steele instructed Detective Daniel O'Bannon, 95009, to take photographs of the suspect Solt's injuries and to complete and initial interview for Sergeant Fall.

Investigation

Sergeant Fall separated and interviewed all of the officers and the suspect:

- Suspect, [REDACTED] [REDACTED] Detective O'Bannon identified himself as a Denver Police detective then provided [REDACTED] with his verbal Miranda advisement, with his full acknowledgement and waiver. Detective O'Bannon asked the suspect [REDACTED] to explain the incident, providing a description of his actions as well as officer's actions.
- Sergeant Steele: Sergeant Steele related the above listed facts of the incident leading up to the suspect [REDACTED]'s arrest. Steele provided the same account of the arrest and level of force utilized to affect same.
- Detective Ryan: Detective Rayn related the above listed facts of the incident leading up to the suspect [REDACTED]'s arrest. Ryan provided the same account of the arrest and level of force utilized to affect same.

It should be noted; Sergeant Steele attempted to locate potential witnesses to the use of force at the scene. However, due to initial response to the river area by police, pedestrians and bystanders fled the area. This was compounded by the fact that most people frequenting the area are transient and typically prefers to avoid police contact.

Supporting Documentation

- Use of Force Report
- Offense Report (Case#09-327099)
- Printed photographs
- CAD printout (#09-327099)
- Operations Plan (for buy/bust operation)

Conclusion

After interviewing the involved officers and the suspect, Sergeant Fall determined the injuries sustained by the suspect were a direct result of the authorized level of force used to stop a fleeing, armed suspect and then an authorized level of force used to control the suspect and place same into custody. Based on the suspect interview it was clearly evident that the suspect has extremely hostile feelings toward all levels of law enforcement. The suspect refused to admit that he had run from police, he refused to admit he had jumped in the river and even refused to say that he was near the river. The suspect repeatedly stated that all police do to him is "beat his ass" and that's why he ran. The suspect admitted to at least seven or eight previous violent encounters with the police. The suspect related that all previous contacts ended in the same manner; He related that the police "beat his ass because that's what they do".

Sergeant Fall determined the involved officers used a reasonable, appropriate and legal level of force to control the suspect. There was no evidence suggesting any police officer used any force beyond that described to arrest the suspect. Further, there is no reason to believe the incident occurred in any manner other than that described in this document.

In short, Sergeant Fall concluded no department policies were violated and no further investigation is recommended, unless additional information or evidence is received. Finally, Sgt Fall requested the radio transmissions and CAD print out from the radio room and that information has been included in the packet sent to Internal Affairs Bureau. The recording from the initial drug transaction was placed into the Property Bureau.

cc: Division Chief David Fisher, Criminal Investigative Division
Division Chief Mary Beth Klee, Patrol Division
Commander Deborah Dilley, District Six
Captain William Nagle, Vice/Drug Control Bureau
Lieutenant Aaron Sanchez, Vice/Drug Control Bureau
Civil Liabilities