



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

January 21, 2009

David Fine
City Attorney
1437 Bannock St., Room 353
Denver, CO 80202
By email to: david.fine@denvergov.org

Mr. Alvin LaCabe
Manager of Safety
1331 Cherokee Street, Room 302
Denver, CO 80202
By email to: Alvin.Lacabe@denvergov.org

Mr. William Lovingier
Director of Corrections and Undersheriff
Denver Sheriff Department
1437 Bannock Street, Room 405
Denver, CO 80202
By email to: Lovingierb@ci.denver.co.us

Re: Repeated “mistaken identity” detentions of Antonio Carlos Sanchez
on warrants for a different person

Dear Mr. Fine, Mr. LaCabe, Mr. Lovingier:

I am writing to ask for your immediate assistance in releasing from custody an ACLU of Colorado client, Antonio Carlos Sanchez, who is currently being held erroneously, in the Denver Pre-Arrestment Facility, on the basis of a warrant for a different person. This is yet another case of Denver carrying out an arrest or detention based on “mistaken identity.”

As you know, in August of 2008 the ACLU of Colorado sued Denver in federal district court on behalf of five innocent victims of these “mistaken identity” arrests or detentions. By a “mistaken identity arrest,” the lawsuit refers to cases in which Denver had probable cause to arrest a particular person (such as having an arrest warrant), but instead Denver arrested one of our innocent clients.

The case, captioned *FourHorn v. City and County of Denver*, 08-CV-1693, alleges that Denver’s policymakers tolerate an unjustifiable risk and frequency of such “mistaken identity” arrests in Denver, by failing to adopt and enforce policies, procedures, supervision, and training that would have reduced or eliminated that risk. Similarly, the suit alleges that Denver failed to adopt

procedures, supervision, and training that would promptly detect and correct such “mistaken identity” arrests when they occur.¹

The lawsuit asserts that Denver has long been aware, through lawsuits and press coverage, that these mistaken identity arrests can and do occur.² Because Denver has never attempted to track or keep any statistics on mistaken identity arrests, however, there is no way to know precisely how many persons have been victims of mistaken identity arrests. The City and the public learn about these cases only when the victims come forward, and because Denver’s practice of tolerating mistaken identity arrests appears to impact primarily low-income and minority populations, it is very likely that many victims often do not have the resources to pursue a remedy. Since the filing of the FourHorn case, however, additional persons have stepped forward to tell their stories, including DeDe Davis, an African-American woman arrested on the basis of a warrant that identifies the actual suspect as a Caucasian over a decade younger and substantially shorter than Ms. Davis. Dede Davis has now been added as the sixth plaintiff in the ACLU’s lawsuit.³

Denver has a serious systemic problem, and it needs to be fixed.

At this very moment, our client Antonio Carlos Sanchez is sitting in Denver’s Pre-Arrest Detention Facility, held on the basis of a warrant for a different person, whose name is Tony Sanchez. Antonio Carlos Sanchez has a different name, different fingerprints, a different birthdate, a different social security number, a different DPD number, and numerous other differences from the criminal suspect.

Despite these differences, Denver has erroneously detained Antonio multiple times on the basis of warrants for the obviously different person, Tony Sanchez.

¹ E.g. Associated Press, *ACLU Sues over 5 mistaken identity arrests* (August 11, 2008); Rocky Mountain News, *ACLU files mistaken identity lawsuit* (August 11, 2008); Denver Post, *Denver Police Reckless, Sloppy* (August 12, 2008).

² E.g. Channel 7 News, *Why are hundreds of Coloradans wrongfully arrested?* (February 20, 2006); Channel 7 News, *ACLU Sues over case of mistaken identity arrest* (February 12, 2007); Denver Post, *Denver police will alter procedures after wrong arrest* (July 20, 2007); Rocky Mountain News, *Council approves \$18,500 settlement* (July 24, 2007); Denver Post, *Aurora man jailed on charges against another plans suit* (December 21, 2007); CBS 4, *Man Claims He Was Wrongfully Jailed For 9 Days* (December 21, 2007); Rocky Mountain News, *Behind bars by mistake: Women tell how police arrested them on warrants describing other people* (July 7, 2008); UPI, *Women arrested on wrong warrants* (July 7, 2008); Denver Post, *Gigantic Nightmare Finally Ends* (March 20, 2008); CBS 4, *Man Wrongly Arrested In Denver Awarded \$30,000* (April 3, 2008); Denver Post, *We All Pay for Police Mistakes* (April 6, 2008); Denver Post, *Locked into Cops’ Mistakes* (June 1, 2008); Denver Post, *Lock ‘em up, Throw away ID* (April 12, 2008).

³ Denver Post, *Cops need to get eyes examined* (January 4, 2009).

Each time this has occurred, Antonio Carlos Sanchez has asked Denver officers to take a few simple steps to investigate his assertion that they are detaining the wrong person, that he is not Tony Sanchez, that he is not the person named in the warrant. He has repeatedly asked Denver law enforcement officers to compare his mugshot, fingerprints, or other identifying information with that of Tony Sanchez. Denver officers have repeatedly and consistently ignored these requests. Last spring, Denver erroneously detained Antonio Carlos Sanchez on warrants for Tony Sanchez for approximately 40 days before the mistaken identity issue was resolved. It happened again last summer.

And it has happened three additional times in the last two months. The Denver district court has twice entered orders—on December 18, 2008 and on January 8, 2009—releasing Antonio Carlos Sanchez because he is not the subject of the outstanding warrants for Tony Sanchez. (See Minute Orders attached).

In one of the many press reports about Denver’s “mistaken identity” arrests, Manager of Safety Al LaCabe was quoted as assuring the public that Denver’s officers “make every effort to ensure they correctly identify suspects, however, the identification process is often quite difficult We work hard to avoid mistakes. When they occur, we do everything we can to learn from them to improve our systems.”⁴

In a letter to the ACLU dated July 23, 2008, Major Venessie Murray of the Denver Sheriff’s Department suggested that the problems the ACLU had identified had been solved by newly-adopted policies. She wrote: “The department has recently implemented new policies at PADF that specifically address the concern of charge identification (to ensure the charges matches the individual in custody) “. . . We hope that the new policy changes combined with the dedication of our officers will eliminate similar problems in the future.”

The new policies did not solve the problem. The fact that at this very moment, Antonio Carlos Sanchez is being held prisoner in the Denver County Jail on a warrant for a different person demonstrates that the new policies are not working. It is not sufficient to wait and hope that the court will once again figure out that Denver authorities are holding the wrong person. Antonio should not have to wait for a court appearance, especially with Denver’s record, as alleged in the *FourHorn* case, of failing to promptly schedule a court appearance for the victims of “mistaken identity” arrests.

This is not a case in which Manager LaCabe could contend that the “identification process is . . . difficult.” The differences between Antonio Carlos Sanchez and the actual suspect are obvious and legion, and the court’s orders are unambiguous: Antonio Carlos Sanchez is not the wanted suspect Tony Sanchez.

⁴ Sarah Langbein, *ACLU files mistaken identity suit*, The Rocky Mountain News (August 11, 2008).

If the Denver Sheriff's Department has, in fact, adopted some new policies to address their problems with minimizing and correction mistaken identity detentions, they have utterly failed Mr. Sanchez numerous times—and at least three times in the last two months alone.

We request that you immediately investigate why our client, Antonio Carlos Sanchez, is being wrongfully held (again) by Denver on the basis of an outstanding warrant for a different person. We request that you take immediate steps to assure that he is released. Please let me know right away, by 9 a.m. tomorrow morning, what action you have taken in response to this letter.

Sincerely,

A handwritten signature in cursive script that reads "Mark Silverstein".

Mark Silverstein
Legal Director, ACLU of Colorado

Enc. Minute Orders

Cc: Stuart Shapiro, Denver City Attorney's Office via email Stuart.Shapiro@denvergov.org

12/11/2008 WFTA Warrant- Failure to Appear
DEF/ Sanchez, Tony
Denver Dist CT 1437 Bannock Denver Co 80202 Ctrm 13 Bond Rtmble 2nd
Thursday
After Posting at 900 AM /Ys
Bond Type: Cash/Surety/Property

12/11/2008 FOTH Filing Other
*Unexecuted Writ - Subj is Not Located in Arapahoe County /Sm

12/15/2008 MINC Minute Order (Print)
The Court is Advised That The Deft is in Custody in The Denver County Jail -
Awar Hrg Set For 12-18-08 at 08:30 A.M. /Rma

12/18/2008 MINC Minute Order (Print)
Judge John Madden For Ctrm 13 Ftr Recorded in 16 Awar Held(Called Twice)
Appears: Def Tony Sanchez Dpd#575361 With Atty Michelle Martinez; Dda
Andrea
Eddy
Case is Passed so DA Can Fingerprint Def
*Case Recalled: DA States The Person Appearing Before The Court Has A
Dpd#575361, The Defendant in This Case Has A Dpd#615779. Court Orders
The
Person Appearing in Court Today Released in This Case Only. Warrant
Remains
In Full Force And Effect For The Arrest of Tony Sanchez W/ Dob: 2-12-87 &
Dpd#615779 -- Warrant Remains Active on Eclipse Flg: Clerk Memo /Gme

12/30/2008 WSRV Warrant Served
Date of Arrest: 12/30/2008 Arrest #: N/A Bond Amt: \$.00
Arresting Agency: CHANGE OF RTY TO HLD BECAUSE OF ARREST
Person Arrested: TONY SANCHEZ Msg From: 26852

01/08/2009 MINC Minute Order (Print)
Judge Sheila Rappaport Ftr *Awar
Appears: Def in Custody W/ Pd: Jason Young; Da: Christine Washburn
The Def Before The CT Today Has Dpd#575361, Name is Also Tony Sanchez.
The
*Correct Defendant in This Case Has A Dpd#615779. Court Orders The Person
Appearing in Court Today Released in This Case Only. Warrant Remains in
Full
Force And Effect For The Arrest of Tony Sanchez W/ Dob: 2-12-87 &
Dpd#615779 -- Warrant Remains Active on Eclipse
*Clrk's Memo CC Sheriff /Skr

01/21/2009 MINC Minute Order (Print)
The Court is Advised That The Deft is Now in Custody in The Denver County
Jail - Awar Set For 01-22-09 at 08:30 A.M. /Rma