



Cathryn L. Hazouri, Executive Director • Mark Silverstein, Legal Director

November 6, 2008

Richard Rosenthal  
Office of the Independent Monitor  
Wellington Webb Municipal Office Building  
201 W. Colfax Ave., Dept. 1201  
Denver, CO 80202  
SENT VIA EMAIL

Re: Request for Internal Affairs Bureau investigation

Dear Rich:

I write again regarding the events of the evening of August 25, 2008. We request that the following matter be considered in conjunction with the other issues raised in our October 30, 2008, letter, and number the paragraph below accordingly.

This complaint arises from a record (attached) released to us today pursuant to a request we made under the Colorado Criminal Justice Records Act. That record reveals that on August 25, 2008, officers under the direction of the Denver Police Department were working undercover and pretending to be part of the group of protestors that moved down 15<sup>th</sup> Street and the surrounding sidewalks. Hundreds of individuals were quickly blocked in by police lines that formed across 15<sup>th</sup> Street at Court Place and at Cleveland Street. Undercover detectives were included in the large group that was trapped by police officers on 15<sup>th</sup> Street.

It was an unstable and potentially volatile situation, with police officers encircling and blocking the egress of hundreds of persons, including protestors, members of the media, legal observers, bystanders, and curious onlookers who had little idea what was occurring. In this state of extremely high tension, DPD undercover detectives decided to “struggle” as uniformed officers attempted to remove them to the other side of police lines:

“Deputies were assisting Commander Kroncke in removing D.P.D. undercover detectives from the crowd...in order not to be recognized as undercover detectives, some of the detectives put up a struggle with Commander Kroncke.”

The undercover detectives’ struggle was so convincing that other officers believed that Commander Kroncke was being attacked by protestors, and one officer deployed chemical agents in response:

“Deputy Shousse thought that Commander Kroncke was being attacked and he therefore deployed the issued O.C. fogger.”

The Denver Police Department (“DPD”) crowd management policy states that, “unprofessional police behavior can inflame a tense situation and make control efforts more difficult and dangerous.” See DPD Operations and Procedure Manual (“OPM”) §108.08 (2)(c). During spontaneous events, when taking any action, officers are directed to consider the question, “Will police action likely improve the situation?” See DPD OPM §108.08 (6)(b). Furthermore, while DPD OPM § 108.08(6)(a)(4) contemplates that undercover officers can be used during spontaneous events “to assess the overall behavior and disposition of a crowd,” the policy does not appear to authorize undercover officers to affirmatively engage in what would appear to members of the public and other officers to be illegal acts.

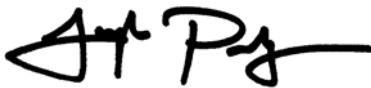
The actions of the undercover detectives on August 25, 2008, may have had the effect of exacerbating an already “tense situation,” as their feigned struggle led nearby officers and the public to believe that a commanding officer was being attacking by protestors and that the situation necessitated the use of chemical agents. Such actions may have escalated the overall situation by causing officers on the scene to fear that the protestors threatened their safety, when in fact the struggle was only between uniformed officers and undercover officers.

In light of these facts, we respectfully request that the internal affairs investigation into the events of August 25, 2008 include the following:

4. Did the behavior of the undercover detectives “inflame a tense situation and make control efforts more difficult and dangerous” by leading officers and others on the scene to believe that protestors were attacking officers, when in fact the assault on the commanding officer they witnessed was committed by undercover detectives?

I look forward to hearing from you.

Sincerely,



Taylor Pendergrass  
Staff Attorney, ACLU of Colorado

Enc. 8/25/08 Use of Force report

DEMOCRATIC NATIONAL CONVENTION  
USE OF FORCE - SHORT FORM

Use of Force # \_\_\_\_\_ Flex-Cuff # N/A GSS&C# \_\_\_\_\_

\_\_\_ Use of Force \_\_\_ Injury While in Custody \_\_\_ Injury Prior to Arrest  
\_\_\_ Pepper-Ball \_\_\_ 40MM  Chemical Agent \_\_\_ Other Force (describe) \_\_\_\_\_

DPD incident / event # 08-566547 District \_\_\_\_\_ Precinct \_\_\_\_\_

Address / Location of incident 300 block of 15th St Date 092508 Time 2000

Suspect Information: Jailed (Y/N) N Order In (Y/N) N Photos (Y/N) N Video (Y/N) N

Suspect Name (Last, First) \_\_\_\_\_ DOB \_\_\_\_\_

Injury \_\_\_\_\_ Treatment \_\_\_\_\_ Ambulance # \_\_\_\_\_  
Evaluating Paramedic's Name \_\_\_\_\_

Officer(s) involved:

Badge# 1440 Name (Last, First) SHOUSSE, BRIAN Agency JCSO

Badge# \_\_\_\_\_ Name (Last, First) \_\_\_\_\_ Agency \_\_\_\_\_

Witness Information:

Name (Last, First) \_\_\_\_\_ Address \_\_\_\_\_

Phone # \_\_\_\_\_ Statement (Y or N) \_\_\_\_\_

Name (Last, First) \_\_\_\_\_ Address \_\_\_\_\_

Phone # \_\_\_\_\_ Statement (Y or N) \_\_\_\_\_

Narrative: Prepared by: SGT. Rod Williams Badge# 0084

DEPUTIES FROM THE JEFFCO RESPONSE TEAM (JR60) HAD DEPLOYED  
IN A SKIRMISH LINE FOR A LARGE DISTURBANCE. DEPUTIES WERE  
ASSISTING COMMANDER KRONCKE IN REMOVING D.P.D. UNSERGEANT  
DETECTIVES FROM THE CROWD. DEPUTIES ON THE LINE HAD Continue on reverse

Approving Supervisor: SGT. Rod Williams Badge # 0084 Agency JCSO

DPD Reviewing Supervisor: [Signature] Badge # 83001  
LT. OBAYTS

## DEMOCRATIC NATIONAL CONVENTION USE OF FORCE – SHORT FORM

NOT RECEIVED INFORMATION THAT THE PEOPLE BEING REMOVED  
WERE UNDERCOVER DETECTIVES IN ORDER NOT TO BE  
RECOGNIZED AS UNDERCOVER DETECTIVES, SOME OF THE  
DETECTIVES PUT UP A STRUGGLE WITH COMMANDER KRONCKE.  
AS A RESULT, DEPUTY SHUSSE THOUGHT THAT COMMANDER  
KRONCKE WAS BEING ATTACKED AND HE THEREFORE DEPLOYED  
THE ISSUED O.C. FOGGER. COMMANDER KRONCKE AND THE  
UNDERCOVER DETECTIVE WERE SPRAYED.