

PSS 24-0192

PERSONNEL: Officer Rafael Rivera

STATEMENT OF: MS. OPAL WRIGHT

DATE: April 2, 2024

TIME: 3:09 p.m.

PLACE: Professional Standards Section  
846 South Clinton Avenue  
Rochester, New York

PRESENT: Sergeant Nicholas Isler, PSS  
Sergeant Joshua Kelly, PSS  
Ms. Perette Barilla

REPORTED BY: Linda Farnum  
Police Stenographer

1 Q. And then can you state the officer's name that  
2 was involved?

3 A. The best I was able to ascertain was R. Rivera.  
4 I read that off of his name tape.

5 Q. All right. And can you -- I'm sorry.

6 A. I wasn't able to read the full name tape, but I  
7 said, R. Rivera? And he said -- he confirmed that that was  
8 his name after initially refusing.

9 Q. All right. And can you describe the officer for  
10 me?

11 A. My memory's hazy on his actual physical  
12 appearance. Kind of stocky.

13 Q. Okay.

14 A. That's about the best -- he was in the dark in  
15 the car. It was a little hard to see.

16 Q. Okay. Do you recall what the officer's car  
17 number or badge number was?

18 A. No, I don't recall the car number. And when I  
19 asked for the badge number, he refused to provide it  
20 multiple times.

21 Q. All right. And this is a silly question, but we  
22 have to ask, do you believe that the officer was on or off  
23 duty?

24 A. On duty.

25 Q. All right. And then can you explain the

1 O-P-A-L W-R-I-G-H-T, having first been duly sworn, was  
examined and testified as follows:

2

3 EXAMINATION BY SERGEANT ISLER:

4 Q. Ms. Wright, prior to beginning this statement I  
5 gave you an advisement form. Did you read and fully  
6 understand this form?

7 A. Yes. That's the one on the bottom?

8 Q. Yes.

9 A. Yup.

10 Q. Did you sign the form?

11 A. I did.

12 Q. And, for the record, could you please state and  
13 spell your full name?

14 A. Sure thing. It's Opal, O-P-A-L, Elizabeth,  
15 E-L-I-Z-A-B-E-T-H, Wright, W-R-I-G-H-T.

16 Q. And what is your address?

17 A. [REDACTED]

18 Q. And what is your date of birth?

19 A. [REDACTED]

20 Q. All right. Ms. Wright, your statement today is  
21 regarding a complaint that has been filed against a member  
22 of the Rochester Police Department. Can you state the date  
23 and time this incident occurred?

24 A. Yes. It was the 13th of March, 2024, at around  
25 10:30 in the morning.

1 circumstances surrounding this incident?

2 A. Sure. I was at the office at 350 East Avenue. I  
3 went to the convenience store at the intersection of Union  
4 and East. When I walked out, I noticed the officer in his  
5 car. As is my custom, I gave him the finger. I went, got  
6 my coffee, came back, gave him the finger again, because he  
7 was still there. And at that point it looked like his door  
8 opened and then closed. There was some traffic going by. I  
9 think he was trying to open the door and then didn't, but  
10 maybe he was loosening his seatbelt. I mean, I shouldn't  
11 attribute a motive to him. He then started yelling some  
12 things at me. I had a difficult time hearing at first, but  
13 he yelled something about, sit on it, or stick it up your  
14 ass. And then I said, excuse me? And he said, go fuck  
15 yourself. And then I asked a little bit -- I tried to  
16 inquire a little bit further. He gave me the finger and  
17 rolled up his window. I went back up to my office. I  
18 dropped off my coffee. I decided to ask him for his name  
19 and badge number. I went back downstairs. Went up to the  
20 side of the car. He rolled down the window temporarily. I  
21 asked for his name and badge number. He told me, no. I  
22 said, are you sure? I don't know that I said, are you sure,  
23 exactly. I shouldn't -- I don't want to say specifically  
24 what I said because I may get the exact wording wrong. But  
25 I said, you're not going to give me your name or badge

1 number? He said, no. I read his name tape, which showed R.  
 2 River. I said, your name is Rivera? And he said, yeah.  
 3 And I said, what's your badge number? And he told me he  
 4 wasn't going to give it to me. And I said, you're not going  
 5 to give it to me? He said, no. I said, I have a right to  
 6 ask for that. And he said, well, you got it, good-bye, and  
 7 rolled up his window. And that was the end of the  
 8 encounter.

9 Q. Okay. So the first thing I want to ask about is  
 10 your custom of providing the middle finger to police  
 11 officers --

12 A. Ahem. Yes.

13 Q. -- in uniform?

14 A. Only in Rochester.

15 Q. All right. Do you have a specific reason for  
 16 that?

17 (Ms. Wright handing document to Sgt. Isler)

19 SERGEANT ISLER: For the record, I've been handed a  
 20 document that I'll read aloud.

22 Dear officer, If you are reading this, it is likely  
 23 because you are an officer in the Rochester Police Department,  
 24 RPD, and are offended because I gave you the finger.

25 Let's be clear, you know that's what I did. You

1 didn't think I was flagging you down for help or signalling  
 2 distress or trying to initiate a conversation. Plenty of  
 3 cops, including several in New York, have tried to argue that  
 4 a middle finger can be interpreted that way and used as a  
 5 basis for detainment -- I can't even say that right now --  
 6 detention while investigating the meaning of the gesture.  
 7 But, as the United States Courts (sic) of Appeals from the  
 8 Second Court Circuit said in 2020 -- I'm sorry, in 2013, case  
 9 Swartz versus Insogna:

10 Perhaps there is a police officer somewhere who  
 11 would interpret giving him a (sic) finger as a signal of  
 12 distress, creating a suspicion that something occurring in the  
 13 automobile warranted investigation, but, the nearly universal  
 14 recognition that this gesture is an insult deprives such an  
 15 interpretation of reasonableness. The ancient gesture of  
 16 insult is not the basis for a reasonable suspicion of a  
 17 traffic violation or impending criminal activity.

18 It is not illegal to give you the finger. A long  
 19 list of federal and state cases, including the above mentioned  
 20 case decision (sic) from the Second Circuit, the 1971 Supreme  
 21 Court decision in Cohen versus California, and the New York  
 22 State (sic) appeals 1988 and 1997 decisions in People versus  
 23 Dietze and people versus -- I can't pronounce that name -- are  
 24 very clear that the simple act of making a crude or offensive  
 25 gesture to an individual, even a cop, is not illegal. In

1 short, it has a long (sic) but clearly established that I have  
 2 a right to express my contempt this way.

3 Why do I feel contempt? Simple. Officer Alex  
 4 Lombard and RPD's unanimous defense of his action.

5 On the (sic) 29th of January, 2021, Lombard pepper  
 6 sprayed a nine-year old little girl who was handcuffed in the  
 7 back of a (sic) police vehicle. His partner screamed, pepper  
 8 spray is going into your eyeballs at the little girl right  
 9 before he did it. It was a fucked-up act of child abuse  
 10 showing an unthinkable lack of empathy and basic emotional  
 11 regulation.

12 Today (sic), nobody in the RPD has been willing to  
 13 say publicly that Lombard's actions were fucked up and wrong.  
 14 The Department has been publicly anonymous (sic) in its (sic)  
 15 support of Lombard's actions, in fact.

16 Let me be clear. There is no way for a decent  
 17 person to say anything about Lombard's actions that differs in  
 18 substance from it was fucked up and wrong. Which means, if  
 19 you're siding with him, you're not a decent person. You're a  
 20 bad person. You're a person who defends a grotesque act of  
 21 child abuse. You're a person worthy of my contempt, and a  
 22 person who deserves to be shown my contempt.

23 If even just one RPD cop will publicly state (sic)  
 24 Lombard's actions were fucked up and wrong, I'd give every RPD  
 25 cop the benefit of the doubt and stop giving you all the

1 finger. But none of you ever do, so I will continue to  
 2 express my contempt.  
 3 If you'd like to prove me wrong and publicly state  
 4 your colleague's actions that day were fucked up and wrong, I  
 5 will happily reverse (sic) my assessment and stop giving you  
 6 the finger.

7 Until then, you can expect the finger to keep going  
 8 up.

9 The end.

10 SERGEANT KELLY: Do you mind if we make a copy of  
 11 this?

12 MS. WRIGHT: You can keep that copy.

13 SERGEANT KELLY: Thank you.

14 SERGEANT ISLER: All right. So we've read into the  
 15 record your feelings and why you present the middle finger to  
 16 all RPD officers. The only thing that I will say regarding  
 17 that is -- I have to think very carefully how I'm going to say  
 18 this -- in any population of people, I don't care if they're  
 19 Black, White, Hispanic, Gay, Straight, Trans, whatever, five  
 20 percent are always going to be scumbags. And you are lumping  
 21 every single man and woman of this Department into your  
 22 contempt for this officer. It is your right. I get it. And  
 23 in this case, I feel that -- or I know that Officer Rivera had  
 24 absolutely nothing to do with that case. And I would like to  
 25 say that I wouldn't take the bait if you did it to me;

1 however, as in this case, those two officers that were there  
2 that day were dealing with a person who was in crisis. They  
3 had been waiting for over 45 minutes for an ambulance for a  
4 person who was not being very cooperative or nice, and, again,  
5 was in the middle of a crisis. And, you know, they did that  
6 without using force, without using negative language, without  
7 using anything bad. But, when you're dealing with someone  
8 who's out of their mind --

9 MS. WRIGHT: Correct me where I'm wrong --

10 SERGEANT ISLER: -- it gets very difficult.

11 MS. WRIGHT: Correct me where I'm wrong. They  
12 did still pepper spray a handcuffed nine-year old little  
13 girl in the face.

14 SERGEANT ISLER: Ahem.

15 Ms. WRIGHT: And you don't think that's fucked up  
16 and wrong?

17 SERGEANT ISLER: At the time, the policy of this  
18 Department allowed for it. I'm not --

19 MS. WRIGHT: That's not what I asked.

20 SERGEANT ISLER: I'm not allowed to have an  
21 opinion.

22 MS. WRIGHT: And because you're not willing to  
23 speak on that, that's why I will say I don't think you're a  
24 good person.

25 SERGEANT ISLER: Okay. That's fair enough.

1 **EXAMINATION BY SERGEANT ISLER:**

2 Q. And this incident, you know, you have established  
3 even through this that you know providing the middle finger  
4 is a mean and rude gesture, correct?

5 A. **That it's rude. It's a signal of contempt.**

6 Q. Okay. And do you understand with the amount of  
7 education that you have that we, as police officers and  
8 employees of this Department, are bound by certain rules  
9 and regulations?

10 A. **Yes.**

11 Q. For example, if I have a political,  
12 philosophical, emotional opinion, that we're not allowed to  
13 express that?

14 A. **I understand. I also understand that you're**  
15 **human. And I understand that if you want to yell at me or**  
16 **say mean things -- he said some things, I think that you**  
17 **would agree were probably not the most professional, but I'm**  
18 **-- my complaint is not to do with that. My complaint is**  
19 **very specifically with his unwillingness to --**

20 Q. To provide his badge number.

21 A. **-- to provide his badge number. That goes**  
22 **specifically to matters of accountability. And, you may**  
23 **notice, I tend to think that police accountability is sort**  
24 **of an important thing. My complaint is that in the**  
25 **Rochester Police Department Rules and Regulations, Section**

1 **2, Subsection 2(a), Officers shall respectfully furnish**  
2 **their name and badge number to any person requesting that**  
3 **information when they are on duty or presenting themselves**  
4 **as police officers. He was in uniform. He was in a police**  
5 **vehicle.**

6 **Was he on duty?**

7 Q. He was.

8 A. **Okay. So he was on duty. He was presenting**  
9 **himself as an officer. He refused after multiple requests**  
10 **to provide his badge number. That's an accountability**  
11 **issue.**

12 Q. Okay.

13 A. **That is the extent of my complaint. He can yell**  
14 **all he wants at me. He can say mean things. It does not**  
15 **bother me in the slightest. I mean that sincerely.**

16 SERGEANT ISLER: All right. Well -- and I will  
17 counter what you're saying with this, is, there are many of  
18 us in the Department, me being one -- that I will go on

19 record and say that I don't believe that we should furnish  
20 our names to anybody. Right now it's the rule and we have  
21 to furnish our name and badge number. But I think in the  
22 not too distant future you're likely to see that rule  
23 change, and we will only furnish a number, and that's it,  
24 nothing more.

25 MS. WRIGHT: That's not what was provided to me

1 though.

2 SERGEANT ISLER: Correct. Well, and the only --  
3 frankly, the only reason you got the name is because you  
4 were smart enough to see it on his badge -- or on his vest.  
5 I don't think he -- given -- watching the video, I believe  
6 that you're correct in that he probably wouldn't have given  
7 you either. It's just you got it. But, because we have  
8 people who are baiting officers into confrontations like  
9 this, that -- and with all the incidents that have happened  
10 since 2020 with officers who have been doxed and have had  
11 their families harassed who had nothing to do with the  
12 Daniel Prude situation, which is what ignited all the  
13 protests in 2020 -- because of that, that rule could change  
14 and make it more difficult for someone who has a legitimate  
15 complaint against an officer. And, you know, I could see  
16 your act of lewdness if that officer in particular had done  
17 something to you or to someone you know, cut you off in  
18 traffic, swore at you for no reason, beat you up, did any  
19 of those things, I could see it. But, in this instance,  
20 that officer was helping someone who was in crisis, and  
21 you, as you describe in your document, basically did  
22 something that, in my opinion, is no better than what  
23 you're alleging that Officer Lombard did. It's something  
24 that -- you know, the facts and circumstances -- you know  
25 what the media told you. You don't know all the facts and

1 circumstances. Which, again, is not something that we're  
2 allowed to discuss because of the rules that govern this  
3 agency. It's -- now, if I were to get on the news and talk  
4 to any of the news media about any of my personal feelings,  
5 or to provide any facts about any cases going on -- like,  
6 for example, this case, if I were to go to the media and  
7 say I had someone come into the office and make this  
8 complaint and then offer my opinion, I could get fired for  
9 that. That's why we don't comment. So --

10 MS. WRIGHT: This is interesting information --

11 SERGEANT ISLER: Yeah.

12 MS. WRIGHT: -- however, I don't see how it's  
13 relevant to whether or not Officer Rivera violated policy.

14 SERGEANT ISLER: Well, I think that you said it  
15 yourself that officers are human beings. And if you deal  
16 with an individual who's already stressed out and angry  
17 about something, and then you add to that by doing  
18 something that's uncalled for, you're likely to get a more  
19 human reaction than a robotic reaction, which is what  
20 you're looking for.

21 MS. WRIGHT: Does the Rochester Police Department  
22 Rules and Regulations document state that when an officer  
23 is upset or angry or emotional they are not bound by the  
24 Department Rules and Regulations?

25 SERGEANT ISLER: It doesn't say that, but --

1 MS. WRIGHT: Then I suppose --

2 SERGEANT ISLER: -- human beings --

3 MS. WRIGHT: -- that it's not relevant. I gave  
4 you that as an explanation; not an invitation to debate.

5 SERGEANT ISLER: Okay.

6 Go ahead, Josh.

7  
8 **EXAMINATION BY SERGEANT KELLY:**

9 **Q.** Ms. Wright, do you believe in the fact that  
10 everybody within the City of Rochester deserves mental  
11 health care and respect regarding mental health?

12 **A.** I'd like to know the relevance of that question.

13 **Q.** Well, the officer was there for a mental health  
14 call, trying to help people in the community that he  
15 serves.

16 **A.** Is that relevant to whether or not he violated  
17 policy?

18 **Q.** Potentially.

19 **A.** Is it? If he's on a mental health call he's no  
20 longer bound by policy?

21 **Q.** I'm not saying that. I'm just asking you a  
22 question regarding the incident.

23 **A.** I don't feel that it's relevant. I'm not going  
24 to answer that.

25 SERGEANT KELLY: Okay. I have nothing further.

1 SERGEANT ISLER: I don't have anything else.  
2 Is there anything you want to add?

3 MS. WRIGHT: No, I just -- no, I'm good.

4 SERGEANT ISLER: All right. So it is 3:23.  
5 We're going to end the interview.

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2 CERTIFICATION

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5 I, Linda A. Farnum, hereby certify that I reported in  
6 stenotype shorthand the statement of MS. OPAL WRIGHT in the  
7 above-entitled matter on April 2, 2024, and that the foregoing  
8 transcript, numbered pages 2 through 15, was typed by  
9 computer-aided transcription and constitutes a true, accurate,  
10 and complete record of those stenographic notes.

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14 \_\_\_\_\_  
Linda A. Farnum  
15 Police Stenographer

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18 Dated this 4th day of April 2024

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