

**In the United States District Court  
for the District of Colorado**

Civil Action No. 1:08-cv-01693-MSK-KLM

CHRISTINA ANN FOURHORN,  
MUSE JAMA,  
JOSE ERNESTO IBARRA,  
DENNIS MICHAEL SMITH,  
SAMUEL POWELL MOORE, and  
DEDE DAVIS,

Plaintiffs,

ANTONIO CARLOS SANCHEZ,

Proposed Intervenor-Plaintiff,

v.

CITY AND COUNTY OF DENVER;

MARK DALVIT, a Denver Police Department detective, in his individual capacity;

CURT PETERSON, a Denver Police Department officer, in his individual capacity;

JOHN BISHOP, a Denver Police Department officer, in his individual capacity;

ALAN SIRHAL, Denver Sheriff Department deputy, in his individual capacity;

CHOICE JOHNSON, a Denver Police Department officer, in his individual capacity;

ANDREW RICHMOND, a Denver Police Department officer, in his individual capacity;

PAUL ORTEGA, a Denver Sheriff Department sergeant, in his individual capacity;

JOHN DOE 1, a Denver Police Department officer, whose identity is unknown, in his individual capacity;

JOHN DOE 2, a Denver Police Department officer, whose identity is unknown, in his individual capacity;

Defendants.

---

**Mr. Sanchez's Intervention Complaint**

---

Plaintiff Antonio Carlos Sanchez, through his attorneys, intervenes and complains against the Defendant City and County of Denver as follows:

## **Introduction**

1. This intervention complaint arises out of the Defendant City and County of Denver's repeated unconstitutional arrests and detentions of Mr. Sanchez based on arrest warrants for someone else. It is brought under 42 U.S.C. §§ 1983 and 1988.

2. Mr. Sanchez is a Denver resident. He will be referred to in this Intervention Complaint as "Intervenor Sanchez."

### **Intervenor Sanchez's Unconstitutional Arrests**

3. In 2008, Denver law enforcement officers and agents ("Denver officers") repeatedly arrested and detained Intervenor Sanchez based on warrants for a different person.

4. **March 2008 arrest.** In March 2008, Intervenor Sanchez was accosted by Denver officers who requested his name. Plaintiff Sanchez replied, "Antonio Carlos Sanchez." The officers determined that Intervenor Sanchez had three outstanding warrants for his arrest. In fact, only one of the warrants, from Arapahoe County, was for Plaintiff Sanchez. The other warrants were for a Tony Sanchez.

5. Nonetheless, on the mistaken belief that Intervenor Sanchez was Tony Sanchez, the officers arrested and detained (collectively, "arrested") Intervenor Sanchez on all three warrants.

6. Subsequently, Intervenor Sanchez was booked into the Denver County Jail on his warrant and on Tony Sanchez's warrants.

7. Intervenor Sanchez languished in the Denver County Jail for weeks without being given any court appearance by Denver.

8. After Intervenor Sanchez's repeated protests about his arrest, Denver officers determined that Intervenor Sanchez was not the same person as Tony Sanchez, and he was released from Denver's custody.

9. By the time Intervenor Sanchez was released from its custody, Denver had held him on Tony Sanchez's warrants for about 6 weeks.

10. **October 2008 arrest.** In about October 2008, Denver arrested Intervenor Sanchez again on the outstanding warrants for Tony Sanchez, and took him to a Denver jail.

11. Intervenor Sanchez waited for weeks to appear in court on Tony Sanchez's charges.

12. Intervenor Sanchez finally received a court appearance in December 2008. At the hearing, the Denver court determined that he was not Tony Sanchez, and ordered him released from Denver's custody. The court noted in a minute order that Intervenor Sanchez and Tony Sanchez had different unique DPD numbers.

13. By the time Intervenor Sanchez was released from its custody, Denver had held him on Tony Sanchez's warrants for about 8 weeks.

14. **December 2008 arrest.** In December 2008, Denver on two different occasions arrested Intervenor Sanchez on Tony Sanchez's warrants.

15. By the time Intervenor Sanchez was released from its custody on these arrests, Denver had held him on Tony Sanchez's warrants for numerous days.

### **General Allegations**

16. Intervenor Sanchez adopts by reference the following paragraphs of the Amended Complaint and realleges them here, substituting his name for that of the plaintiffs: ¶¶ 1-8, 15, 25, 235-250.

17. At all times relevant to this Complaint, the Denver officers referenced in this Complaint were acting under color of state law and in accordance with Denver's policies, procedures, practices and customs (collectively, "policies") relating to arrest, detention, and identification of individuals for arrest and detention.

18. At all times relevant to this Complaint, none of the Denver officers referenced in this Complaint violated or otherwise acted inconsistently with any of Denver's policies relating to arrest, detention, and identification of individuals for arrest and detention.

19. Upon information and belief, when Denver officers finally discovered that Denver had wrongly arrested Intervenor Sanchez on Tony Sanchez's warrants,
- a. the officers did not notify the courts of this discovery;
  - b. they did not take any other steps to prevent Intervenor Sanchez from being mistaken for Tony Sanchez and arrested again on Tony Sanchez's warrants;
  - c. they did not take any steps to investigate how Intervenor Sanchez had been arrested on Tony Sanchez's warrants;
  - d. they did not report the improper, mistaken-identification arrest of Intervenor Sanchez to a supervisor or to Denver internal affairs bureaus;
  - e. they did not log or track the mistaken identity arrest in any way.

20. When Denver officers made the mistake of concluding that Intervenor Sanchez was the same person as Tony Sanchez, they caused Tony Sanchez's identifying information to be associated with Intervenor Sanchez in Denver's and other criminal justice databases. For example, they caused Tony Sanchez's name and multiple different birthdates associated with Tony Sanchez to be listed as "aliases" in Intervenor Sanchez' criminal records. Yet, Intervenor Sanchez had never used any such name or birthdates as an alias. Nor had Intervenor Sanchez used such information for purposes of his own identification.

21. Upon information and belief, when Denver officers learned that Intervenor Sanchez was not Tony Sanchez, they did not correct or disentangle Intervenor Sanchez' identifying information from Tony Sanchez's information in the computer databases. The officers were not trained to do so. Nor were they required to do so under Denver's policies.

22. At all times relevant to this Complaint, during and after the arrest and booking of Intervenor Sanchez, Denver officers had the following information for both Intervenor Sanchez and Tony Sanchez:

- a. Fingerprints;
- b. Physical descriptions;
- c. Dates of birth;
- d. Unique law-enforcement or other identification numbers, including Denver Police Department ("DPD"), State Identification Numbers ("SID") or FBI numbers;
- e. Photographs;
- f. Other identifying information.

23. At all times relevant to this Complaint, no reasonable officer would have believed that Intervenor Sanchez and Tony Sanchez are the same person, for numerous reasons, including the following:

- a. Tony Sanchez is 6 inches taller and 30 pounds heavier than Intervenor Sanchez.
- b. Tony Sanchez has no tattoos on his body, and has a distinctive scar on his left leg. Intervenor Sanchez has no scar on his left leg, and numerous tattoos on his fingers, both forearms, both triceps, both shoulders, and on the back of his head.
- c. Tony Sanchez and Intervenor Sanchez have different birthdates.
- d. Both Intervenor Sanchez and Tony Sanchez had been arrested by Denver before March 2008. As a result, Denver had access to both Intervenor Sanchez's and Tony Sanchez's mugshots and fingerprints, and their unique and distinct DPD, SID, and FBI Numbers.

24. The information in Paragraphs 22 and 23 was readily available to Denver officers. Additional identifying information contained in Denver's databases and records also would have distinguished Intervenor Sanchez from Tony Sanchez and was readily available to Denver officers. But the ready availability of the foregoing information did not prevent Denver officers from arresting Intervenor Sanchez multiples times on the mistaken belief he was Tony Sanchez.

25. After one or more of his arrests by Denver officers on their mistaken belief that he was Tony Sanchez, Intervenor Sanchez was not taken without unnecessary delay before a court as required by Colorado law. As a result, he was unable to inform a court as to those arrests that he was not the person named in one or more of the warrants under which he was arrested and he was unable to request a prompt investigation and prompt correction of the mistake.

26. Denver has adopted policies, or has failed through deliberate indifference to adopt adequate policies, (collectively, “policy failures”) relating to:

- a. the proper identification of persons to be arrested;
- b. the proper identification of persons after they have been arrested;

and

- c. providing arrestees such as Intervenor Sanchez with the right to appear in court without unnecessary delay as guaranteed under Colorado law.

27. As a result of Denver’s deliberately indifferent policy failures, Intervenor Sanchez has suffered injury, including irreparable injury, and without intervention from this Court, faces a real and immediate threat of irreparable injury in the future.



28. Denver violated Intervenor Sanchez's rights guaranteed under the Fourth and Fourteenth Amendments to the United States Constitution.

Wherefore, Intervenor Sanchez prays for relief as follows:

- A declaratory judgment that Denver has violated and, without changes to its policies, will violate Intervenor Sanchez's constitutional rights.
- Injunctive, mandamus and such other equitable relief as is just and equitable under 42 U.S.C. § 1983 and this Court's powers of equity;
- An award of his reasonable attorney fees and costs of this action under 42 U.S.C. § 1988 and any other applicable law; and
- Any additional relief the Court deems just and proper.

Dated: March 11, 2009.

Respectfully submitted,

s/ Ty Gee

---

Ty Gee  
HADDON, MORGAN, MUELLER,  
JORDAN, MACKEY & FOREMAN, P.C.  
150 East Tenth Avenue  
Denver, CO 80203  
303.831.7364

*In cooperation with the American  
Civil Liberties Union Foundation  
of Colorado*

---

Veronica Rossman  
Visiting Lawyering Process Professor  
UNIVERSITY OF DENVER  
STURM COLLEGE OF LAW  
Ricketson Law Building, 463-A  
2255 E. Evans Avenue  
Denver, CO 80208  
303.871.6894

*In cooperation with the American  
Civil Liberties Union Foundation  
of Colorado*

s/ Mark Silverstein

---

Mark Silverstein  
Taylor Pendergrass  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF COLORADO  
400 Corona Street  
Denver, CO 80218  
303.777.5482

*Attorneys for Plaintiffs*