



## 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.

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## BOARD DECISION

**Public Tracking Number (PTN):** 2023-0033

**Date of Panel Review:** 24-Oct-2024 5:30 PM (EDT)

**Board Members Present:** [REDACTED], [REDACTED], [REDACTED]

**Case Findings:**

Not Sustained: Allegations 1, 3, 5, 7

Exonerated: Allegations 2, 4, 6, 8

**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.



### Allegation # 1:

General Duties (2.1a) Officer [REDACTED] violated Rule and Regulation 2.1a by not arriving at the call at [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**
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### Allegation # 2:

General Duties (2.1b) Officer [REDACTED] violated Rule and Regulation 2.1b by not arriving at the call at [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**
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### Allegation # 3:

Respond when Directed (2.3) Officer [REDACTED] violated Rule and Regulation 2.3 by failing to respond to the 911 dispatch assignment.

- **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**
- 

### Allegation # 4:

Assistance to Citizens (2.13) Officer [REDACTED] violated Rule and Regulation 2.13 by not assisting with the incident at [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**



**Allegation # 5:**

General Duties (2.1a) Officer [REDACTED] violated Rule and Regulation 2.1a by not arriving at the call at [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**
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**Allegation # 6:**

General Duties (2.1b) Officer [REDACTED] violated Rule and Regulation 2.1b by not arriving at the call at [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**
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**Allegation # 7:**

Respond when Directed (2.3) Officer [REDACTED] violated Rule and Regulation 2.3 by failing to respond to the 911 dispatch assignment.

- **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**
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**Allegation # 8:**

Assistance to Citizens (2.13) Officer [REDACTED] violated Rule and Regulation 2.13 by not assisting with the incident at [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**



**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**

On 02/14/2023 at [REDACTED], NY 14613, multiple phone calls were placed to 911 between 5:35 pm and 7 pm regarding a family domestic incident that includes three people, one being a minor. The minor initially calls 911 stating their sibling has a knife. Minutes later the minor called again saying “hurry up” to 911 dispatch because the sibling has a knife, another call comes through saying windows were being broken and that the sibling still has a knife, before the sibling leaves the house with screaming in the background. 911 dispatch was able to get a description of the sibling with the knife although she left. On the 911 call, the knife is still in the sibling's possession. An ambulance was sent to the residence, and the minor had a broken finger and bite from the incident.

At 5:47 AMR arrives to treat the minor and the sibling with the knife is no longer there. At 7 pm the Rochester Police Department arrives at the location at 7:04, but the family is no longer there. The complaint regarding the incident is that the Rochester Police Department did not respond to the call in a timely fashion.

Identifier	Officer Name	Officer Rank	Badge/Employee #	Date of Appointment	Sex	Race/Ethnicity
Officer 1	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Officer 2	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]



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

245 E. Main Street  
 Rochester, NY 14604

Identifier	Name	Age	Sex	Race/ Ethnicity
Complainant 1	[REDACTED]	N/A	Female	N/A
Witness 1	[REDACTED]	18-24	Female	N/A
Witness 2	Minor	Under 18	N/A	N/A

**ALLEGATIONS**

1	[REDACTED]	General Duties (2.1a) Officer [REDACTED] violated Rule and Regulation 2.1a by not arriving at the call at [REDACTED]
2	[REDACTED]	General Duties (2.1b) Officer [REDACTED] violated Rule and Regulation 2.1b by not arriving at the call at [REDACTED]
3	[REDACTED]	Respond when Directed (2.3) Officer [REDACTED] violated Rule and Regulation 2.3 by failing to respond to the 911 dispatch assignment.
4	[REDACTED]	Assistance to Citizens (2.13) Officer [REDACTED] violated Rule and Regulation 2.13 by not assisting with the incident at [REDACTED]
5	[REDACTED]	General Duties (2.1a) Officer [REDACTED] violated Rule and Regulation 2.1a by not arriving at the call at [REDACTED]
6	[REDACTED]	General Duties (2.1b) Officer [REDACTED] violated Rule and Regulation 2.1b by not arriving at the call at [REDACTED]
7	[REDACTED]	Respond when Directed (2.3) Officer [REDACTED] violated Rule and Regulation 2.3 by failing to respond to the 911 dispatch assignment.
8	[REDACTED]	Assistance to Citizens (2.13) Officer [REDACTED] violated Rule and Regulation 2.13 by not assisting with the incident at [REDACTED]

**PAB**City of Rochester  
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## INVESTIGATION

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This incident occurred on 02/14/2023 and was reported to the Rochester Police Accountability Board on 02/15/2023. The Initial Notice of Investigation and Source of Information request was sent to the Rochester Police Department on 08/01/2023 and received a response on 08/01/2023 denying information due to Corporation Counsel requesting the complaint. The Initial Notification with the redacted complaint was sent on 09/26/2023, and a response was received on 09/26/23 with CAD cards only that depict the event through the log of calls to 911 and the dispatch time of the officers. Multiple attempts were made to contact the involved party for a statement, but attempts were not successful.

A second Source of Information request was sent on 11/14/23 for a list of officers and their schedule of those working the Lake section on [REDACTED] RPD requested further information as to how this request pertained to the scope of the investigation. The reason for requesting the schedule was to investigate a delay in response by identifying who was on the patrol beat in the section of [REDACTED] (SOI 2).

To understand the order of events the computer-aided dispatch (CAD) cards were analyzed. According to the [event, information](#) shows that four calls were made to 911 requesting assistance. AMR responded and arrived at 17:47 and RPD arrived at 19:04.

The third SOI response was to request RPD for follow-up information regarding how officers respond to the different types of calls, and the procedure of a longer wait (SOI 3). The response from RPD states how factors determine priority according to the supervisor. The last SOI was sent to RPD on 05/02/24 requesting a list of calls taken by Officers [REDACTED] and [REDACTED] on 02/14/23. The request was fulfilled and RPD provided the job log, showing the various jobs both officers arrived at leading up to the incident at [REDACTED] and after (SOI 4). Upon examining the job history of both Officer [REDACTED] and [REDACTED] there were several calls before [REDACTED] that the officers responded to. From the [job history](#) it shows that a call for a gunshot came in for Officer [REDACTED] at 6:03 at [REDACTED] and by 6:53 pm was responding to a call for an overdose on 312 Lake Ave, lastly at 18:59 a call for [REDACTED] was on the job history this call is occurring at the same time as the incident on [REDACTED]



### EVIDENCE REQUESTED

Evidence	Description	Provided by	Reason declined	Filename
NOI/SOI	Initial notification of investigation without the complaint	Cpt. Swetman	No complaint submitted	<a href="#">InitialNotification 2023-0033 RPD response 8-1-23.pdf</a>
NOI/SOI Resubmission	Initial notification of investigation with the complaint	Cpt. Swetman	N/A	<a href="#">InitialNotification 2023-0033-Resubmission RPD response Sent 9-26-23.pdf</a>
Second SOI and response	Request for the Lake section patrol schedule	Cpt. Swetman	N/A	<a href="#">SOI 2023-0033-02 RPD response 11-16-23.pdf</a>
Third SOI and response	Reason for requesting the patrol schedule	Cpt. Swetman	N/A	<a href="#">SOI 2023-0033-03 RPD response 11-30-23.pdf</a>
Fourth SOI and response	Response to third SOI	Cpt. Swetman	N/A	<a href="#">SOI 2023-0033-04 received RPD response 5-3-24.pdf</a>
Third Shift Patrol Schedule	Schedule and roster of all RPD officers on 3 <sup>rd</sup> shift lake section on 2/14/23	Cpt. Swetman	N/A	<a href="#">zECD Automated Report Lake 3rd 2-14-23.xlsx</a>
Officer Job History	Job history for the officer on the day of the incident	Cpt. Swetman	N/A	<a href="#">I NetViewer Unit History [REDACTED] page 2.pdf</a>
Officer Job History	Job history for the officer on	Cpt. Swetman	N/A	<a href="#">I NetViewer Unit History [REDACTED].pdf</a>





	the day of the incident			
Officer Job History	Job history for the officer on the day of the incident	Cpt. Swetman	N/A	<a href="#">I NetViewer Unit History [REDACTED].pg 1.pdf</a>
Officer Job History	Job history for the officer on the day of the incident	Cpt. Swetman	N/A	<a href="#">I NetViewer Unit History [REDACTED].pg 3.pdf</a>
CAD Card	Log of calls to 911 regarding the incident at [REDACTED]	Cpt. Swetman	N/A	<a href="#">I NetViewer Event Information.pdf</a>
CAD Card	Sequence of officer events regarding the incident	Cpt. Swetman	N/A	<a href="#">I NetViewer Event Unit.pdf</a>

**APPLICABLE RULES & LAWS**

**SECTION II – PERFORMANCE OF AND ATTENTION TO DUTY**

**2.1 GENERAL DUTIES**

a) Members shall protect life and property, preserve the peace, prevent violations of the law, detect and arrest violators of the law, and enforce those laws of the United States, the State of New York, and the local laws and Ordinances of the City of Rochester over which the Department has jurisdiction.

b) Employees shall competently perform their duties.

**2.3 RESPOND WHEN DIRECTED**

Employees shall respond to their duties as directed by established authority.

**2.13 ASSISTANCE TO CITIZENS**

Employees shall, in accordance with policies and procedures of the Department, render all possible police service to any citizen seeking information or assistance.



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## ANALYSIS

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### STANDARD OF PROOF

For the purpose of PAB's investigations, findings must be made pursuant to a "substantial evidence" standard of proof. City Charter 18-5(I)(10). 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)).

Substantial evidence means more than a mere scintilla but less than a preponderance; it means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. See *NLRB v. Int'l Bhd. of Elec. Workers, Local 48*, 345 F.3d 1049, 1054 (9th Cir. 2003); *De la Fuente II v. FDIC*, 332 F.3d 1208, 1220 (9th Cir. 2003). However, for the purposes of this case, the higher standard of by a preponderance of evidence is applied. Merriam Webster defines preponderance of evidences as, "The standard of proof in most civil cases in which the party bearing the burden of proof must present evidence which is more credible and convincing than that presented by the other party or which shows that the fact to be proven is more probable than not." (<https://www.merriam-webster.com/legal/preponderance%20of%20the%20evidence>). This is understood to be a greater than 50% chance that the claim is true ([https://www.law.cornell.edu/wex/preponderance\\_of\\_the\\_evidence#:~:text=Preponderance%20of%20the%20evidence%20is,that%20the%20claim%20is%20true](https://www.law.cornell.edu/wex/preponderance_of_the_evidence#:~:text=Preponderance%20of%20the%20evidence%20is,that%20the%20claim%20is%20true)).

### **ALLEGATION 1: General Duties (2.1a) Officer 1 violated Rule and Regulation 2.1a by not arriving faster to the call at [REDACTED]**

According to the rules and regulation the Rochester Police Department, all members must protect citizens, and prevent violations of the law. Witness 2 had a knife in the house and posed a threat to the other members of the household (Complainant 1 and Witness 2).

Based on the dispatch information, Officer 1 arrived two hours after the incident occurred. At that time, an individual was threatening people in the household with a knife, and caused serious injury to a minor. By the time Officer 1 arrived, Witness 2 was no longer there.

During the investigation process it was found through the [job history](#) a call regarding a gunshot came in at 6:03 at [REDACTED] and by 6:53 pm a call for an overdose was occurring at [REDACTED] Ave. Lastly, at 6:59 a call for [REDACTED] occurred at the same time as the incident on [REDACTED], all of which Officer 1 responded to. According to information from RPD, a call without a



subject and victims in stable condition at the scene makes a job less of a priority in comparison to a call with severely injured victims such as a gunshot or overdose victim.

There is no rule that gives specific guidance as to how quickly an officer must respond to a call. Based on the fact that Officer 1 was responding to two other serious calls that conflicted with [REDACTED] availability to respond to Complainant 1's call, *the allegation that [REDACTED] violated [REDACTED] general duty to protect citizens is recommended as Not Sustained.*

**ALLEGATION 2: General Duties (2.1b) Officer 1 violated Rule and Regulation 2.1b by not arriving faster to the call at [REDACTED]**

Rule and Regulation 2.1b (general duties) states that employees must perform competently. The complaint is regarding no arrival to the incident, but Officer 1 did arrive, not when the incident occurred, but after.

Although Officer 1 arrived two hours later, when they arrived, they attempted to make contact with the individuals at the home but they were not there. It appears that arriving two hours after an initial call is still considered acting within the policy of the RPD, it is the additional calls regarding an overdose and gunshot victim ([job history](#)) that are considered a higher priority leaving Officer 1 to choose what calls are to be gone to first that make it acceptable. Therefore, officer 1 acted competently. *Allegation 2 is recommended as Exonerated.*

**ALLEGATION 3: Respond when Directed (2.3) Officer 1 violated Rule and Regulation 2.3 by failing to respond to the 911 dispatch assignment.**

Rule and Regulation 2.3 (respond when directed) states that members of RPD must respond to duties assigned by established authority. The incident at [REDACTED] began with a call to 911 at 5:35 pm. From there, repeated phone calls to 911 came in requesting assistance as the incident began to escalate. Officer 1 was not dispatched to the incident until 7:00 P.M. In between there was a response from AMR (5:47) and then Officer 1 was dispatched later. By then it was made known to dispatch that the involved parties were no longer at the incident's location.

It is unclear what the process is of dispatch from 911 to officers beyond call prioritization, making it unclear why the dispatch of Officer 1 did not occur until 7 pm. Based on the [CAD card](#) it shows that RPD arrived when dispatched, but it is unclear if call prioritization is the sole reason why the officer arrived two hours after the initial call to 911. Accordingly, *Allegation 3 is recommended as Not Sustained.*

**ALLEGATION 4: Assistance to Citizens (2.13) Officer 1 violated Rule and Regulation 2.13 by not providing assistance to the incident at [REDACTED]:**



The rules regarding assisting citizen states, “Employees shall, in accordance with policies and procedures of the Department, render all possible police service to any citizen seeking information or assistance.”

When analyzing all collected data it can be seen that there is a time frame of two hours without a response from Officer 1. But it can be seen based on the provided dispatch information ([I\\_NetViewer\\_Event\\_Unit.pdf / I\\_NetViewer\\_Event\\_Information.pdf](#)) that Officer 1 did arrive at the scene of the incident. From the viewpoint of the involved party, it may appear that Officer 1 did not assist. Since Officer 1 arrived according to the CAD card, it can be said that assistance was attempted to be rendered, but that the involved party was not at the incident’s location at the time that Officer 1 responded. *Allegation 4 is recommended as Exonerated.*

**ALLEGATION 5: General Duties (2.1a) Officer 2 violated Rule and Regulation 2.1a by not arriving faster to the call at [REDACTED]**

According to the rules and regulation the Rochester Police Department, all members must protect citizens, and prevent violations of the law. Witness 2 had a knife in the house and posed a threat to the other members of the household (complainant and witness 2).

Based on the dispatch information, Officer 2 arrived two hours after the incident occurred. At that time an individual was threatening people in the household with a knife and caused serious injury to a minor. By the time Officer 2 arrived, Witness 2 was no longer there. The fact that RPD did not arrive at the scene for two hours does appear that there was a lack of protection and preservation of peace, however it can also be seen that leading up to the incident on [REDACTED], there were prior calls that took precedence.

During the investigation process it was found through the [job history](#) a call regarding a gunshot came in at 6:03 at [REDACTED] and by 6:53 pm a call for an overdose was occurring at [REDACTED] Ave. Lastly, at 6:59 a call for [REDACTED] occurred at the same time as the incident on [REDACTED], all of which Officer 2 responded to. According to information from RPD, a call without a subject and victims in stable condition at the scene makes a job less of a priority in comparison to a call with severely injured victims such as a gunshot or overdose victim.

There is no rule that gives specific guidance as to how quickly an officer must respond to a call. Based on the fact that Officer 2 was responding to two other serious calls that conflicted with [REDACTED] availability to respond to Complainant 1’s call, *the allegation that [REDACTED] violated [REDACTED] general duty to protect citizens is recommended as Not Sustained.*

**ALLEGATION 6: General Duties (2.1b) Officer 2 violated Rule and Regulation 2.1b by not arriving to the call at [REDACTED]**



Rule and Regulation 2.1b (general duties) states that employees must perform competently. The complaint is regarding no arrival to the incident, but Officer 2 did arrive, not when the incident occurred, but after.

Although Officer 2 arrived two hours later, when they arrived, they attempted to make contact with the individuals at the home but they were not there. It appears that arriving two hours after an initial call is still considered acting within the policy of the RPD, it is the additional calls regarding an overdose and gunshot victim ([job history](#)) that are considered a higher priority leaving Officer 2 to choose what calls are to be gone to first that make it acceptable. Therefore, officer 2 did act competently and within their duties. *Allegation 6 is recommended as Exonerated.*

**ALLEGATION 7: Respond when Directed (2.3) Officer 2 violated Rule and Regulation 2.3 by failing to respond to the 911 dispatch assignment.**

Rule and regulation 2.3 (respond when directed) states that members of RPD must respond to duties assigned by established authority. The incident at [REDACTED] began with a call to 911 at 5:35 pm. From there, repeated phone calls to 911 came in requesting assistance as the incident began to escalate. Officer 2 was not become dispatched to the incident until 7 pm. In between there was a response from AMR (5:47) and then officer 2 was dispatched later. By then it was made known to dispatch that the involved parties were no longer at the incident's location.

It is unclear what the process is of dispatch from 911 to officers beyond call prioritization, making it unclear why the dispatch of Officer 1 did not occur until 7 pm. Based on the [CAD card](#) it shows that RPD arrived when dispatched, but it is unclear if call prioritization is the sole reason why the officer arrived two hours after the initial call to 911. Accordingly, *Allegation 7 is recommended as Not Sustained.*

**ALLEGATION 8: Assistance to Citizens (2.13) Officer 2 violated Rule and Regulation 2.13 by not providing assistance to the incident at [REDACTED].**

The rules regarding assisting citizen states, "Employees shall, in accordance with policies and procedures of the Department, render all possible police service to any citizen seeking information or assistance."

When analyzing all collected data it can be seen that there is a time frame of two hours without a response from officer 2. But it can be seen based on the provided dispatch information ([I\\_NetViewer\\_Event\\_Unit.pdf / I\\_NetViewer\\_Event Information.pdf](#)) that Officer 2 did arrive at the scene of the incident. From the viewpoint of the involved party, it may appear that Officer 2 did not assist. Since Officer 2 arrived according to the CAD card, it can be said that assistance



was attempted to be rendered, but the involved party was not at the incident’s location. Accordingly, *Allegation 8 is recommended as Exonerated.*

**RECOMMENDED FINDINGS**

#	Officer	Allegation	Finding/Recommendation
1	Officer 1	General Duties (2.1a) Officer [REDACTED] violated Rule and Regulation 2.1a by not arriving to the call at [REDACTED]	Not Sustained
2	Officer 1	General Duties (2.1b) Officer [REDACTED] violated Rule and Regulation 2.1b by not arriving to the call at [REDACTED]	Exonerated
3	Officer 1	Respond when Directed (2.3) Officer [REDACTED] violated Rule and Regulation 2.3 by failing to respond to the 911 dispatch assignment.	Not Sustained
4	Officer 1	Assistance to Citizens (2.13) Officer [REDACTED] violated Rule and Regulation 2.13 by not providing assistance to the incident at [REDACTED]	Exonerated
5	Officer 2	General Duties (2.1a) Officer [REDACTED] violated Rule and Regulation 2.1a by not arriving to the call at [REDACTED]	Not Sustained
6	Officer 2	General Duties (2.1b) Officer [REDACTED] violated Rule and Regulation 2.1b by not arriving to the call at [REDACTED]	Exonerated
7	Officer 2	Respond when Directed (2.3) Officer [REDACTED] violated Rule and Regulation 2.3 by failing to respond to the 911 dispatch assignment.	Not Sustained
8	Officer 2	Assistance to Citizens (2.13) Officer [REDACTED] violated Rule and	Exonerated

PTN: 2023-0033



**PAB**

City of Rochester  
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#	Officer	Allegation	Finding/Recommendation
		Regulation 2.13 by not providing assistance to the incident at [REDACTED] [REDACTED]	