

Dear Officer,

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

Let's be clear: you *know* that's what I did. You didn't think I was "flagging you down for help" or "signaling distress" or "trying to initiate a conversation". Plenty of cops, including several in New York, have tried to argue that a middle finger can be interpreted that way and used as a basis for detention while "investigating" the meaning of the gesture. But as the United States Court of Appeals for the Second Circuit said in the 2013 case *Swartz v Insogna*:

Perhaps there is a police officer somewhere who would interpret [...] giving him the finger as a signal of distress, creating a suspicion that something occurring in the automobile warranted investigation. [...] But the nearly universal recognition that this gesture is an insult deprives such an interpretation of reasonableness. *This ancient gesture of insult is not the basis for a reasonable suspicion of a traffic violation or impending criminal activity.* (Emphasis added.)

It's not illegal to give you the finger. A long list of federal and state cases-- including the above-mentioned *Swartz v Insogna* decision from the Second Circuit, the 1971 Supreme Court decision in *Cohen v California*, and the New York Court of Appeals 1988 and 1997 decisions in *People v Dietze* and *People v Tichenor*-- are very clear that the simple act of making a crude or offensive gesture to an individual, even a cop, is not illegal. In short, it has *long* been clearly established that I have the right to express my contempt this way.

Why do I feel contempt? Simple: Officer Alex Lombard, and RPD's unanimous defense of his actions.

On 29 January 2021, Lombard pepper-sprayed a nine-year-old little girl who was handcuffed in the back of his RPD vehicle. His partner screamed "pepper spray is going into your eyeballs!" at the little girl right before he did it. It was a fucked-up act of child abuse showing an unthinkable lack of empathy and basic emotional regulation.

To date, *nobody* in the RPD has been willing to say publicly that Lombard's actions were fucked up and wrong. The department has been publicly unanimous in their *support* of Lombard's actions, in fact.

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

If even just one RPD cop will *publicly* state that Lombard's actions were fucked up and wrong, I'd give every RPD cop the benefit of the doubt and stop giving you all the finger. But none of you ever do, so I will continue to express my contempt.

If you'd like to prove me wrong and *publicly* state that your colleague's actions that day were fucked up and wrong, I will happily revise my assessment and stop giving you the finger.

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