

FOR IMMEDIATE RELEASE:

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Rally/March Announcement & Discovery Documents and Video Released

ENOUGH IS ENOUGH!

SUPPORT BENNY WARR & DENOUNCE POLICE BRUTALITY!

COMMUNITY RALLY, MARCH, AND PRESS CONFERENCE BEFORE COURT

WE DEMAND:

1. The charges be dropped against Benny Warr
2. The officers involved in the attack be fired and brought up on criminal charges
3. The RPD formally and publicly apologize to Benny Warr
4. Policies and procedures be clarified and officers retrained for properly interacting with people who have disabilities
5. An end to Racial Profiling and the Criminalization of Neighborhoods of Color

June 28, 2013, 12:00pm - 2:00pm

Rally at the Liberty Pole (East Ave. and Main St.) & march from there on the sidewalk to the front of the Monroe County Hall of Justice (99 Exchange Blvd.) for a rally/press conference at 1:30pm. Benny will be in court on June 28th at 2:00pm before Judge Stephen Miller. His lawyer, Charles F. Burkwit, will be submitting a motion to have the charges dismissed. Please come out and support him.

Discovery Documents and Video

On May 30, 2013, the family of Benny Warr gave Rochester Indymedia access to the discovery documents, as well as the blue light police camera footage at Jefferson Avenue and Bartlett Street in Rochester, NY from May 1, 2013, when Mr. Warr was severely brutalized by the Rochester Police Department. Below is what happened according Mr. Warr, eyewitnesses, cell phone cameras, the police camera, and police documentation released by Assistant District Attorney Destini Bowman. Under each segment is a recap of both sides of the story and links to short video segments and .pdf documents. At the bottom, attached, are the discovery documents in full and the police camera video.

Who is Benny Warr?

Benny Warr

Benny Warr, a 52 year-old, disabled, African American man, grew up in Buffalo, NY. Sometime around 1984, he moved from Elmira, NY, with his wife Nina, to Rochester, NY where he worked as a dry-waller and carpenter on the west side and suburbs for over 20 years. He has been a resident of the Jefferson Avenue neighborhood for nearly 27 years. He was born with a deformity on his left side; doctors amputated part of his leg so that he could be fitted with a prosthetic allowing him to walk. He has had this all of his life.

Rochester Police Department

According to one incident report, police were on patrol in a neighborhood that was a “well known open air drug market” and a location of “gang activity and violence” when officer Joseph M. Ferrigno II stopped to “disperse a group loitering on the corner.” The writer of the report states that officers came across “Benny Webb” sitting in a wheelchair on the corner. Aside from misidentifying Mr. Warr, the report notes that “Benny Webb” is an “associate of Chalk 'Em South gang,” another misidentification on the part of the police.

videos: [segment 1](#); documents: [RPD incident report](#)

Benny Warr was waiting for the bus.

Benny Warr

On the evening of 1 May 2013, Benny Warr and another man were talking in front of the SWAN building when officers arrived and told people to move on. When Mr. Warr saw this, he told his friend that he was going to wait for the bus. His friend, who he was talking with, offered to walk him across the street and to the stop. They did this. Mr. Warr was heading to the other end of Jefferson where it intersects with Plymouth Avenue to hang out with some other friends. Benny told his friend, "It looks like it's getting a little rough up here, so I'm going to go down there." Mr. Warr sat at the bus stop in his wheelchair waiting for the bus. While Mr. Warr was waiting, "the police came zooming across the street and they proceeded to say, 'Y'all move along!' And when he said that to me, I said, "Sir, I'm catching a bus. I'm going down to the other end.'" The officer's response was, "I told you to move the fuck on!" Mr. Warr repeated, "Sir, I am catching a bus and I am going to the other end."

Rochester Police Department

Officer Ferrigno claimed in his report that "While R/Os were dispersing the group of known gang members loitering on the sidewalk (S) Benny Warr remained on the sidewalk resisting lawful order to disperse. (S) screamed at officers 'FUCK YOU MOTHERFUCKER' and 'SUCK MY DICK' causing a large group to gather and becoming very irate and anti-police." Officer Anthony R. Liberatore, an assisting officer, claimed in his report that, "The (S) began to swing his arms wildly and yelled that he wasn't going to jail unless it was in an ambulance."

videos: [segment 2](#), [police camera footage from Bartlett St. and Jefferson Ave.](#), [Corrected Higher Resolution Video of Benny Warr Being Attacked](#), [Benny Warr Attacked By RPD Camera 2](#); documents: [Primary Officer Report by Joseph M. Ferrigno II](#), [Assisting Officer Report by Anthony R. Liberatore](#), [Map of Bartlett Street & Jefferson Avenue](#)

Officer Ferrigno sprays OC twice in Benny Warr's face.

Benny Warr

As Benny Warr was waiting for the bus, officer Ferrigno was standing in front of Mr. Warr and officer Liberatore was standing to one side. The two people Mr. Warr had been talking to had moved away from the scene as the police approached. Ferrigno turned slightly, reached into his pouch, grabbed some OC spray, and then proceeded to spray Mr. Warr in the face. His face and eyes burned and he reacted by “throwing his hands up” in front of his face attempting to block the spray.

Rochester Police Department

Officer Ferrigno alleges that he told Mr. Warr to put his hands behind his back. The officer claims that when Mr. Warr refused, he, “...deployed a one second burst of OC spray to (S)'s eyes but that enraged (S) to start throwing punches and striking me in the body.” In officer Ferrigno's “Tactical Effectiveness Chart,” he notes that he used OC spray twice,

videos: [segment 3](#); documents: [Primary Officer Report by Joseph M. Ferrigno II](#)

Benny Warr is violently thrown from his wheelchair; Officers Liberatore & Ferrigno and Sgt. Stewart proceed to beat Mr. Warr.

Benny Warr

As he was attempting to block the spray, officer Liberatore took it upon himself to violently knock Mr. Warr's wheelchair over onto its side throwing Mr. Warr hard onto the ground injuring his left side and stump where his prosthetic leg attaches. The officers, Liberatore & Ferrigno began to violently kick and punch Mr. Warr all over his body including his head, ribs, stomach, chest, and back. At this point, officer Liberatore decided that he needed to subdue Mr. Warr and used a downward elbow strike to his head. As Mr. Warr was being violently assaulted by the officers, RPD Sgt. Mitchell R. Stewart II arrived to assist and participated in kicking and punching Mr. Warr as he was being handcuffed. He was not resisting arrest. After he was handcuffed, Mr. Warr was rolled to his back, where he laid on top of his handcuffs. He told the officers he needed to go the hospital. His prosthetic leg had come off in the police attack and his pants had fallen down. Because of the OC spray, it was hard to see and his face was burning. He heard people say, "Stop! Stop! Why you doing him like that? Stop!" He then heard the police respond, "Get back! Get Back!" The reality, according to the videos, was not that of an irate and swarming mob, but rather, a shocked and scornful gathering of residents.

Rochester Police Department

Officer Ferrigno alleges that after spraying Mr. Warr in the face and after officer Liberatore violently pushed over Mr. Warr's wheelchair causing bodily injury to Mr. Warr, he states in his police report that, "...I took a kneeling position on (S)'s front as (S) was laying on his right side refusing to comply... I performed 2-3 knee strikes to (S)'s abdominals while monitoring for compliance... I grabbed (S)'s left wrist and he rolled onto his stomach. I then got in a 3 point landing on (S)'s left side and officer Liberatore placed (S) in handcuffs." Officer Liberatore alleges in his police report, that, "(S) began to swing his arms wildly and yelled that he wasn't going to jail unless it was in an ambulance." He alleges that that's when officer Ferrigno "deployed OC spray to (S)'s facial area," even though that is not officer Ferrigno's account. Continuing with Liberatore, "I pushed (S) and his wheelchair over... a large unruly crowd began to form around us... I took my right elbow and performed a downward strike to (S)'s face." He claims that at this point, Mr. Warr was still resisting arrest and so, "I attempted compliance from the (S) with a mandibular angle pressure point behind (S)'s right ear... with my right thumb. I then performed a 3-point landing on (S)'s right side" None of the officers deny brutalizing Mr. Warr. Sgt. Mitchell R. Stewart II claims he was simply aiding the officers in handcuffing Mr. Warr.

videos: [segment 4, police camera footage from Bartlett St. and Jefferson Ave., Corrected Higher Resolution Video of Benny Warr Being Attacked, Benny Warr Attacked By RPD Camera 2, Mary Adams Eyewitness Account, Ricardo Adams Eyewitness Account](#); documents: [Primary Officer Report by Joseph M. Ferrigno II, Assisting Officer Report by Anthony R. Liberatore, Assisting Officer Report by Sgt. Mitchell R. Stewart II](#)

Mr. Warr is handcuffed and forced to wait, on the ground, for nearly 30 minutes with no assistance given for his injuries.

Benny Warr

Benny Warr states in his notice of claim against the City of Rochester that “the officers laughed and joked about [Mr. Warr] 'getting his ass kicked.’” After the attack, Mr. Warr was on the sidewalk in handcuffs for nearly 30 minutes before an ambulance came and took him to Strong Memorial Hospital. Before being taken to the hospital, and complaining about his face and eyes burning from the OC spray, “at no time did the officers wash or clean [Mr. Warr's] face.” Mr. Warr also complained that the handcuffs were too tight and cutting into his wrists and hurting his back. His notice of claim states, “...the handcuffs were not loosened nor removed until after [Mr. Warr] arrived at [the hospital] for medical treatment.”

Rochester Police Department

In his police report, officer Ferrigno claims, simply, that, “(S) was transported to Strong [Memorial Hospital] and was given an appearance ticket. I took my handcuffs off of (S) and that was the last contact I had with (S).” Officer Liberatore has nothing in his police report regarding what happened after Mr. Warr was handcuffed. Sgt. Stewart claims that he “attempted to help” Mr. Warr based on his training. He wrote on his report, “The male told me he was in too much pain to to be of any assistance in getting up. I then made the decision that we should leave him as he was and called Rural Metro to respond.”

videos: [segment 5](#), [police camera footage from Bartlett St. and Jefferson Ave.](#), [Corrected Higher Resolution Video of Benny Warr Being Attacked](#), [Benny Warr Attacked By RPD Camera 2](#); documents: [Primary Officer Report by Joseph M. Ferrigno II](#), [Assisting Officer Report by Anthony R. Liberatore](#), [Assisting Officer Report by Sgt. Mitchell R. Stewart II](#), [Notice of Claim, May 17, 2013](#)

Mr. Warr sustained severe psychological and physical injuries at the hands of the RPD; officer Liberatore was interviewed by Professional Standards Section about his “untrained technique.”

Benny Warr

In his notice of claim, Mr. Warr says that he “suffered left rib fractures, head pain, neck pain, back pain, left hand numbness, bilateral shoulder pain, left elbow and arm pain, left hip pain, left leg pain at the hip joint and stump, post traumatic stress disorder, chest pain, stomach pain going to the rectum, internal injuries, abrasions and scratches around the wrist since the handcuffs were too tight, burning to the facial area and eyes due to pepper spray/mace together with other physical injuries.” In addition, he has nightmares and sometimes cannot sleep for days on end.

Rochester Police Department

While Benny Warr was suffering through psychological trauma, physical pain, and sleepless nights, officer Liberatore was asked by the commanding officer of Professional Standards Section (internal investigation) Lt. Michael Callari about his “untrained technique” seven days later. Liberatore claims that when Warr wouldn't comply with verbal orders to clear the block, when he wouldn't comply after they sprayed him with OC, when he wouldn't comply after they threw him out of his wheelchair and proceeded to beat him, and when they were unable to roll him to his stomach for handcuffing, the officer explained “...he noticed a large group forming nearby and feared they may try to interfere with the arrest. [He] then decided to end the situation as quickly as possible so that they could turn their attention to the group forming.” It was here that he used the downward elbow strike to Mr. Warr's head.

videos: [segment 6](#); documents: [PSS report with Officer Liberatore dated May 18, 2013](#), [Notice of Claim, May 17, 2013](#)

There is no doubt that the police used excessive force on a resident of the Jefferson Avenue neighborhood using the unlawful tactic of “clearing the block,” as the RPD claims it was tasked to do by the so-called Jefferson Avenue Business Association. The Rochester Police Department's use of illegal tactics to clear law-abiding denizens from the streets of Rochester under the pretext of “safety” turns out to be unsafe and life-threatening for the people who live on Jefferson Avenue (and in other neighborhoods of color where these same tactics are used) as well as completely unconstitutional.

Starting with the police misidentifying Mr. Warr as “Benny Webb”—a gang member—and then progressing in intensity of insult, injury, and indignity, we see and hear police verbally abusing Mr. Warr as he waits for the bus, blinding him with pepper spray, violently throwing him from his wheelchair (injuring him), assaulting his body with fists, feet, and knees, striking him with a downward elbow to the head repeatedly (perpetrated by officer Liberatore), leaving him on the sidewalk for approximately 30 minutes without any medical treatment, and, finally, charging HIM with crimes. The police take no accountability for their actions and leave Mr. Warr to deal with the horrors of coping with sleepless nights, post-traumatic stress disorder, and physical pain. To all of this we scream ENOUGH IS ENOUGH! We have witnessed and experienced the indignities perpetrated by a systematically unjust, out of control, racist, ableist, sexist, classist, homophobic, transphobic, brutal, corrupt police force. It is time to stand up and fight back.

WE DEMAND:

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[.pdf of all discovery documents](#)

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