



## 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):** 2022-0025

**Date of Panel Review:** 15-Aug-2024 4:00 PM (EDT)

**Board Members Present:** [REDACTED]

**Case Findings:**

Exonerated: Allegations 1 and 2.

Sustained: Allegation 3

**Disciplinary Recommendation:**

1. Officer [REDACTED] 10 day suspension

**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 Name- Allegation # 1:**

Officer [REDACTED] : General Order 401 (Preliminary/Follow Up Investigations): Officer [REDACTED] did not complete a thorough investigation into the destruction of [REDACTED] and [REDACTED] vehicle.

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

**Officer Name- Allegation # 2:**

Officer [REDACTED] Rules and Regulations 4.2 (Courtesy): Officer [REDACTED] was discourteous in his interaction with [REDACTED] and [REDACTED]

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

**Officer Name- Allegation # 3:**

Officer [REDACTED] Body Worn Camera Policy (Recording Requirements and Restrictions): Officer [REDACTED] did not activate [REDACTED] body worn camera during [REDACTED] interaction with [REDACTED] and [REDACTED]

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



---

## 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.”**

---

---

### EXECUTIVE SUMMARY

---

The following events took place on May 27, 2022, at approximately 3:30 pm, at or near [REDACTED], Rochester, New York, 14606.

On the above mentioned date and time, reporter, [REDACTED] and [REDACTED] witnessed their car being vandalized by [REDACTED] and [REDACTED]. [REDACTED] called 911 on three separate occasions to report the incident. [REDACTED] also placed a call to 911 to report the incident. A Rochester Police Department Officer was then dispatched to the address provided by [REDACTED]. When the officer arrived, neither [REDACTED] nor [REDACTED] were at the given location and no further contact was made between [REDACTED] and members of law enforcement on May 27, 2022.

[REDACTED] unaware of the previous dispatch attempt, contacted 911 again on May 28, 2022, to inform dispatch that no one responded to her call. Officer [REDACTED] and Officer [REDACTED] were then dispatched to her address. Once at [REDACTED] home, Officer [REDACTED] and Officer [REDACTED] viewed the damage to the vehicle and spoke with [REDACTED] and [REDACTED] in an attempt to get the details of what happened. [REDACTED] provided details of the situation and asked that a police report be completed so that he may follow up with his insurance company.

Shortly after, [REDACTED] contacted the Police Accountability Board to report her interaction with Officer [REDACTED] and Officer [REDACTED]. [REDACTED] did not have any specific concerns regarding Officer [REDACTED] however, [REDACTED] stated that Officer [REDACTED] appearing as the primary officer on the scene, did not conduct a thorough investigation by failing to provide [REDACTED] with a police report, and also that Officer [REDACTED] was discourteous in his interactions with both [REDACTED] and [REDACTED].


**PAB**

City of Rochester  
Police Accountability Board  
Established 2019

245 E. Main Street  
Rochester, NY 14604

### INVOLVED OFFICERS

he					
	Officer Rank	Badge/Employee #	Date of Appointment	Sex	Race/Ethnicity

### INVOLVED INDIVIDUALS

Name	Age	Sex	Race/ Ethnicity

### ALLEGATIONS

1	Officer [REDACTED]	General Order 401 (Preliminary/Follow Up Investigations): Officer [REDACTED] did not complete a thorough investigation into the destruction of [REDACTED] and [REDACTED] vehicle.
2	Officer [REDACTED]	Rules and Regulations 4.2 (Courtesy): Officer [REDACTED] was discourteous in his interaction with [REDACTED] and [REDACTED]
3	Officer [REDACTED]	Body Worn Camera Policy (Recording Requirements and Restrictions): Officer [REDACTED] did not activate her body worn camera during her interaction with [REDACTED] and [REDACTED]

### INVESTIGATION

Reporter [REDACTED] filed a complaint with the Police Accountability Board on June 22, 2022.





# PAB

City of Rochester  
Police Accountability Board  
Established 2019

245 E. Main Street  
Rochester, NY 14604

The Police Accountability Board notified the Rochester Police Department of its investigation and requested corresponding documents to which the Rochester Police Department responded on September 16, 2022, seeking clarifying information.

The Police Accountability Board provided clarifying information and submitted a second request for information on December 1, 2022.

The Rochester Police Department responded on December 21, 2022, and provided the Police Accountability Board with one incident report, one report detailing the disciplinary history of Officer [REDACTED] nine computer aided dispatch reports, four photographs and four body camera videos.

The incident report listed [REDACTED] as the victim and detailed the damage that was done to his vehicle at the hands of [REDACTED]. The provided disciplinary record stated that there have been no citizen complaints lodged against Officer [REDACTED]. The computer aided dispatch reports documented the calls placed to 911 by [REDACTED] stating that someone was in the process of damaging her vehicle. The four photographs are of the damage done to the [REDACTED] vehicle. The body camera footage showed [REDACTED] explaining to Officer [REDACTED] how his vehicle became damaged.

An in person interview was conducted with [REDACTED] on May 2, 2024, by the Police Accountability Board. During this interview, [REDACTED] stated that Officer [REDACTED] was discourteous and conducted an insufficient investigation.

An in person interview was conducted with [REDACTED] on July 3, 2024, by the Police Accountability Board. During this interview, [REDACTED] stated that Officer [REDACTED] displayed a nonchalant demeanor and also that he failed to provide [REDACTED] with the requested police report.

## EVIDENCE PROVIDED

Evidence	Description	Provided by	Filename
Intake Report	[REDACTED] initial report	[REDACTED]	<a href="#">i-Sight   Case 2022-0025   Details   Overview</a>
Request for Information	Updated Request for Information Form	Police Accountability Board	<a href="#">S-SharePoint File Transfer - SOI - 2022-024 secondary RPD response.pdf - All Documents</a>



City of Rochester  
**Police Accountability Board**  
 Established 2019

245 E. Main Street  
 Rochester, NY 14604

Evidence	Description	Provided by	Filename
Request for Information Response	Incident Report	Rochester Police Department	<a href="#">S-SharePoint File Transfer - Incident Report 22-106215.pdf - All Documents</a>
Request for Information Response	Officer [REDACTED] Disciplinary History	Rochester Police Department	<a href="#">S-SharePoint File Transfer - [REDACTED] Concise.pdf - All Documents</a>
Request for Information Response	Computer Aided Dispatch Reports	Rochester Police Department	<a href="#">S-SharePoint File Transfer - CAD reports - All Documents</a>
Request for Information Response	Photographs and Videos	Rochester Police Department	<a href="#">S-SharePoint File Transfer - [REDACTED] - All Documents</a>
Audio and Visual Interview	Interview with [REDACTED]	Police Accountability Board	<a href="#">IMG_0035.MOV (sharepoint.com)</a>
Audio and Visual Interview	Interview with [REDACTED]	Police Accountability Board	<a href="#">IMG_0005.MOV (sharepoint.com)</a>

### EVIDENCE DENIED

Evidence	Description	Reason declined
Body Camera Footage for Officer [REDACTED]	Request from the Police Accountability Board to the Rochester Police Department	None exists.
Formal Officer Statement	Request from the Police Accountability Board to the Rochester Police Department	Officers refused to speak with the Police Accountability Board, citing their Collective Bargaining Agreement.

### APPLICABLE RULES & LAWS

#### Rochester Police Department General Orders



## 401 INVESTIGATIONS PROCESS<sup>1</sup>

B. Members of the Rochester Police Department (RPD) will:

1. Comply with all legal and constitutional requirements applicable during criminal investigations.
2. Conduct vigorous and thorough investigations of all offenses observed or brought to their attention.
3. Employ the procedures of Preliminary Investigation and Continued Investigations, as applicable.

C. The RPD Crime/Incident Scene Log, RPD 1237 (Attachment A) will be used to document who has entered a crime/incident scene that has been cordoned off, to include the time in and out, the reason for entering and the person's signature. RPD 1237 will become a part of the investigative case package.

D. The Law Enforcement Records Management System (LERMS) is the official Records Management System of the RPD. All merging will occur in the Technical Services Section (TSS) or by any other authorized personnel.

E. Special Investigation Section (SIS) – The SIS Standard Operating Procedure (SOP) Manual will govern their investigative filing system regarding reports and records relating to active intelligence information, and vice, drug and organized crime investigations. The system is maintained in a secure area separate from the Department's Records Management System. The SIS SOP Manual will outline procedures for:

1. Receiving and processing complaints;
2. Maintaining a record of complaints received;
3. Maintaining a record of information conveyed to, and received from, outside agencies, and
4. Safeguarding of intelligence information.

---

<sup>1</sup> The Investigations Process policy has been condensed for the purposes of this document. The entirety of which may be found at [GO 401 Investigation Process | Rochester, NY Police Department Open Data Portal \(arcgis.com\)](#).





### III. PRELIMINARY PROCEDURES

#### A. Members will:

1. Proceed to the incident scene immediately, but cautiously, being alert for possible suspect(s), suspect vehicle(s) or witnesses;
2. Upon arrival, provide aid and comfort to the victim(s), observe all conditions, events and remarks, and secure the scene to maintain and protect physical evidence, utilizing yellow crime scene tape, as applicable;
3. When possible, use an issued camera to photograph a major scene prior to the arrival of an Evidence Technician, Fire Department, EMT, etc.;
4. Locate, identify and separate witnesses;
5. Remove everyone from a scene once it has been stabilized and requires processing by an Evidence Technician;
6. When utilizing crime scene tape, secure the inner perimeter of the scene or access to the scene by attaching two strands (approximately three feet apart) of red crime scene tape to the yellow crime scene tape;
7. Utilize the Crime/Incident Scene Log, RPD 1237, when assigned to the entrance/exit point of a scene, which has been established by a supervisor or technician; Note: Only an Evidence Technician will escort essential personnel to gain access within a cordoned off scene which has not been completely processed.
8. Interview the complainant, witness(es) and suspects;
9. Transmit to other police units information of immediate relevance directed at intercepting the suspect(s) or suspect(s) vehicle;
10. Perform a thorough crime scene search for evidence and arrange for the preservation and collection of evidence, utilizing an issued camera when possible; Note: Inform Evidence Technicians of what items were handled for elimination purposes.
11. Focus investigative efforts on the search for solvability factors as outlined in Section IV. of this Order;
12. Obtain and record a complete description (serial numbers, model, colors, etc.) of the crime and property taken or damaged;
13. Expend the amount of time necessary to conduct a thorough preliminary investigation, bounded by the character of inquiry appropriate in each case and supervisory approval;
14. Continue the preliminary investigation until:
  - a) All useful information has been obtained from the complainant, victim(s), witness(es), neighbors and other people present in the area;
  - b) Supporting depositions are taken from all victim(s) and witness(es) on arrest cases, field follow-up cases or any case of a stolen vehicle or firearm;



- c) All useful evidence has been identified and preserved at the crime scene and in the immediate area.

15. At the conclusion of the preliminary investigation:

Complete an Incident Report (IR) carefully recording in the narrative a complete summary of what took place during the alleged crime being reported and record all of the investigative steps taken, along with the outcome of those steps;

## **Rochester Police Department Rules and Regulations**

### 4.2 COURTESY

- a) Employees shall be courteous, civil and tactful in the performance of their duties.
- b) Employees shall not express or otherwise manifest any prejudice concerning age, marital status, handicap, disability, race, creed, color, religion, national or ethnic origin, sex, sexual preference, or other personal characteristics.
- c) Employees shall not use harsh, profane, insolent, or intentionally insulting language toward any other employee or other person.

## **Rochester Police Department Body Worn Camera Manual**

### **IV. Recording Requirements and Restrictions<sup>2</sup>**

A. Members assigned a BWC will activate it and record all activities, and all contact with persons, in the course of performing police duties as soon as it is safe and practical to do so, as set forth in this Manual.

- 1. Members will activate and record with the BWC preferably upon being dispatched and prior to exiting their police vehicle, or prior to commencing any activity if on foot patrol, as set forth below.
- 2. Members will immediately activate the BWC when required unless it is not safe and practical, i.e., the member cannot immediately activate the BWC due to an imminent

---

<sup>2</sup> The body worn camera policy has been condensed for purposes of this document. The entirety of which may be viewed using the following link. [Body Worn Camera \(BWC\) Manual | Rochester, NY Police Department Open Data Portal \(arcgis.com\)](#)



threat to the member's safety, physical resistance, flight, or other factors rendering immediate activation impractical. In such cases, the member will activate the BWC as soon as possible.

B. **Mandatory BWC Recordings.** Members assigned a BWC will activate it and record all activities, and contact with persons, in the course of performing or when present at any enforcement activity, or upon direction of a supervisor. There are no exceptions to the requirement to record mandatory events.

1. "Enforcement activities" are:
  - a. arrests and prisoner transports (including issuance of appearance tickets and mental hygiene arrests);
  - b. pursuits (pursuit driving as defined by G.O. 530, Pursuit Driving, and foot pursuits);
    - i. Members will activate the BWC and record any involvement or assistance with a vehicle or foot pursuit, including direct involvement in the pursuit, deploying a tire deflation device, blocking traffic or taking a traffic point, paralleling, following from a distance, responding to the general area to provide assistance if needed, and responding to and while present at the apprehension/arrest site.
  - c. detentions/stops of persons and vehicles;
  - d. force.

C. **Standard BWC Recordings.** Unless a specific exception exists, members assigned a BWC will activate it and record all activities, and contact with persons, in the course of performing police duties. This includes all calls for service and self-initiated police activity unless listed as Optional below.

D. **Optional BWC Recording.** Unless a mandatory or standard event arises which must be recorded, members are not required to record the following activities with a BWC, but may do so if the member believes it serves a legitimate law enforcement purpose:

1. While driving or a passenger during routine vehicle patrol.
2. Traffic control and traffic points.



City of Rochester  
**Police Accountability Board**  
Established 2019

245 E. Main Street  
Rochester, NY 14604

---

3. Walking beats, directed patrol, corner posts, and special attention checks.
4. Completing reports when no longer in the presence of civilians (e.g., in a police car or in a police facility).
5. Interviewing cooperative victims, witnesses, and persons with knowledge in a private residence or a police facility.
6. Conducting general photo queries, photo arrays, and physical line-ups.
7. While conducting parking enforcement if no civilians are present.
8. Completing security surveys.
9. Conducting a neighborhood canvass.
10. During community or neighborhood meetings; or meetings of government bodies or agencies.
11. Routine walk-up requests for information or assistance (e.g., giving directions).
12. Civilian transports.

---

### **STANDARD OF PROOF**

---

The Police Accountability Board is tasked with determining whether or not sworn Rochester Police Department Officers have committed any actions in violation of department policies, department orders, or training. In order for a finding of misconduct to be considered sustained, the Police Accountability Board is authorized to use a “substantial evidence” standard of proof. See City of Rochester Charter § 18-5(I)(10).

Substantial evidence “is that which a reasonable mind might accept as adequate to support a conclusion”.

NLRB v. Int’l Bhd. of Elec. Workers, Local 48, 345 F.3d 1049, 1054 (9th Cir. 2003). This standard is met when there is enough relevant and credible evidence in the record as a whole that a reasonable person could support the conclusion made. See 4 CFR § 28.61(d).

Even though authorized, the Police Accountability Board of Rochester, New York, utilizes a preponderance of evidence, which is a much higher standard of proof. When utilizing the



City of Rochester  
Police Accountability Board  
Established 2019

245 E. Main Street  
Rochester, NY 14604

standard of a preponderance of the evidence “the relevant facts must be shown to be more likely true than not” [true]. United States v. Montano, 250 F.3d 709 (9th Cir. 2001). This is commonly understood to mean that there is at least a 51% chance that the allegations made are in fact true.

## ANALYSIS

The following findings are made based on the above standards:

Allegation 1: Officer [REDACTED] did not complete a thorough investigation into the destruction of [REDACTED] and [REDACTED] vehicle.

The Rochester Police Department’s General Order 401 states that Officers will conduct vigorous and thorough investigations of all offenses observed or brought to their attention.

On May 28, 2022, Officer [REDACTED] and Officer [REDACTED] went to the home of [REDACTED] in response to several calls that she placed to 911. Once there, Officer [REDACTED] and Officer [REDACTED] were met by [REDACTED] and also her husband [REDACTED] who informed the officers that their vehicle had been vandalized by [REDACTED] and her adult children. Officer [REDACTED] and Officer [REDACTED] all proceeded to the back of [REDACTED] home so that the officers could view the car. Once there, Officer [REDACTED] took four photographs of the damage using his body worn camera. Officer [REDACTED] then proceeded to converse with [REDACTED] and [REDACTED] for approximately fifteen minutes trying to obtain all of the details of the events that occurred the day prior. Once all of the information had been gathered, Officer [REDACTED] went to his patrol vehicle and completed a report (CR # 2022-00106215) and handed a copy to [REDACTED] and informed him that the report number was located on the paper. Officer [REDACTED] then told [REDACTED] and [REDACTED] that he will check with surrounding businesses to see if the vandalism was captured on video.

Officer [REDACTED] conducted an in-field interview with [REDACTED] and [REDACTED]. He also took pictures of the vehicle and offered to follow up further by checking for available video. Even though [REDACTED] and [REDACTED] alleged to have not received a police report, Officer [REDACTED] can be viewed on his body camera physically handing the report to [REDACTED]. Officer [REDACTED] completed a thorough investigation into the vandalism of the [REDACTED] vehicle.

*Allegation 1 against Officer [REDACTED] is exonerated.*

Allegation 2: Officer [REDACTED] was discourteous in his interaction with [REDACTED] and [REDACTED]





The Rochester Police Department's Rules and Regulations 4.2 states that Officers shall be courteous, civil, and tactful in the performance of their duties.

During his interaction with [REDACTED] and [REDACTED] Officer [REDACTED] made comments such as "You and your wife are not listening" and "You are saying multiple things". Officer [REDACTED] tone appeared mildly frustrated when making these comments. However, he did not raise his voice or exhibit any forms of disrespect.

During her interview, [REDACTED] alleges that Officer [REDACTED] was discourteous towards [REDACTED]. Although some of Officer [REDACTED] responses may be viewed as blunt, most severely when Officer [REDACTED] told [REDACTED] that his story was "all over the place", his tone and demeanor was not discourteous, uncivilized, or rude. Officer [REDACTED] was not discourteous in his interaction with [REDACTED] and [REDACTED].

*Allegation 2 against Officer [REDACTED] is exonerated.*

Allegation 3: Officer [REDACTED] did not activate her body worn camera during her interaction with [REDACTED] and [REDACTED].

The Rochester Police Department's Body Worn Camera Policy states that Officers are to activate their body worn camera and record all activities and all contact with persons unless an enumerated exception applies. Some exceptions which may override the necessity of standard body camera recording are: during routine traffic patrols, when completing reports and outside of the presence of civilians, and when interviewing cooperative victims in a private residence or police facility.

The entirety of the interaction between Officer [REDACTED] and [REDACTED] occurred outside of [REDACTED] home. After a thorough search of the Rochester Police Department's database, there is no record of Officer [REDACTED] body camera footage capturing this incident. Officer [REDACTED] did not activate her body worn camera during this interaction. Due to the location of the interaction, no RPD exception applies and the interaction between Officer [REDACTED] and [REDACTED] should have been captured on her body worn camera.

*Allegation 3 against Officer [REDACTED] is sustained.*



### RECOMMENDED FINDINGS

#	Officer	Allegation	Finding
1	Officer [REDACTED]	General Order 401 (Investigation Process): Officer [REDACTED] did not complete a thorough investigation into the destruction of [REDACTED] and [REDACTED] vehicle.	Exonerated
2	Officer [REDACTED]	Rules and Regulations 4.2 (Courtesy): Officer [REDACTED] was discourteous in his interaction with [REDACTED] and [REDACTED].	Exonerated
3	Officer [REDACTED]	Body Worn Camera Policy (Recording Requirements and Restrictions): Officer [REDACTED] did not activate her body worn camera during her interaction with [REDACTED] and [REDACTED].	Sustained

### RECOMMENDED DISCIPLINARY ACTION

### AUTHORITY

Article XVIII of the Rochester City Charter further requires that the Police Accountability Board create a “written, consistent, progressive and transparent tool or rubric” that “shall include clearly delineated penalty levels with ranges of sanctions which progressively increase based on the gravity of the misconduct and the number of prior sustained complaints.” This disciplinary matrix is a non-binding set of guidelines for the Police Accountability Board’s own recommendations regarding officer misconduct.

According to the matrix, the disciplinary history of an officer will be considered when assessing an appropriate penalty resulting from the current investigation. Prior discipline changes the presumptive penalties according to the matrix. Mitigating and aggravating factors



related to the misconduct may be considered when determining the level of discipline, so long as an explanation is provided.

Officer [REDACTED] has two sustained findings of officer misconduct associated with PTN 2023-0201. One is for failing to ensure that an injured or ill person is given medical attention (RPD Rules and Regs. 2.14) and one is for harsh, profane, insolent, and/or insulting language (RPD Rules and Regs. 4.2[c]). Because the allegations relating to PTN 2023-0201 post-date the current investigation, they are not being considered in the Recommended Disciplinary Action.

The Recommended Disciplinary Action based on the above Recommended Findings is as follows:

Sustained Allegation 3 against Officer [REDACTED]

Disciplinary Matrix Appendix

Misconduct	Level
Body Worn Camera Policy: Officers shall activate their body worn camera and record all activities and all contact with persons unless an enumerated exception applies.	3

- Recommended Level: 3 (“Pronounced negative impact to individuals, community, public perception of the agency or relationships with other officers, or agencies”)
- Recommended Discipline: **10 day suspension.**