



SANDRA DOORLEY
Monroe County District Attorney

Destini K. Bowman
Assistant District Attorney
Dbowman@monroecounty.gov

530, 2013

Charles Smith
et al

RE: *People v.*

Benny Warr

Court: Rochester City Court Part I

Enclosed please find the discoverable contents of my file pursuant to CPL § 240.20. The People request reciprocal discovery pursuant to CPL § 240.30. To the extent that they exist and are in the possession of the People, any photographs, video tapes, audio tapes, or other physical evidence are available for inspection at a mutually convenient time. All other requests are refused as not discoverable under CPL § 240.20.

If the defendant intends to offer an alibi defense at trial, the People demand that the defendant serve and file a notice of alibi within eight days pursuant to CPL § 250.20(1). You are hereby given notice pursuant to CPL § 710.30 of all statements made to and/or identification procedures performed by a public servant that are described in the attached materials.

The People announce readiness for trial with the filing of this letter with the Court. People v Kendzia, 64 N.Y.2d 331 (1985).

Very truly yours,

Destini K. Bowman

DESTINI K. BOWMAN

Assistant District Attorney

(585) 753-4542

(585) 753-4557 (fax)

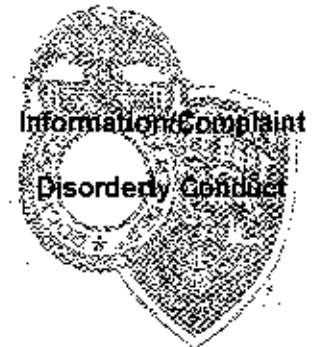
cc: Hon. Stephen T. Miller
(W/O Enclosures)

Crime Report Attached 710.30 Notice Attached
 Warrant Application Scheduled Appearance Date 5/14/13
 Physical Identification Appearance Ticket # 174325
 MoRIS Identification

CR# 13-115259

CITY OF ROCHESTER
CITY COURT CRIMINAL
BRANCH

Victim's Name & Date of Birth CITY OF ROCHESTER
 STATE OF NEW YORK
 COUNTY OF MONROE
 ROCHESTER CITY COURT



| | | |
|--|----------------|-------------|
| THE PEOPLE OF THE STATE OF NEW YORK | | |
| -vs.- | | |
| <u>BENNY</u> | | <u>WARR</u> |
| First Name | Middle Initial | Last Name |
| Date of Birth <u>9/13/60</u> | | |
| Defendant/Respondent | | |
| | | |
| First Name | Middle Initial | Last Name |
| Date of Birth | | |
| Defendant/Respondent | | |

Your complainant, OFC. J. FERRIGNO, being duly sworn, deposes and states that I
WORK at the premises known as 185 EXCHANGE BL in the City of Rochester, State
 of New York. That on the 1ST day of MAY, 2013, at approximately 8:15 AM PM at the
 premises known as 595 JEFFERSON AV in the City of Rochester, State of New York, I
 accuse said defendant(s) BENNY WARR of intentionally, knowingly and
 unlawfully committing the Violation of **DISORDERLY CONDUCT** in violation of Section 240.20, subdivision(s) 2, 3, 6
 of the Penal Law of the State of New York. The factual basis for the above being **UPON PERSONAL KNOWLEDGE**
 and/or **UPON INFORMATION AND BELIEF**, the source of which is _____, as follows:
COMPLAINANT STATES THAT ON OR ABOUT THE ABOVE LISTED DATE, TIME AND PLACE THE DEFENDANT(S) DID:

- 1. Engage in fighting or in violent, tumultuous or threatening behavior; or
- 2. Make unreasonable noise; or
- 3. In a public place, use abusive or obscene language, or make an obscene gesture; or
- 4. Without lawful authority, disturbs any lawful assembly or meeting of persons; or
- 5. Obstruct vehicular or pedestrian traffic; or
- 6. Congregate with other persons in a public place and refuse to comply with a lawful order of the police to disperse; or
- 7. Create a hazardous or physically offensive condition by any act which serves no legitimate purpose.

To wit the defendant(s) did:
THE DEF. WAS WITH OTHER INDIVIDUALS ON THE CORNER AND WAS ASKED TO MOVE ALONG DUE TO THE HIGH
DRUG AND VIOLENT ACTIVITY IN RECENT WEEKS. THE DEF. RESPONDED BY SAYING "FUCK YOU", "SUCK MY DICK".
THE DEF. MADE HIS COMMENTS LOUD ENOUGH FOR OTHER PEDESTRIANS ON THE STREET TO TAKE NOTICE.
 That by the above actions, the defendant(s) did intentionally cause public inconvenience, annoyance or alarm, or
 recklessly create a risk thereof.

NOTICE: FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE NEW YORK STATE PENAL LAW.

Subscribed and sworn to before me
 this 1ST day of MAY, 2013

ofc. J. Ferrigno 1958
 COMPLAINANT'S SIGNATURE

CPL 710.30 NOTICE: Please take notice that the People intend to offer at the trial of the defendant(s):

Evidence of statements made by the defendant(s) made to a public servant

WITNESS SIGNATURE

ROCHESTER POLICE DEPARTMENT
INCIDENT REPORT

201 1-00 15259

AT THE ABOVE DATE/TIME R/O WERE ON ROUTINE PATROL IN THE ABOVE AREA IN A MARKED POLICE CAR. THE ABOVE AREA IS A WELL KNOWN OPEN AIR DRUG MARKET AND AN AREA KNOWN FOR GANG ACTIVITY AND VIOLENCE. DURING PATROL R/O STEPPED OUT TO DISPERSE A GROUP LOITERING ON THE CORNER WHEN (A) BENNY WEBB, AN ASSOCIATE OF CHALK 'EM SOUTH GANG, WHO WAS SEATED IN A WHEELCHAIR REFUSED LAWFUL ORDER TO LEAVE THE LOCATION. WHEN WE ASKED (A) TO LEAVE THE LOCATION (A) BECAME IRATE, BEGAN SHOUTING AT POLICE AND SCREAMED AT R/O "FUCK YOU MOTHER FUCKERS!". R/O AGAIN LAWFULLY DISPERSED (A) BY TELLING HIM TO LEAVE AND (A) THEN SCREAMED "MAN, SUCK MY DICK!" MULTIPLE TIMES CAUSING LARGE GROUPS OF ONLOOKERS TO GATHER AND BECOME IRATE AT POLICE. (A) WAS THEN TOLD HE WAS UNDER ARREST AND WHEN R/O ATTEMPTED TO PLACE (A) IN HANDCUFFS (A) IMMEDIATELY STARTED RESISTING ARREST BY SWINGING HIS FISTS STRIKING R/O. AFTER A BRIEF PHYSICAL ALTERCATION WITH (A) HE WAS TAKEN INTO CUSTODY WITHOUT FURTHER INCIDENT. (A) WAS TRANSPORTED TO STRONG HOSPITAL WHERE HE WAS ISSUED AN APPEARANCE TICKET.

CLOSED BY ARREST.

NARRATIVE



ROCHESTER POLICE DEPARTMENT INCIDENT REPORT

CR#
2013-001535

| | | | | | | | |
|---------------|---|----------------------------------|-----------------------------|--------------------------------|---------------------------|------------------------------|-------------------------|
| DETAIL | Incident Type 17. Public Order Offenses | Report Date 05/01/2013 | Report Time 20:14 | Date From 05/01/2013 | Time From 20:14 | Date To 05/01/2013 | Time To 20:14 |
| | Incident Address 595 JEFFERSON AVE | | | | PSA 54 | Campus Code | |
| | Violent Crime Context | | | | | | |

| | | | | | | | | |
|--|--|-------------|-------------|----------------------------------|----------------------------------|----------------------------|----------------------------|-----------------------|
| OFFENSES | Statute - PL 240.20 02 V0 Attempt/Commit - Completed Counts - 1 | | | | | | | |
| | Description - Disorderly Conduct: Unreasonable Noise | | | | | | | |
| | Location Street-47 | | | | Weapon | | | |
| | Larceny Type | | | | Aggravated Assault Circumstances | | Gang Related Yes | Computer No |
| | Bias Type No Bias-Not Applicable-77 | | Entry Point | | Method of Entry | | # of Premises Ent | |
| | Statute - PL 240.20 03 V0 Attempt/Commit - Completed Counts - 1 | | | | | | | |
| Description - Disorderly Conduct: Obscene Language/Gestures | | | | | | | | |
| Location Street-47 | | | | Weapon | | | | |
| Larceny Type | | | | Aggravated Assault Circumstances | | Gang Related Yes | Computer No | |
| Bias Type No Bias-Not Applicable-77 | | Entry Point | | Method of Entry | | # of Premises Ent | | |

| | | | | | | | | |
|---------------|--|--|---|-----|--|------|---|-------------------------------------|
| VICTIM | Victim Type Police Officer-L | | Victim Name (Last, First, Middle) City of Rochester | | | | | |
| | Address 185 EXCHANGE BLVD | | Date of Birth | Age | Sex | Race | Ethnicity N | Residence Status Resident |
| | City, State, Zip ROCHESTER, NY 14614 | | Victim/Offender Relationship (Offender Name, DOB, Relationship) | | | | | |
| | Telephone (585)428-1110 | | Level of Injury Business - NA | | Type of Injury Business - NA | | Medical Treatment Business - NA | |
| | | | | | | | | |

| PERSONS | R - Reporting Person W - Witness PK - Person with Knowledge NI - Not Interviewed | | | | | | | | | |
|----------------|---|----------------------------|-----|-----|------|-----|---------|---------------|--|--|
| | Type | Name (Last, First, Middle) | DOB | Sex | Race | Eth | Address | Telephone No. | | |
| | | | | | | | | | | |
| | | | | | | | | | | |

| | | | | | | | | | | | |
|------------------------------|---|----------------------|---|----------------------------|-----------------------------------|--|---------------------------|-----------------------|-----------------------------|--------------------------------|--|
| SUSPECT / MISSING PER | Type - S | | Suspect Name (Last, First, Middle) WARR, Benny, T | | | | | Nickname | | | |
| | Arrestee | | Address 185 BARTLETT ST ROCHESTER, NY 14611 | | Date of Birth 9/13/1960 | Age 52 | Sex M | Race B | Ethnicity N | MoRI# / JCR # 256006 | |
| | Height 6' 0 | Weight 263 | Hair Color Bald | Hair Length Bald | Eye Color Brown | Glasses | Complexion Dark | Build Obese | Facial Hair Beard | Gang Affiliation Yes | |
| | Clothing, Jewelry, Distinguishing Features WHEELCHAIR | | | | | Offender Condition Apparently Normal | | Scars, Marks, Tattoos | | | |
| | Mother's Maiden Name | | | | Face of Ear | | | School Name / ID # | | | |
| | | | | | | | | | | | |

| | |
|-----------|----------------|
| ON | Modus Operandi |
| | |

THE PEOPLE OF THE STATE OF NEW YORK

-vs-

Kendzia, Dawn

Defendant.

CPL Section 710.30 NOTICE
CPL Section 250.20 ALIBI DEMAND

PLEASE TAKE NOTICE that the People intend to offer upon the trial of the above mentioned defendant:

Evidence of a statement made by the defendant to a public servant on 5/11/13 at about 8:15 am/pm at 240 Whitehall, the sum and substance consisting of:

Mr. S. [unclear]
(Public Servant)

Fuck you pretty fucker!
What fuck my dick

including statement(s) contained in the: Alcohol Influence Report dated: Crime Report No. _____ Addendum, a copy of which is annexed hereto and made part hereof.

Evidence of a written statement (and oral statements which preceded it) as set forth in the Defendant's voluntary, written statement, a copy of which is annexed hereto and made part hereof.

Testimony identifying the defendant as a person who committed the offense charged, to be given by a witness who has previously identified the defendant as such; Show-up I.D. Photo-Array I.D. on ___/___/___ at about ___:___ am/pm, at or near _____ by _____

The People are ready for trial in this case. People v. Kendzia, 64 NY2 831(1986).

PLEASE TAKE FURTHER NOTICE that if the defendant intends to offer a defense that the defendant was not at the scene of the crime charged at the time of its commission, the People demand that the defendant serve and file a Notice of Alibi as required by Criminal Procedure Law Section 250.20 within eight days. The People will reciprocate pursuant to that statute.

SANDRA DOORLEY
MONROE COUNTY DISTRICT ATTORNEY

By: [Signature]
Assistant District Attorney

This notice was handed to mailed to the defendant defendant's attorney on 5/14/13 at _____

This notice was filed with the Court Clerk on 5/14/13

SUBJECT

| | | | | | | | |
|----------------------|----------------|------------------|------------------|------------------|--|-----------------|---------------------|
| 1. LAST NAME WARR | | FIRST BENNY | | M.I. | 2. DATE 5/1/13 | 3. TIME 2014 | 4. CR# 13-113359 |
| 5. DOB 9/11/60 | 6. SEX Male | 7. RACE Black | 8. HEIGHT 6'0 | 9. WEIGHT 300 | 10. INCIDENT LOCATION 595 JEFFERSON AVE | | PSA 54 |

11. ARREST? NO - release approved by: _____
 YES - charges: **DISORDERLY CONDUCT, RESISTING ARREST**

| 12. SUBJECTS ACTIONS | 13. TACTIC EFFECTIVENESS | | | | | | |
|---|--|---------------|-------|--|--|---|----|
| | Order | Effectiveness | Order | Effectiveness | | | |
| Subject resisted by (check all that apply and explain in narrative) <input checked="" type="checkbox"/> Verbal Resistance (Failing to adhere to verbal commands) <input type="checkbox"/> Passive Resistance (dead weight) <input checked="" type="checkbox"/> Active Resistance (pulling away, striking or attempt assault) <input type="checkbox"/> Armed Resistance (uses or attempts to use a weapon or dangerous instrument) | <input checked="" type="checkbox"/> Verbal <input type="checkbox"/> Mandibular Angle <input type="checkbox"/> Hypoglossal Nerve <input type="checkbox"/> Jugular Notch <input type="checkbox"/> Clavical Notch <input type="checkbox"/> Brachial Stun <input type="checkbox"/> Suprascapular Stun <input type="checkbox"/> Jab <input type="checkbox"/> Front Kick <input type="checkbox"/> Straight Punch <input type="checkbox"/> Angle Kick <input type="checkbox"/> Forearm Strike <input checked="" type="checkbox"/> Knee Strike <input type="checkbox"/> Defensive Wedge <input type="checkbox"/> Hooking Technique <input checked="" type="checkbox"/> Ground Stabilization (ie, 3-Point Landing, joint manipulation) | 1 | NE | <input type="checkbox"/> Forward Spin <input type="checkbox"/> Shin Sheer <input type="checkbox"/> Arm Lock <input type="checkbox"/> Front Jab w/ Baton <input type="checkbox"/> Rear Jab w/ Baton <input type="checkbox"/> Flat Chop <input type="checkbox"/> Upper Chop <input type="checkbox"/> Forward Spin <input type="checkbox"/> Reverse Spin <input type="checkbox"/> Inside Spin <input type="checkbox"/> Power Spin | | | |
| | | | 3 | NE | <input checked="" type="checkbox"/> OC <input type="checkbox"/> Taser <input type="checkbox"/> Bean Bag <input type="checkbox"/> Hand Gun <input type="checkbox"/> Long Gun <input checked="" type="checkbox"/> Other: SEE NARRATIVE <input type="checkbox"/> Other: | 2 | NE |
| | | | 5 | E | | 1 | ME |
| | | | | | | | |

14. Narrative (If officer is in plainclothes, describe yourself as such. If tactics used on subject were ineffective, explain reasons why.)

On the above date/time R/Os were on routine patrol in a marked police car in the area of above location. Above location is a well known open air drug market and is also known for gang activity and violence. While R/Os were dispersing the group of known gang members loitering on the sidewalk (S) Benny Warr remained on the sidewalk refusing lawful order to disperse. (S) screamed at officers "FUCK YOU MOTHER FUCKER!" and "SUCK MY DICK!" causing a large group to gather and become very irate and anti-police. (S) was told to put his hands behind his back because he was under arrest but (S) refused. I then deployed a one second burst of OC spray to (S)'s eyes but that caused (S) to start throwing punches and striking me in the body. (S) was then brought to the ground by Ofc Liberatore and I took a kneeling position on (S)'s front as (S) was laying on his right side refusing to comply. (S) continued to swing his fists at R/O so I performed 2-3 knee strikes to (S)'s abdominals while monitoring for compliance. (S) continued to fight by attempting to punch R/O so 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 Ofc. Liberatore placed (S) in handcuffs. (S) was transported to Strong and was given an appearance ticket. I took my handcuffs off of (S) and that was the last contact I had with (S).

Officer: Primary Officer Assisting Officer Name: **J. FERRIGNO** ID# 1958

| 15. Name | ID # | Height | Weight | Division | Pltn | Uniform | Injured/ Treated | Cover Page |
|----------------------|------|--------|--------|----------|------|---------|---------------------|---------------|
| PRIMARY: J. FERRIGNO | 1958 | 6'1" | 212 | West | 3rd | Yes | No | Yes |
| A. LIBERATORE | 1747 | 5'9" | 210 | West | 3rd | Yes | No | Yes |
| SGT. M. STEWART | 1606 | 6'1" | 240 | West | 2nd | Yes | NO | Yes |
| | | | | | | | | |
| | | | | | | | | |

WITNESSES – Conduct a neighborhood check and indicate with code: W – Witness/Deposed, NI – Not Interviewed, NO – Interviewed/No Information, WR – Witness/Refused Deposition.

| 16. NAME | ADDRESS | DAY PHONE | EVENING PHONE | WITNESS CODE |
|------------------|------------------|--------------|------------------|-----------------|
| ROYAL, ALBERT | 598 JEFFERSON AV | | | NO |
| KAIN, SHABAZ | 580 JEFFERSON AV | | | NO |
| SOLOMON, DEB | 354 JEFFERSON AV | | | NO |
| JOHNSON, CHESTER | 315 JEFFERSON AV | | | NO |
| | | | | |
| | | | | |

MEDICAL

**Attach and forward a copy of all depositions to PSS and PDS*

17. Condition of subject: Sober Alcohol Influence Intoxicated (alcohol) Drugs

18. Subject injured prior to incident: No Yes, describe:

19. Subject injured during incident: No Yes, describe: COMPLAINT OF NECK PAIN

20. If subject was exposed to O.C., was subject treated: No Yes At hospital PSB eyewash station

21. Hospitalization: No - Reason: Yes - Transport via RPD vehicle # Ambulance Co./Veh # 0269 Other

22. Hospital: STRONG 23. Attending medical professional: ED STAFF

24. Subject: Admitted Treated and Released No Treatment Refused 25. Time of treatment/refusal:

26. Witness to refusal:

27. Technician work performed: No - Reason: Yes by: PRINZI Photos Diagram Other:

Photos of: Member(s) Subject Other:

28. Reports completed: Crime Incident Investigative action
 (DO NOT ATTACH) Prisoner data Addendum(s) Technician's report
 Other: CR #'s:

29. Commanding Officer at scene: SINGLETARY Rank: Lieutenant Division: West

ADMINISTRATIVE REVIEW

30. Reviewing Supervisor: 1012 Date: 5-8-13

31. Platoon Commanding Officer: _____ Date: _____

SUBJECT

| | | | | | | | |
|-----------------------------|----------------|-----------------------|------------------|------------------|---|-----------------|---------------------|
| 1. LAST NAME WARR | | FIRST BENNY | | M.L. | 2. DATE 5/1/13 | 3. TIME 2014 | 4. CR# 13-115259 |
| 5. DOB 9/13/60 | 6. SEX Male | 7. RACE Black | 8. HEIGHT 6'0 | 9. WEIGHT 300 | 10. INCIDENT LOCATION 595 JEFFERSON AV | | PSA 54 |

11. ARREST? NO - release approved by:
 YES - charges: DIS CON, RESISTING ARREST

12. SUBJECTS ACTIONS

Subject resisted by (check all that apply and explain in narrative)

13. TACTIC EFFECTIVENESS

Check the appropriate box indicating whether the tactic was used, if the tactic was used write the number (1,2,3,...) indicating what order the tactics were used in column one (1). In column two (2) write E, for Effective, ME, for Moderately Effective and NE, for Not Effective.

| | | Order | | Effectiveness | |
|--|---|-------|---------------|--|---------------|
| | | Order | Effectiveness | Order | Effectiveness |
| <input checked="" type="checkbox"/> Verbal Resistance (Failing to adhere to verbal commands) <input type="checkbox"/> Passive Resistance (dead weight) <input checked="" type="checkbox"/> Active Resistance (pulling away, striking or attempt assault) <input type="checkbox"/> Armed Resistance (uses or attempts to use a weapon or dangerous instrument) | <input checked="" type="checkbox"/> Verbal | 1 | NE | <input type="checkbox"/> Forward Spin | |
| | <input checked="" type="checkbox"/> Mandibular Angle | 4 | NE | <input type="checkbox"/> Shin Sheer | |
| | <input type="checkbox"/> Hypoglossal Nerve | | | <input type="checkbox"/> Arm Lock | |
| | <input type="checkbox"/> Jugular Notch | | | <input type="checkbox"/> Front Jab w/Baton | |
| | <input type="checkbox"/> Clavical Notch | | | <input type="checkbox"/> Rear Jab w/ Baton | |
| | <input type="checkbox"/> Brachial Stun | | | <input type="checkbox"/> Flat Chop | |
| | <input type="checkbox"/> Suprascapular Stun | | | <input type="checkbox"/> Upper Chop | |
| | <input type="checkbox"/> Jab | | | <input type="checkbox"/> Forward Spin | |
| | <input type="checkbox"/> Front Kick | | | <input type="checkbox"/> Reverse Spin | |
| | <input type="checkbox"/> Straight Punch | | | <input type="checkbox"/> Inside Spin | |
| | <input type="checkbox"/> Angle Kick | | | <input type="checkbox"/> Power Spin | |
| | <input type="checkbox"/> Forearm Strike | | | <input type="checkbox"/> OC | |
| | <input type="checkbox"/> Knee Strike | | | <input type="checkbox"/> Taser | |
| | <input type="checkbox"/> Defensive Wedge | | | <input type="checkbox"/> Bean Bag | |
| | <input type="checkbox"/> Hooking Technique | | | <input type="checkbox"/> Hand Gun | |
| | <input checked="" type="checkbox"/> Ground Stabilization (ie. 3-Point Landing, joint manipulation) | 5 | E | <input type="checkbox"/> Long Gun | |
| | | | | <input checked="" type="checkbox"/> Other: See Narrative | 2 E |
| | | | | <input checked="" type="checkbox"/> Other: See Narrative | 3 ME |

14. Narrative (If officer is in plainclothes, describe own clothing. If tactic(s) used on subject were ineffective, explain reason(s) why.)

On 5/1/13, I was attempting to place (S) into custody with Ofc. Ferrigno for said charge. The (S), who was in a motorized wheel chair due to the fact that he had one prosthetic and one functional leg, refused commands to put his hands behind his back and allow officers to put handcuffs on him. The (S) began to swing his arms wildly and yelled that he wasn't going to jail unless it was in an ambulance. Ofc. Ferrigno deployed OC spray to (S)'s facial area with still no compliance from the (S). It was at that time that I pushed (S) and his wheelchair over and onto the ground from the right side of the chair. Once (S) was on the ground laying on his back, he continued to resist arrest by trying to swing his arms and strike officers. By this time, a large unruly crowd began to form around us and it was my belief that harm may be done to officers due to the fact that the above location has a history of assaults on police and unwillingness to follow lawful orders when asked. Due to the fact that I was on the ground with the (S) and that officers were not able to roll him onto his stomach for handcuffing due to his large size, I took my right elbow and performed a downward strike to (S)'s face. Since the crowd was closing in on officers, it was my intention to end the altercation as quickly as I could with the elbow strike. Furthermore, (S)'s head was the closest part of his body to me and the most open to my strike at the time. (S) was continuing to fight with officers; however, was able to be turned onto his stomach per Ofc. Ferrigno. The (S) still was trying to tuck his arms underneath his body to resist arrest. It was at that time that I attempted compliance from the (S) with a mandibular angle pressure point behind (S)'s right ear per departmental training with my right thumb. The (S) was not affected from the pressure point and continued to tuck his arms underneath his body to avoid handcuffing. I then performed a 3-point landing on (S)'s right side

Officers: Primary Officer Assisting Officer Name: **A. LIBERATORE** ID# 1747

SUBJECT

| | | | | | | | |
|----------------------|----------------|------------------|-------------------|------------------|---|-----------------|----------------------|
| 1. LAST NAME Warr | | FIRST Benny | | M.I. | 2. DATE 5/1/13 | 3. TIME 2014 | 4. CR # 13-115259 |
| 5. DOB 9/13/60 | 6. SEX Male | 7. RACE Black | 8. HEIGHT 6'0" | 9. WEIGHT 300 | 10. INCIDENT LOCATION 595 Jefferson Av | | PSA 54 |

11. ARREST? NO - release approved by: _____
 YES - charges: Disorderly Conduct, Resisting Arrest

| 12. SUBJECTS ACTIONS | 13. TACTIC EFFECTIVENESS | | | | | | | |
|--|---|---------------|-------|--|--|--|---|---|
| | Order | Effectiveness | Order | Effectiveness | | | | |
| <input checked="" type="checkbox"/> Verbal Resistance (Failing to adhere to verbal commands) <input type="checkbox"/> Passive Resistance (dead weight) <input checked="" type="checkbox"/> Active Resistance (pulling away, striking or attempt assault) <input type="checkbox"/> Armed Resistance (uses or attempts to use a weapon or dangerous instrument) | <input checked="" type="checkbox"/> Verbal <input type="checkbox"/> Mandibular Angle <input type="checkbox"/> Hypoglossal Nerve <input type="checkbox"/> Jugular Notch <input type="checkbox"/> Clavical Notch <input type="checkbox"/> Brachial Stun <input type="checkbox"/> Suprascapular Stun <input type="checkbox"/> Jab <input type="checkbox"/> Front Kick <input type="checkbox"/> Straight Punch <input type="checkbox"/> Angle Kick <input type="checkbox"/> Forearm Strike <input type="checkbox"/> Knee Strike <input type="checkbox"/> Defensive Wedge <input type="checkbox"/> Hooking Technique <input type="checkbox"/> Ground Stabilization (ie. 3-Point Landing, joint manipulation) | 2 | NE | <input type="checkbox"/> Forward Spin <input type="checkbox"/> Shin Sheer <input type="checkbox"/> Arm Lock <input type="checkbox"/> Front Jab w/Baton <input type="checkbox"/> Rear Jab w/ Baton <input type="checkbox"/> Flat Chop <input type="checkbox"/> Upper Chop <input type="checkbox"/> Forward Spin <input type="checkbox"/> Reverse Spin <input type="checkbox"/> Inside Spin <input type="checkbox"/> Power Spin <input type="checkbox"/> OC <input type="checkbox"/> Taser <input type="checkbox"/> Bean Bag <input type="checkbox"/> Hand Gun <input type="checkbox"/> Long Gun <input checked="" type="checkbox"/> Other: See Narrative <input type="checkbox"/> Other: | | | 1 | E |

14. Narrative (If officer is in plainclothes, describe own clothing. If tactic(s) used on subject were ineffective, explain reasons) why:

I responded to above location after hearing car 4933 call for assistance in making an arrest at location.

Upon my arrival, I observed (A) Warr on his stomach with his head facing towards Bartlett St. I could further see that officer's were struggling taking the male into custody.

I immediately exited my patrol vehicle and went to the left side of (A). I crouched down and took a hold of his left arm, specifically I had my left hand on his left tricep area and my right hand on his left lower arm. Then I pulled back on this arm to direct it behind his back. While I was doing this, I was giving the male verbal commands to place his hands behind his back. I could tell by the tension in this arm that he was not willingly allowing us handcuff him.

After several seconds, it became apparent that the we had gotten the left arm back as far as were were capable of. At this time, I removed my set of handcuffs from my case and attached one ring to the other set of handcuffs which were currently on his right wrist. After combining the two sets of handcuffs, I was able to secure the second ring on his left wrist. I remember that A's wrists were rather large and I was only able to get the handcuff ring on his left wrist to go to the first click.

After A was handcuffed, I attempted to help him to his feet according to our training. The male told me has was in too much pain to be of any assistance in getting up. I then made the decision that we should leave him as he was and called for Rural Metro to respond.

Officer: Primary Officer Assisting Officer Name: Sgt. M Stewart ID# 16166

CITY OF ROCHESTER POLICE DEPARTMENT

INTER-DEPARTMENTAL CORRESPONDENCE



TO: Lieutenant Michael Callari, Commanding Officer, PSS

FROM: Lieutenant Jeremy Anzalone, Patrol Division West, Third Platoon Lt.

DATE: 5-8-13

SUBJECT: SRR CR#13-115259

[Handwritten signature] 1012

On 5-8-13 at about 1700 hrs I held a meeting with Officer Anthony Liberatore in the presence of Sgt Kenneth Coniglio at the PDW Third Platoon Lieutenant's office. The purpose of this meeting was to discuss the use of an untrained technique by Officer Liberatore during an SRR with subject Benny Warr on 5-1-13. Specifically, Officer Liberatore utilized an elbow strike to the face of the subject while the subject was lying on his back. I asked Officer Liberatore to justify his use of this technique and he explained to me that officers had attempted to gain verbal compliance from the subject without success. They then attempted the use of OC which was also unsuccessful. Officer Liberatore explained that they then attempted to stabilize the subject on the ground by pushing him out of his wheel chair. Officer Liberatore explained to me that Warr has a prosthetic leg and a functional leg and was offering resistance by attempting to strike officers. Due to Warr's size (300+ lbs) they were unable to roll him onto his stomach for handcuffing. Officer Liberatore went on to explain that he noticed a large group forming nearby and feared they may try to interfere with the arrest. Officer Liberatore stated he then decided to utilize an elbow strike to the subject's face (which was the closest target to him) in an attempt to end the situation as quickly as possible so that they could turn their attention to the group forming. I then directed Officer Liberatore to document his justification in the SRR.