

**ROCHESTER CITY COUNCIL**

*IN RE INDEPENDENT INVESTIGATION INTO  
THE CITY OF ROCHESTER'S RESPONSE TO AND  
HANDLING OF THE RPD'S MARCH 23, 2020 USE  
OF FORCE AGAINST DANIEL PRUDE*

**SECOND SUBPOENA TO PRODUCE BOOKS, PAPERS OR OTHER EVIDENCE**

**To:**

Albert Gauthier  
Chief Technology Officer  
City of Rochester IT  
185 Exchange Blvd., Suite 595  
Rochester, New York 14614

**YOU ARE COMMANDED**, pursuant to Rochester City Charter § 5-21(G), and pursuant to Resolution No. 2020-29 of the Council of the City Rochester, to produce at the time, date, and place set forth below the documents, electronically stored information, objects, or other evidence described in the attachment to this subpoena.

**Place:**

Andrew G. Celli, Jr.  
Emery Celli Brinckerhoff Abady Ward & Maazel LLP  
600 Fifth Ave., 10<sup>th</sup> Fl.  
New York, NY 10020  
acelli@ecbawm.com

**Date and Time:**

October 2, 2020, 5:00 PM

Dated: Rochester, New York  
September 30, 2020

By:



LORETTA C. SCOTT  
President, Rochester City Council

## DEFINITIONS

1. IT Department, Department, You: The terms "IT Department," "Department," and "You" mean the City of Rochester Information Technology Department and its officers, employees, and agents.

2. Communication: The term "Communication" means any correspondence, discussion, or transmittal of information (in the form of facts, ideas, inquiries, or otherwise).

3. Document: The term "Document" means, without limitation, the following items which are in the possession, custody, or control of the Department whether printed or recorded or reproduced by any other mechanical or electronic process, or written or produced by hand: agreements; communications; reports; correspondence; telegrams; electronic mail; electronic/cellular messages/texts; memoranda, summaries or records of telephone conversations; summaries or records of in-person conversations or interviews; drawings; sketches; maps; summaries or records of meetings or conferences; summaries of or records of interviews conducted by investigators; electronic or physical calendar entries concerning meetings, conferences, or interviews; summaries or reports of investigations or negotiations; opinions or reports of consultants; photographs; motion picture films; body worn camera footage; digital or physical audio tape recordings; all material contained in any internal affairs file; brochures; pamphlets; advertisements; circulars; press releases; drafts; letters; recordings; any marginal comments appearing on any Document; Mobile Data Terminal communications; and all other writings.

## INSTRUCTIONS

1. This subpoena is intended to supplement the September 22, 2020 subpoena directed to the Department. Nothing in this subpoena should be read to modify the September 22, 2020 subpoena.

2. If any Document responsive to the requests has been lost, destroyed or is otherwise unavailable, describe and identify each such Document by stating in writing: (i) the name(s) of the authors(s), the name(s) of the person(s) who received or viewed the original and all copies, and the date and subject matter, (ii) the last known custodian of the Document, (iii) the incident, event, or occurrence during which such Document was lost, destroyed, or otherwise became unavailable, (iv) each person having knowledge of the circumstances of it being lost, discarded or destroyed and (v) your efforts to locate each such Document.

3. These requests seek production of all Documents, in their entirety, along with any attachments, drafts, and non-identical copies. A Document with handwritten, typewritten, or other recorded notes, editing marks, etc., is not and shall not be deemed identical to one without such modifications, additions, or deletions.

4. Responsive Documents should be produced as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests, and identifying the name of the person from whose files the Documents were produced.

5. Wherever possible, all electronic Documents should be produced in their native format and/or as TIFs or PDFs and include all metadata. Do not convert the data to a form that is more burdensome and/or less searchable. If You convert data to TIFs or PDFs from native format, You must retain all metadata—including but not limited to the OCR database, Document demarcations, the date of the Documents, file name, the author of the Documents, the recipients

of the Documents, the type of Documents, etc.—in a usable load file (Relativity or Concordance preferred with an option for images), together with links to text and native formats.

6. Wherever possible, the following fields of metadata should be produced, if available:

<i>Field</i>	<i>Data Type</i>	<i>Paper</i>	<i>Loose Native Files &amp; Attachments</i>	<i>Email</i>
BegDoc	TEXT	Start Bates	Start Bates	Start Bates
EndDoc	TEXT	End Bates	End Bates	End Bates
BegAttach	TEXT	Starting bates number of document family	Starting bates number of document family	Starting bates number of document family
EndAttach	TEXT	Ending bates number of document family	Ending bates number of document family	Ending bates number of document family
Custodian	TEXT – single entry	Custodian of the document	Custodian of the document	Custodian of the document
Folder	Text		File path where original file was collected from	Folder where email was collected from. Includes folder locations within email container files such as PST and NSF
From	Text			Sender of message
To	TEXT – separate entries with “,”			Recipients of message
CC	TEXT – separate entries with “,”			Copied recipients
BCC	TEXT – separate entries with “,”			Blind copied recipients
Subject	TEXT or MEMO if over 255 characters			Subject of message
DateSent	Date (dd-mmm-yyyy) – eg 03-Mar-			Date message sent

<i>Field</i>	<i>Data Type</i>	<i>Paper</i>	<i>Loose Native Files &amp; Attachments</i>	<i>Email</i>
	2012			
TimeSent	Text (hh:mm:ss)			Time message sent
DateReceived	Date (dd- mmm-yyyy) – eg 03-Mar- 2012			Date message received
TimeRecv	TEXT (hh:mm:ss)			Time message received
FileName	Text (hh:mm:ss)		Name of original file	Name of original file
FileExtension	Text		Extension of original file	Extension of original file
DateCreated	Date (dd- mmm-yyyy) – eg 03-Mar- 2012		Date file was created	
DateModified	Date (dd- mmm-yyyy) – eg 03-Mar- 2012		Date file was last modified	
Title	TEXT or MEMO if over 255 characters		Title from document metadata	
Author	Text		Document author from metadata	
Company	Text		Document company or organization from metadata	
Hash	Text		MD5 Hash Value	MD5 Hash Value
Text Files	Txt files should be named the same as the beg doc and delivered in the same folder as the images (eg, ABC000000 1.txt)	Txt files should be named the same as the beg doc and delivered in the same folder as the images (eg, ABC0000001.txt)		
Native Files	Native files should be			

<i>Field</i>	<i>Data Type</i>	<i>Paper</i>	<i>Loose Native Files &amp; Attachments</i>	<i>Email</i>
	named the same as the beg doc and delivered in the same folder as the images (eg, ABC0000001.xls)			

7. Reference to any natural person shall be deemed to include that natural person's agents, servants, representatives, current and former employees, and successors.

8. The singular includes the plural and vice versa, except as the context may otherwise require; any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa; whenever a term is used herein in the present, past, future, subjunctive, or other tense, voice, or mood, it shall also be construed to include all other tenses, voices, or moods; reference to any gender includes the other gender; the words "any" and "or" shall be construed as either conjunctive or disjunctive in such manner as will broaden as widely as possibly the scope of any request for production; the word "all" means "any and all"; the word "any" means "any and all"; the word "including" means "including but not limited to." Any ambiguity in a discovery request shall be construed to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.

9. If you object to the production of a Document in relation to a specific request, state with particularity the basis for all objections with respect to such request. You should respond to all portions of that request that do not fall within the scope of your objection.

10. This request is a continuing one. If, after producing the requested Documents, you obtain or become aware of any further Documents responsive to this request or if additional

information you or any persons acting on your behalf obtain would augment, clarify, or otherwise modify your responses, you are required to supplement your responses and produce such additional Documents.

11. Unless otherwise specified, the period of time covered by this subpoena is from March 23, 2020 to the date the requested Documents are returned.

### **DOCUMENTS TO BE PRODUCED**

1. All documents, including but not limited to word documents, pdfs, electronic mail, instant messages, or any other forms of communication located in the electronic files, mailboxes, servers, or other electronic document repository of the individuals listed below in part (a), which contain one or more of the search terms listed below in part (b).

a. Custodians:

- i. Lovely Warren
- ii. James Smith
- iii. Alex Yudelson
- iv. Tim Curtin
- v. Stephanie Prince
- vi. Shani Curry Mitchell
- vii. Patrick Beath
- viii. Justin Roj
- ix. Ted Capuano
- x. Laron Singletary
- xi. Mark Simmons

- xii. Mark Mura
- xiii. Joseph Morabito
- xiv. Henry Favor
- xv. Fabian Rivera
- xvi. Elena Correia
- xvii. Frank Camp
- xviii. Jacqueline Schuman
- xix. Michael Magri
- xx. Josiah Harris
- xxi. Paul Ricotta
- xxii. Francisco Santiago
- xxiii. Andrew Specksgoor
- xxiv. Troy Taladay
- xxv. Mark Vaughn
- xxvi. Margarita Perez-Dunham
- xxvii. Michael Perkowski
- xxviii. Matt Ehlers

b. Search Terms:

- i. 061280
- ii. spit
- iii. Santiago

2. All documents, including but not limited to word documents, pdfs, electronic mail, instant messages, or any other forms of communication located in the electronic files,



mailboxes, servers, or other electronic document repository of the individuals listed below in part (a), which contain one or more of the search terms listed below in part (b).

a. Custodians:

- i. Loretta Scott
- ii. Willie Lightfoot
- iii. Malik Evans
- iv. Mitch Gruber
- v. LaShay Harris
- vi. Mary Lupien
- vii. Michael Patterson
- viii. Jose Peo
- ix. Jackie Ortiz
- x. B.J. Scanlon
- xi. Frank Umbrino
- xii. Steven Swetman,
- xiii. Flamur Zenelovic
- xiv. Wilfredo Carbonel
- xv. Brandon Gotahm
- xvi. Michael Houlihan
- xvii. James Laruez
- xviii. Matt Hill
- xix. Eric Weigel
- xx. Randy Benjamin

xxi. Lazlo Tordai

xxii. Hoang Kavanaugh

b. Search Term(s):

i. Prude

ii. Overdose

iii. OD

iv. PCP

v. phencyclidine

vi. BWC

vii. "Body worn camera"

viii. Restraint

ix. Asphyxia

x. Homicide

xi. "Jefferson Avenue"

xii. "Jefferson Ave"

xiii. DP

xiv. EDP

xv. "Excited delirium"

xvi. "Resisting arrest"

xvii. MHA

xviii. "Mental Hygiene Arrest"

xix. Elliot

xx. Shields

- xxi. "Elliot Dolby-Shields"
- xxii. Vaughn
- xxiii. Taladay
- xxiv. 061280
- xxv. spit
- xxvi. Santiago