INTRODUCTION

Pursuant to § 18-11 of the Charter of the City of Rochester, and in the interest of public accountability, the Police Accountability Board has made the following investigative report public. It has been redacted so as not to disclose the identities of the officers and civilians involved.

Pursuant to *Rochester Police Locust Club, Inc. v. City of Rochester*, 41 N.Y.3d 156 (2023), Rochester Police Officers can only be disciplined by the Rochester Police Department. Accordingly, where a finding of police misconduct has been sustained by the Board, the PAB issues disciplinary recommendations to the Chief based on our Disciplinary Matrix.

The final Board decision as to the PAB determination of misconduct and recommended discipline are followed by the investigatory report prepared by PAB staff.

BOARD DECISION

Public Tracking Number (PTN): 2022-0049

Date of Panel Review: November 27, 2023

Board Members Present: [redacted]

Case Findings: Not Sustained

Disciplinary Recommendation: N/A.

Dissenting Opinion/Comment: N/A.

DEFINITIONS

Exonerated: A finding at the conclusion of an investigation that either the alleged act did not occur, or that although the act at issue occurred, the subject officer's actions were lawful and proper and within the scope of the subject officer's authority under police department guidelines.

Not Sustained: A finding at the conclusion of an investigation that there is insufficient evidence to establish whether an act of misconduct occurred.

Sustained: A finding at the conclusion of an investigation by a preponderance of the evidence that the subject officer committed the act charged in the allegation and that it amounted to misconduct.

Closed: Vote to close the case.

Officer [redacted] - Allegation # 1:

RPD GO 401 Investigative Process, Failure to act.

- **Does the Board Agree with the Findings of Fact?** Yes
- **Does the Board Agree with the Substantiated Evidence of Misconduct?**
- **Does the Board Agree with the Proposed Disciplinary Action?**

Lieutenant [redacted] - Allegation # 2:

RPD GO 401 Investigative Process, Failure to act.

- **Does the Board Agree with the Findings of Fact?** Yes
- **Does the Board Agree with the Substantiated Evidence of Misconduct?**
- **Does the Board Agree with the Proposed Disciplinary Action?**

City of Rochester
Police Accountability Board
Established 2019

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Rochester, NY 14604

CLOSING REPORT

STATEMENT OF AUTHORITY

Article XVIII of the Rochester City Charter defines the authority and duties of the Police Accountability Board. Pursuant to § 18-1, "The Police Accountability Board shall be the mechanism to investigate such complaints of police misconduct and to review and assess Rochester Police Department patterns, practices, policies, and procedure...The Police Accountability Board shall provide a nonexclusive alternative to civil litigation."

BACKGROUND INFORMATION

PARTIES

REPORTER/ WITNESS NAMES TO BE REDACTED IF PUBLICLY DISTRIBUTED

Reporter Information:

Name: [redacted]
Address: [redacted]
[redacted]

CASE INITIATION

Introduction/Description of Report:

The reporter stated that [redacted] had called the police several times about an alleged 24-hour drug ring at the corner store (Quintana Mini Mart) across the street from [redacted] 14609. The reporter stated that she had asked the police to do something about the alleged drug activity, but nothing has been done; instead, [redacted] concern(s) are treated as a noise complaint. The reporter stated that because of drug-related activity at the corner store, [redacted] now, the reporter is concerned about [redacted] safety. Regarding the July 7, 2022 incident, the reporter stated that drug activity occurred when [redacted] called the police three times after midnight: the reporter indicated that [redacted] spoke to Officer [redacted] and Lieutenant [redacted] over the phone, but nothing was done.

Allegations:

Failure to Act, RPD GO 401 Investigative Process

Case Summary:

Investigatory Question(s):

1. When was the initial 911 call made? 2. What prompted the calls for service? 3. How many times were calls placed to 911? 4. Did officers show up? 5. When did officers show up? 6. How many officers showed up? 7. What are the names of the officers that showed up? 8. When/if officers showed up, what happened? 9. How long did you wait for officers to show up?

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INVESTIGATION

See appendix for investigative process

ANALYSIS

The facts submitted within this report (PTN 2022-049) indicates that the alleged misconduct could not be determined due to insufficient evidence. The Police Accountability Board (PAB) requested personnel files for involved officers (including disciplinary records).

Due to not receiving police report(s), or disciplinary and training records of Officer [redacted] and Lieutenant [redacted], the PAB sent a secondary request to RPD requesting these documents again. RPD responded stating that they would need further information on the reporter [redacted] such as DOB, address etc. to search for more information. Therefore, the PAB reached out to the reporter on January 19, 2023 at 9:44am via phone number provided. Again on January 25, 2023 at 2:11pm via phone number provided. Again on February 23, 2023 at 10:41am via phone number provided. Lastly, on March 17, 2023 at 9:51 am via phone number provided. Each time the phone rang and the PAB was unable to leave a voice message. The PAB made attempts to the reporter to check with them and see if they were ok with providing this information to RPD. Each attempt was unsuccessful in reaching the reporter and as a result, the PAB's recommendation is to close the case with the possibility of re-opening if the reporter wishes to in the near future.

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FINDINGS OF FACT AND RECOMMENDATIONS

*The Findings are a written explanation of the Decision. The Findings section contains misconduct analyses for each relevant law, rule, or standard using the **substantial evidence standard.** Substantial evidence means the quantity and quality of evidence that would be deemed sufficient by a neutral, detached, and reasonable person, to establish the fact at issue when the consequences resulting from the establishment of that fact are understood to be serious and of great importance.*

Based on the substantial evidence standard, and the evidence obtained and reviewed during this investigation, the following Findings of Fact are issued:

Officer	Allegation	Finding/Recommendation
RPD [redacted], RPD Officer [redacted]	RPD GO 401 Investigative Process, Failure to act	Not sustained