

CITY COURT OF THE CITY OF NEW ROCHELLE  
COUNTY OF WESTCHESTER

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THE PEOPLE OF THE STATE OF NEW YORK

**MISDEMEANOR  
COMPLAINT**

v.

**MICHAEL VACCARO**



Defendant

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BE IT KNOWN that the complainant herein: Senior Criminal Investigator Mark Hackett of the Westchester County District Attorney's Office, Westchester County, New York, accuses the defendant, Michael Vaccaro, of the following offense(s) committed in the vicinity of 635 Main Street, in the City of New Rochelle, on or about February 15, 2021, at approximately 12:45 PM.

**COUNT ONE:** The Offense of ATTEMPTED ASSAULT IN THE THIRD DEGREE, a violation of Penal Law 110.00/120.00(1) BM3.

The defendant, at the above date, time, and place, did, with intent to cause physical injury to another person, attempt to cause such injury to such person or to a third person.

**To wit:** at the above date, time and place, the defendant, an off-duty detective employed by the New Rochelle Police Department, struck Malik Fogg (Fogg) several times about the head with a closed fist and kicked Fogg about the body.

**COUNT TWO:** The Offense of ATTEMPTED ASSAULT IN THE THIRD DEGREE, a violation of Penal Law 110.00/120.00(1) BM3.

The defendant, at the above date, time and place, did, with intent to cause physical injury to another person, attempt to cause such injury to such person or to a third person.

**To wit:** at the above date, time and place, the defendant, an off-duty detective employed by the New Rochelle Police Department, forced Fogg's head and face into a cement sidewalk.

The offenses were committed under these circumstances:

1. The complaint and allegations of fact contained herein are based on direct knowledge and upon information and belief, the sources of which include, but are not limited to, my review of police reports, video surveillance, a cellphone video recording, and audio recordings made to, and provided by, the New Rochelle Police Department (NRPD). I have not

included every fact known to me from my review of these materials and information, but rather set forth only those facts that I believe are sufficient to establish this complaint.

2. From my review of the above-described records, I am aware that Fogg was arrested by the NRPD in the vicinity of 635 Main Street on February 15, 2021, for Reckless Endangerment in the Second Degree (PL 120.20), Stalking in the Third Degree (PL 120.50(3)), Criminal Mischief in the Fourth Degree (PL 145.00), Harassment in the Second Degree (PL 240.26(3)), and New York State Vehicle and Traffic Law (VTL) violations.
3. I reviewed a recorded telephone call made by the NRPD placed to [REDACTED] on February 15, 2021, at approximately 12:39 PM, during which [REDACTED] alleged that while [REDACTED] was driving, Fogg attempted to strike [REDACTED] car with his black Jeep Grand Cherokee. I reviewed two recorded telephone calls to the NRPD, made by defendant, a detective employed by the NRPD who was off-duty during the incidents described herein, the first of which began at approximately 12:40 PM and ended at approximately 12:41 PM, to report Fogg's actions and request officers to respond.<sup>1</sup> Additionally, I reviewed surveillance footage from a SuperGas station located at 720 Main Street (at the intersection of Woodland Avenue), in New Rochelle (SuperGas), obtained by the NRPD during the course of its investigation, that recorded the interaction between Fogg and [REDACTED]<sup>2</sup>
4. Based on my review of surveillance video from SuperGas, I observed the following:

At approximately 12:37 PM on February 15, 2021, a white Acura sedan arrived at SuperGas and parked at a gas pump. At approximately 12:41 PM, a white Jeep Grand Cherokee followed closely by a black Jeep Grand Cherokee entered the SuperGas parking lot from Woodland Avenue. Both vehicles parked side-by-side within the parking lot along Main Street. Fogg then exited the driver's side of the black Jeep, walked toward the white Jeep, and hit the white Jeep's windshield with the open palm of his right hand. The white Jeep then departed from the SuperGas parking lot and Fogg walked back to the black Jeep. Prior to entering the driver's side of the black Jeep, Fogg directed his attention to the white Acura. The white Acura quickly departed from the gas pump onto Main Street as Fogg walked quickly toward the white Acura. The white Acura then turned right onto Woodland Avenue from Main Street as Fogg returned to the driver's side of the black Jeep and pulled out of the SuperGas parking lot onto Woodland Avenue.

5. I reviewed the defendant's recorded call to the NRPD that was initiated at approximately 12:40 PM. During the ensuing conversation, the defendant stated: "Yo, send somebody to 719 Main Street, you got some guy that just tried to come after me and ... Yeah, some guy, they were fighting ... Nah, he came after me, there was a dispute and I was recording him

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<sup>1</sup> A copy of these recorded telephone calls made to the NRPD are attached to this complaint as "Exhibit A."

<sup>2</sup> A copy of this video surveillance footage from SuperGas is attached to this complaint as "Exhibit B."

and he fucking, he came after me, I just got into an accident ... Mike Vaccaro.” During a subsequent second call the defendant placed to NRPD, he stated: “Yeah I’m off duty. You got this guy following me, he’s coming after me, send somebody over here ... West Junction, West Junction. Mike Vaccaro ... You got a black Jeep Cherokee, he fucking—he just tried to crash into me ... Now we’re going down Pintard, down Pintard, he’s coming after me.” The defendant further informed the dispatcher that he was driving a white Acura. The recording continued until approximately 12:53 PM.

6. I am informed by Lieutenant Neil Reynolds, assigned to NRPD Internal Affairs, that video footage of Fogg’s arrest in the vicinity of 635 Main Street, in New Rochelle, was captured on a cellphone by a witness and was obtained by the NRPD during the course of its investigation.<sup>3</sup> I am further informed by Lieutenant Reynolds that the individual observed in the footage exiting the white Acura in the vicinity of 635 Main Street at approximately 12:44 PM is the defendant.
7. I reviewed the video footage described in paragraph 6 and observed the following:
  - a. A uniformed officer, Police Officer (PO) Matthew Velasco, arrived in the vicinity of 635 Main Street and approached Fogg who was walking northeast on Main Street toward a white Acura, the defendant’s vehicle. PO Velasco directed Fogg to the sidewalk and away from the defendant’s vehicle and pushed him backward down the sidewalk. The defendant exited his vehicle and followed behind PO Velasco and Fogg. As PO Velasco walked with Fogg down the sidewalk, Fogg yelled profanities at the defendant and stated that the defendant “had no right to record” him.
  - b. PO Velasco placed Fogg against the rear of a parked vehicle and attempted to restrain Fogg by pulling Fogg’s hands behind his back. The defendant approached Fogg, grabbed Fogg’s left arm, and struck him on the head two times with a closed fist. The defendant attempted to strike Fogg with a closed fist a third time, missed, and made contact with the parked vehicle Fogg had been placed against by PO Velasco. At this time, a second uniformed officer, PO Scott Wallach, arrived to the scene. As Fogg pulled to move away from the defendant, defendant followed and kicked his leg in the direction of Fogg’s body. PO Velasco pushed the defendant into the street, away from Fogg, and PO Wallach pushed Fogg onto the sidewalk, at which time Fogg raised both of his hands into the air.
  - c. PO Wallach drew his taser and pointed it at Fogg. In response, Fogg lowered himself to one knee on the sidewalk. Once PO Velasco was able to place Fogg’s arms behind his back, the defendant approached Fogg, grabbed Fogg’s head, and used both hands to force Fogg’s head into the sidewalk for approximately twelve (12) seconds, until additional uniformed officers arrived to the scene.

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<sup>3</sup> A copy of this cellphone video footage is attached to this complaint as “Exhibit C.”

8. As described in paragraph 5, I reviewed the defendant's second recorded call to the NRPD, which he initiated at approximately 12:41 PM, to report Fogg's actions and request officers. This communication lasted for approximately nine minutes and eight seconds after PO Velasco arrived on scene. I observed from the recorded audio that, after Fogg was taken into custody, the defendant stated in substance "I fucking hit him in the face" and "Dude, I'm not going to lie to you, I fucking hit him...."

The above allegation(s) of fact are made by the complainant herein on direct knowledge.

**NOTICE: PURSUANT TO THE PENAL LAW §210.45, IT IS A CRIME PUNISHABLE AS A CLASS A MISDEMEANOR TO KNOWINGLY MAKE A FALSE STATEMENT HEREIN.**

June 17, 2021

Sr. clm. Mark Hackett  
Mark Hackett