



Pain Management

Cancer patient Tim Thomason didn't think he could feel any worse. His Denver jailers showed that he could.

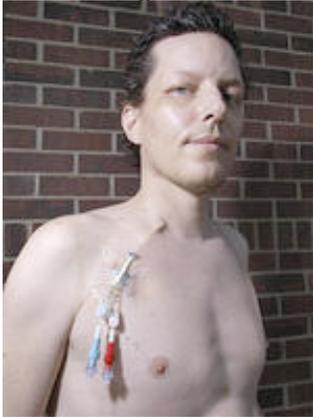
By Alan Prendergast

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To read Alan Prendergast's blog about the Denver jail's heavily redacted policy on pain meds and release procedures, click [here](#).



Mark Manger



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Judy Largo has moved to Denver to care for her son.



They let Timothy Thomason go shortly before 8 p.m. on August 26, 2006. He had spent less than 24 hours in the downtown Denver jail, but they were among the worst hours of Thomason's entire life. He moved slowly, dazedly through the exit door, and once he hit the street, he wasn't sure what to do.

Part of him wanted to flee as fast as his wobbly, aching legs could take him — get home, take the pain medication his body was screaming for, climb under the covers and try to forget everything that had happened since his arrest the night before.

Part of him knew that he couldn't forget. And that he would never have a night's peace until he found out a few things.

He stood there for several moments, then went back inside and approached the deputy sitting at the front desk.

"Excuse me," he said. "What's the name of the officer in charge of the second floor?"

Before the man could reply, the officer in question emerged from the elevator. Thomason's heart sank. Was the whole nightmare going to start again? But the officer just stared at him, then brought some papers to the desk. He was close enough that Thomason could read the nameplate on his uniform: CLEVELAND.

Thomason slipped away. He repeated the name to himself during the slow, arduous walk home to his Capitol Hill apartment. Cleveland. Deputy Sheriff Cleveland. The deputy wasn't the only source of his fear and misery — far from it — but for now, the name made for a convenient reference point.



Mark Silverstein wonders how the Denver jail will handle mass arrests during the Democratic National Convention.

Subject(s):

[Medical marijuana](#), [Denver County Jail](#), [ACLU](#), [Democratic National Convention](#)

During the previous 24 hours, Thomason's attitude toward law enforcement had been turned upside down. The Denver police officers who'd come to his apartment the night before to arrest him on a charge of cultivation of marijuana — they couldn't have been cooler. He'd told them that his brother had been LAPD and was now a cop in Montana; they weren't going to have any trouble with him. He'd told them he had cancer, terminal Stage IV non-Hodgkin lymphoma, and was taking massive amounts of Oxycontin for pain and Xanax for anxiety. They'd agreed to bring his pills when they took him in, and told him not to worry.

A female officer had driven him to the downtown jail, also known as the Pre-Arrestment Detention Facility (PADF). She'd promised to call his mom, and she'd told the jail staff that he was sick, that he had prescribed medications, and that they should treat him nicely.

But the PADF has its own way of doing things. Thomason had spent the night in teeth-gritting agony, his pleas for access to his painkillers repeatedly ignored. The next morning, a judge had ordered his release — but then he'd spent several more hours in the jail, apparently on the whim of a single deputy, until he had a seizure, banging his head on the cement floor of his cell. Thomason didn't understand any of it. What had happened was not right. He could have died from being without his meds for so long. How did the system get so screwed up?

Jails aren't known for their compassion. Still, what passes for medical care at the PADF these days can be costly and even fatal. In May, Denver Health Medical Center agreed to pay \$4 million to the family of Emily Rae Rice, who died in custody in 2006 after a car crash and DUI arrest. Rice had suffered damage to internal organs that went undetected at Denver Health, and her efforts to get treatment at the jail were ignored ("Rae of Sunshine," March 9, 2006). Settlement negotiations continue between the family and the city over the conduct of PADF staff; amid allegations of coverup and falsified documents, one employee has resigned and three others have been disciplined.

Rice's death may be an instance of exceptional neglect, but there are plenty of horror stories about the downtown jail. The facility processes 48,000 detainees a year, most of them moving through the place in a day or two — just long enough to make bond or get to court. With the Democratic National Convention looming — and with it the prospect of hundreds, if not thousands, of protester arrests — the jail's procedures for booking and release and dealing with medical emergencies have come under increasing scrutiny.

The ACLU of Colorado recently tried to obtain a copy of the jail's policy manual. City officials refused to provide the document. The ACLU sued. The city grudgingly handed over heavily redacted excerpts. The two sides are now wrangling over the blacked-out portions, and ACLU executive director Mark Silverstein wonders if the city is truly prepared for the onslaught of citizens it might soon be taking into custody.

Silverstein notes that the city shifted its tactics for dealing with Columbus Day protesters, from "cite and release" (simply issuing tickets) to hauling them in for the entire booking process. Last year's haul of more than eighty protesters led to significant delays in processing, he says, requiring long waits for release even after bond had been posted. "If you can't process eighty people in a prompt manner, what's going to happen when you have 1,500?" he asks.

In recent months, the ACLU has been sharply critical of several incidents of mistaken identity that

left innocent people languishing at the PADF for days after they were arrested on someone else's outstanding warrant. Thomason's experience raises other questions about the way the jail handles individuals who have dire medical needs, as well as the degree to which a prisoner's actual time of release can be left up to the discretion of individual deputies.

Thomason has filed a lawsuit against the city and Denver Health, claiming "serious deprivations" of his constitutional rights. (Point of disclosure: Thomason's attorneys in the case are Anna Cayton-Holland, John Holland and Erica Grossman; the first two are related to *Westword* staff writer Adam Cayton-Holland, who had no involvement in this story.) The litigation has unearthed some troubling revelations about the way the city treats prisoners suffering from severe, chronic pain — a policy of profound denial that Thomason wants to see changed.

"I like Denver," Thomason says. "I love Denver. Up until that day, I really had a lot of faith in the city and felt safe here. But this incident scared me more than anything I've ever been through. I still have bad dreams about it. I don't believe I deserved to be treated like that. Nobody does."

Before his arrest two summers ago, Thomason's brushes with the law were "pretty comical," he says. He'd had some minor juvenile and adult infractions for marijuana, and there was also a ticket for not having his dog on a leash and a warrant out of Leadville over some unreturned movie rentals. At one point, he'd even been questioned, then cleared, because of a vague physical resemblance to a burglary suspect on a grainy surveillance video.

Yet there's nothing humorous about the circumstances that landed him in jail in 2006. The arrest was a result of the twelve marijuana plants in his apartment — plants that the former waiter was relying on to help him deal with serious, debilitating illness.

Born in Florida, raised in Arizona, Thomason spent a few years after high school traveling across the country and Europe. He worked in Yellowstone National Park, lived in Boulder for a time, then moved on. In 2002, he returned from a trip to the Netherlands to discover that his girlfriend had committed suicide in Ohio; her body had already been cremated, the ashes scattered at Martha's Vineyard. Awash in grief, he headed back to Colorado, to be with friends in Denver, and took a job at a Highland Square restaurant.

He felt lethargic and depressed for months. A dentist noticed lumps on the side of his neck and asked him if he was having other health problems. Thomason began to tell her about the suicide and his lack of energy.

"That's not depression," the dentist told him. "You need to go to the emergency room."

Thomason went that day. The biopsy results came back a week later: follicular B-cell non-Hodgkin lymphoma, a cancer that attacks the immune system. The typical NHL patient is a male in his late sixties; cases among young men are rare. Thomason was only 28, but his case was advanced and would require aggressive treatment. The doctors told him he probably had seven to nine years to live, and started him on a regimen of chemotherapy, pain medication and anti-anxiety drugs.

Over the next three years, Thomason rode the ebb and flow of the disease. As the pain in his bones increased, so did the dosages of Oxycontin prescribed to him. By 2006 he was taking 240 milligrams of Oxy a day: three 40-milligram tablets in the morning, another three at night — the analgesic equivalent of 48 Percosets a day. Plus liquid morphine as needed. Plus Xanax.

He was also growing and smoking marijuana. With his doctor's support, Thomason obtained a state permit for medical marijuana in 2005. Weed eased the nausea from chemotherapy, he found. It also helped his appetite. When he'd first been diagnosed, he'd lost fifty pounds in four months, and he couldn't afford to lose much more weight.

But Thomason didn't renew his license the following year. Living on disability checks that amounted to \$625 a month, he didn't have the ready cash for the \$110 license fee. He'd also heard conflicting rumors about the feds cracking down on the state's medical marijuana users and didn't want to attract attention to himself. "I was told that as long as I had a doctor's signature on file, I was good to go," he says.

Even with the heavy meds Thomason was taking, or perhaps because of them, at times he became disoriented and frightened. He experienced panic attacks so severe that he felt he might be dying. Two years ago, in the grip of one such attack, he called a friend, who became so concerned that she phoned 911 on his behalf.

Police and paramedics responded. The paramedics checked out Thomason and took him to the emergency room at Denver Health. The police took note of the plants and the absence of a valid license.

They returned a couple of days later to arrest him. Thomason let them in and signed a form allowing them to search the premises. They seized the plants and \$1,200 in cash, which his mother had recently sent Thomason to pay bills and buy a plane ticket to Phoenix. They explained that he was being charged with felony cultivation. (The charge was later dismissed.) He would have to go to jail and face a judge in the morning. He asked if he could take his Oxy and Xanax, and they retrieved the pills for him.

"The police treated me with complete dignity and total respect," Thomason says. "I assumed I was going to be put into the infirmary."

The city maintains a secure ward for sick prisoners at Denver Health, known as the Correctional Care Medical Facility. But getting there proved to be more complicated than Thomason had thought it would be. The officers took him to the PADF, where his pills were promptly confiscated, along with his personal property. Nancye Zimmer, a nurse employed by Denver Health at the jail, reviewed his medications, obtained records of the prescriptions by fax — and told him that narcotics were not allowed in the PADF. The substitute for his pain medication would be Motrin, a brand name for ibuprofen.

Thomason was speechless. He could gobble a bottle of Motrin and it wouldn't begin to approximate the kind of narcotic medication he depended on. He hadn't had his evening dose of Oxy before the cops arrived, and he was already starting to feel its absence. Sudden withdrawal from high levels of Oxycontin is comparable to kicking heroin cold turkey; the shock to the system can cause seizures and heart failure. According to Thomason, the conversation he had with Zimmer was brief — and appalling.

"Is detoxification going to be a problem for you?" Zimmer asked.

"Going from 240 milligrams a day to zero can kill me," Thomason said.

"Stopping Xanax can kill you, too," Zimmer replied. "You're going to have to find a way to bond out

or find a way to the infirmary."

But Zimmer wasn't forthcoming with any ideas for how Thomason was supposed to get to the infirmary, and his pleas for something stronger than ibuprofen were ignored. So were the pleas of his mother, Judy Largo. True to her word, the police officer who'd brought Thomason to the PADF called Largo in Phoenix to let her know about the arrest. Largo then spoke with another jail deputy by phone, describing her son's condition and begging that he be taken to the infirmary.

The deputy wasn't sympathetic. "She just said, 'He's eighteen, he can speak for himself,'" Largo remembers. "I told her I was going to hold her responsible if anything happened to him."

Thomason spent the night in a cell with two other prisoners. His bed was a mat on the floor, tucked under another man's cot. He sweated. He shook. He writhed. And he felt the pain devour him, right down to the core.

He knew something about pain. He'd had long needles poked into his bone marrow. He'd undergone cycle after cycle of chemo that left him puking and helpless. But that was all just amateur hour compared to this. It felt like an elephant was standing on his back and his legs. It felt like some gung-ho mechanic was taking a wrench to his bones and twisting them, tightening them until they snapped.

A nurse on rounds saw him sweating profusely on the floor and asked him what was wrong. He told her he needed his medication. She offered him ibuprofen.

Around mid-morning he heard names being called out: people going to court. Then he heard his name. The judge released him on his own recognizance. The deputies took him back to the jail, to a holding cell where people being released wait while their paperwork is processed.

"I just told myself, 'Hang on,'" he recalls. "'In an hour or two you'll have your medication and you'll be fine.'"

Around two in the afternoon, they let him out of the cell and handed him his personal property. Thomason asked a deputy how he would go about getting his \$1,200 back.

The deputy, whose name was Joseph Cleveland, seemed to take offense at this. He threw down Thomason's papers and called him a "fucking asshole," according to Thomason.

"You picked the wrong fucking day to fuck with me," Cleveland said. "I'm here to help. But you don't appreciate my help, so you get to spend my shift with me."

Cleveland took him back to the holding cell.

And left him there.

The PADF computerized record shows that Thomason was released from custody at 1:45 p.m. on August 26, 2006. Actually, he wasn't allowed to leave for another six hours. He was an off-the-books prisoner — right up until his condition became so alarming that the jail staff wanted nothing more to do with him.

What happened during those six hours remains a matter of dispute. Thomason has accused

Cleveland of threatening him, spraying spit on him and calling him a "faggot" and a "beatnik." Cleveland has denied being abusive or making threats, and told investigators that Thomason was "argumentative" during the release process. But Thomason's attorneys say their client's version is supported on key points by other witnesses and by the images on a jail surveillance video, which is currently sealed under a protective order in the lawsuit.

According to Thomason's complaint, the video shows Cleveland "following Mr. Thomason into the holding cell and getting in his face." Another deputy told investigators that he heard Cleveland loudly announcing that Thomason had "picked the wrong day to fuck with me." He did not recall Cleveland telling the prisoner to shut up or he would "fuck him up."

Certain details are beyond dispute, however. Other prisoners were released. Thomason had to stay behind. Cleveland took him upstairs to yet another cell, and his medications were again taken away from him. Thomason asked other officers why he was being held and received no explanation. According to Thomason, his inquiries only further irritated Cleveland, who made comments about Thomason trying to "rat" on him and whispered, "I have your address." (Cleveland has denied these statements; his attorney did not respond to a request for comment.)

Around 7:30 p.m., deputies on the second floor were alerted by other prisoners banging on their cell doors and yelling, "Man down!" Thomason had suffered a seizure on the floor of his cell and hit his head, which was throbbing when he came to. Cleveland and another officer soon showed up with his property. He was free to go.

Thomason asked for a nurse. He asked for a gurney or a wheelchair, saying, "I'm going to have trouble walking." He asked someone to call 911. None of these requests were granted. According to Thomason's complaint, Cleveland told him that if he wanted medical attention, he would have to stay another night in the jail. The deputy gestured at the front door.

"There's your fucking 911, out there," he allegedly said.

Thomason walked home. He took his medications and tried to sleep, but his head and legs hurt too much. After a few hours, he called 911. An ambulance took him to the emergency room at Denver Health, where he was treated for post-seizure symptoms. Asked to rate his pain on a scale of one to ten, he gave it a nine.

When her son told her what had happened at the jail, Judy Largo filed a complaint with the Denver Sheriff Department internal investigations unit. The investigators found merit in three of her allegations, mostly dealing with the conduct of Cleveland, and dismissed the rest, either because of a lack of witnesses or a finding that policy had been correctly followed.

According to court documents, Cleveland has offered varying explanations for why Thomason was held so long after a judge ordered his release. He has said that Thomason was missing property and he took him upstairs to look for it; that the prisoner was disorderly and had faked a seizure; that he refused to leave. Investigators found that the deputy had "willfully departed from the truth" in the matter, and he was suspended for two months without pay.

But when it came to the larger questions about the jail's medical care and its release procedures, the investigation found no cause for disciplinary action. "Mr. Thomason was given medication for his pain in accordance to the medical staff's guidelines," Major Phil Deeds, the internal affairs

commander, wrote to Largo. "Denver Sheriff Department procedures prohibit the administration of narcotics in all facilities."

Actually, it's not clear what sort of medication is allowed to PADF prisoners; the policy has undergone some curious gyrations in recent years. Thomason's attorneys discovered that the PADF's accreditation was called into question in 2004 by the National Commission on Correctional Health because of the practice of having jail nurses substitute ibuprofen for prisoners' prescribed medication, without any consultation with a physician. Jail officials then assured the NCCH that they had developed a procedure to treat prisoners who need narcotics for pain.

That procedure is described in the jail policy manual for 2006 as follows: "Patients requiring narcotic pain relief...will be housed on the Correctional Care Medical Facility (CCMF/Ward 18) to obtain these. Physician staff will make arrangements for transfer of the inmate to the CCMF by calling the facility and speaking with the nursing staff there."

Thomason's attorneys discovered that prisoners with a need for pain medication were almost never transferred to the CCMF, however. The city has acknowledged only two such transfers in the past five years — and the last one was three years ago. The clause requiring such transfers was deleted when the policy manual was updated last year.

But that doesn't mean cases like Thomason's are all that rare. The legal and illegal use of powerful prescription narcotics such as Oxycontin has soared in the past decade. As many as one in five adult Americans reportedly suffer from chronic pain, and an estimated 3 percent of the population is physically dependent on prescription meds. And many chronic-pain patients are finding their way to jail. When Nancye Zimmer was deposited in the Thomason case, the PADF nurse told the attorneys, "I make substitution with 800 [milligrams] of Motrin for narcotics every night that I work, almost. It's a usual procedure that's done all the time."

Apparently detaining prisoners hours after the records reflect that they've been "released" is done all the time, too. In depositions, several jail employees told Thomason's lawyers that the deputies have great discretion with regard to how they go about releasing individual inmates, particularly belligerent ones. The attorneys could discover no written policy or formal training on the issue. Some officers, including Cleveland, stated that they weren't aware of any rule requiring officers to let someone go prior to midnight on the day of their release.

Lindy Eichenbaum Lent, spokeswoman for Mayor John Hickenlooper, says the city is reviewing jail operations as part of its preparation for the Democratic convention. No decision has been made yet about opening a temporary pre-arraignment facility to provide additional capacity, but Lent says city officials intend to have "adequate resources" in place to address medical care and efficiently process those arrested.

Asked about current release procedures, Lent provided excerpts from the policy manual. As in the response to the ACLU lawsuit, the documents were so heavily redacted that key passages were incomprehensible. "The (deleted) will then escort the prisoner to the (deleted) on the (deleted)."

Settlement discussions between the city and Thomason's lawyers continue. "I'm impressed that the city appears to recognize the seriousness of what happened here," attorney John Holland says. "Manager of Safety [Al] LaCabe assured us that he wanted to learn and would learn from this case."

In the twenty months since his arrest, Thomason estimates that he's spent less than a dozen nights

sleeping at his own apartment. Instead, he's stayed with friends or his mother, who relocated to Denver to help take care of him. He finally moved out of the place last June. Cleveland's alleged statement about knowing where he lives still haunts him, he says, and he still has nightmares about being deprived of his medication.

"I feel like I deserve — not an explanation, because there is no explanation for it," he says. "But I feel someone from the city should stand up and say, 'We were wrong.'"

At this point, one of his goals is to put an end to the city's ban on pain medications for prisoners who need them. "I don't want anybody else to go through what I went through," he says. "I want the policy to be changed."

Thomason says he no longer keeps marijuana plants and no longer smokes anything. He is going through yet another series of chemotherapy sessions and trying to get his body in shape for a possible stem-cell transplant procedure. It's been five years since his diagnosis, and he has no time now for anything but hope.