

**AMNESTY  
INTERNATIONAL**



Cynthia Herriott-Sullivan  
Chief of Police, Interim  
Rochester Police Department  
City Public Safety Building  
185 Exchange Boulevard  
Rochester, NY 14614  
USA

**CASE OF NINE-YEAR-OLD CHILD USE OF PEPPER SPRAY BY ROCHESTER POLICE OFFICER**

4 February 2021

Dear Chief Herriott-Sullivan:

Amnesty International<sup>1</sup> is writing to you to convey its deep concern regarding the use of chemical irritants on a 9-year-old child by officers of the Rochester Police Department (RPD) on 29 January 2021. We urge your office to undertake a prompt, thorough, independent and impartial investigation into the circumstances on the use of force in this case and that you keep the family and representatives of the child updated on the investigation's progress. Due to the nature of this case and the previous issues in responding to individuals in a state of crisis, such as the death of Daniel Prude in March of 2020, Amnesty International urges a top-to-bottom review of the RPD's use of force policies and training on the use of chemical irritants and how RPD officers interact with children and those in a state of crisis.

Amnesty International is concerned about the use of force by RPD officers in this instance and whether de-escalation or the use of other tactics, such as verbal communication, time and distance could have prevented the use of force in this incident. According to media reports, RPD officers responded to a call of a domestic disturbance, or as cited by officials as "family trouble", on 29 January. While little information is known about the circumstances of the disturbance, the released body camera videos show a 9-year-old child being initially detained by at least two RPD officers as they attempt to gain control of the situation. During the entire video, the child is crying and in a state of crisis, while calling for her father. After being forced onto her stomach on the snow-covered ground, the child is placed in rear-placed handcuffs, reportedly with the mother's permission, according to RPD official statements about the incident. At one point, an officer is heard telling her to "stop acting like a child," to which she cries, "I am a child." The officers then attempt to put the child in the back of their RPD patrol car, however she resists while placed approximately halfway into the back of the vehicle. After approximately two minutes of attempting to get the still crying child to fully comply with the officers, she asks to have the female officer help her. Initially, the female officer attempts to de-escalate the situation by trying to calm the child and telling her she will try and get her father for her, while another officer can be overheard on the video stating to the child, "Get in the car, I'm done telling you, get in the car." While the video does not show what exactly is happening to the child in the car, she can be heard screaming while an officer can be

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<sup>1</sup> Amnesty International is a global movement of more than ten million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights. We have hundreds of thousands of supporters, members and activists in the U.S. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

heard stating, “Get in the car then.” As the child refuses to sit back into the vehicle, complaining about the handcuffs, the female officer can be seen and heard stating that she will use pepper spray if the child does not comply. As the officers attempt to force her into the car for the last time and the child continues to resist and scream, a male officer can be heard stating, “Just spray her at this point.” At this point the female officer can be seen grabbing her pepper spray cannister, and the officer whose body camera recording is available can likewise be seen grabbing his pepper spray cannister. It’s unclear from the video exactly which officer deployed the pepper spray, but the child can be heard screaming in response as the female officer forces the child completely into the car and closes the door, while the male officer closes the other back door to trap the child inside the back of the vehicle. The child can be heard yelling, “wipe my eyes, wipe my eyes, please,” before both back doors are closed on her and she is then left in the back of the police vehicle, having just been pepper sprayed in the eyes and face, with her arms handcuffed behind her back, unable to wipe the chemical irritants from her face, and is left to sit like that for an unknown amount of time as the video ends a few seconds later. While RPD established a Person in Crisis Team, a unit developed to respond to cases involving mental health issues following the death of Daniel Prude, the teams were unable to respond to this specific incident due to other calls at the same time, according to a statement from Mayor Lovely Warren. According to your statement issued on 2 February, one officer has since been suspended, and two others were placed on administrative leave pending the outcome of the internal investigation into the events on 29 January.

Pepper spray, or oleoresin capsicum spray, while considered a less-lethal tool for law enforcement purposes, can cause serious injury or adverse effects under certain conditions. The use of such devices must be strictly controlled and officers must be specifically trained on their use and effects. The use of a chemical irritant such as pepper spray in this incident cannot be seen as a justifiable use of force. Pepper spray and other less-lethal should not be used on certain populations or under certain conditions and should only be used when necessary and proportional to a specific threat, in service of a legitimate law enforcement objective. There is not in this instance nor should there ever be a justification for the degree of force used on a non-compliant handcuffed 9-year-old child. Not only was the child restrained with her arms behind her back when the pepper spray was used – and therefore unable to wipe the irritants from her face and eyes – the video shows the officers close the doors of the vehicle, locking her inside a space where pepper spray was just deployed. It is unclear from the video or other reporting exactly how long the child was locked in the vehicle in this condition. While the video does not show whether steps were then taken to provide assistance to the child or if the officers took steps to allow for the irritant to disperse from the vehicle, the use of chemical irritants in such a manner and exposure for a prolonged period of time appears to constitute ill-treatment, in violation of the international prohibition on torture and other ill-treatment.

Amnesty International seeks your assurance that the investigation into this incident will conform to the highest standards for investigating officer-involved use of force, and that all relevant evidence, including any official and bystander videos of the incident, medical records and witness testimony, will be made available to it. The family and representatives of the young child should be updated on the progress of the investigation throughout. We also seek your assurance that any officer found responsible for unlawful use of force will be held accountable in disciplinary and criminal proceedings as appropriate.

The incident from 29 January raises serious concerns about the policies and training of RPD officers on the use of force and restraints, de-escalation and responding to incidents involving vulnerable populations such as children or people in crisis. This incident follows on the heels of two other very disturbing incidents involving the use of restraints on vulnerable individuals in 2020. For instance, in

May 2020, RPD officers placed a ten-year-old child in handcuffs after asking her to exit a vehicle following a traffic stop for a broken taillight alongside a busy highway. Likewise, in March 2020, Daniel Prude, an unarmed Black man, died after being hooded by RPD officers and held face down for two minutes following a call for help when he was in mental health crisis. Due to the nature and severity of these three incidents, it is imperative that your office conduct a thorough review and evaluation of RPDs polices and training on the use of force, including the use of chemical irritants, the use of restraints, and responding to incidents involving children and individuals in crisis.

Considering the nature of this incident and the age of the child involved, it is imperative that your office conduct its investigation into this incident promptly, thoroughly, independently and impartially and that your office keeps the family and representatives of the child updated on its progress. We also seek your assurances that your office will conduct a thorough review of all of the policies and training of RPD officers on the use of force, the use of restraints, de-escalation and on responding to incidents involving children and individuals in crisis.

I thank you for your serious consideration of our concerns, we look forward to your response.

Yours sincerely,



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