



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): 2023-0077

Date of Panel Review: 30-May-2024 2:29 PM (EDT)

Board Members Present: [REDACTED]

Case Findings:

Allegations 1-4: Exonerated

Allegations 5-6: Sustained

Disciplinary Recommendation:

Officer [REDACTED] Counseling and training.

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 337 (Use of Force): Officer [REDACTED] used an inappropriate amount of force against [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 # 2:

Officer [REDACTED] Rules and Regulations 2.1 (General Duties): Officer [REDACTED] incompetently detained [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] General Order 337 (Use of Force): Officer [REDACTED] used an inappropriate amount of force against [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 # 4:

Officer [REDACTED] Rules and Regulations 2.1 (General Duties): Officer [REDACTED] incompetently detained [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 # 5:

Officer [REDACTED] General Order 337 (Use of Force): Officer [REDACTED] failed to properly document the show of force used against [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**
-

Officer Name- Allegation # 6:

Officer [REDACTED] Body Worn Camera Policy (Recording Requirements and Restrictions): Officer [REDACTED] did not activate his body worn camera during the search of [REDACTED] vehicle.

- **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**



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Police Accountability Board
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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."

EXECUTIVE SUMMARY

The following events took place on April 28, 2023, at approximately 12:30 am, at or near [REDACTED] [REDACTED] Rochester, New York, 14611.

On the above mentioned date and time, a woman placed a call to 911 to inform them that [REDACTED] [REDACTED], had a handgun on him. The woman stated that she did not personally see [REDACTED] with the weapon, but rather she was told by her boyfriend, that [REDACTED] had a handgun.

Officer [REDACTED] was the first officer to arrive at the above location. Officer [REDACTED] immediately exited the vehicle with his gun pointed at [REDACTED], who was sitting in the driver's side of his vehicle behind the steering wheel. [REDACTED] was observed physically turning around in [REDACTED] vehicle so that [REDACTED] was facing the back seat. Officer [REDACTED] then ordered [REDACTED] to put [REDACTED] hands up. [REDACTED] responds by putting one hand up. Officer [REDACTED] then tells [REDACTED] to put both hands up. [REDACTED] responds by putting both hands up and then immediately dropping them. Officer [REDACTED] then tells [REDACTED] to put both hands up or [REDACTED] is going to get shot. [REDACTED] then puts both hands up. Officer [REDACTED] then approached the passenger's side window of [REDACTED] vehicle with his gun still drawn. [REDACTED] was still seated on the driver's side and could be observed with a cell phone in [REDACTED] hand. Officer [REDACTED] then walked around to the driver's side door of [REDACTED] vehicle where Officer [REDACTED] and Officer [REDACTED] had now arrived to assist.

Officer [REDACTED] then exited his vehicle with his weapon pointed at [REDACTED] and ordered [REDACTED] out of the car. Officer [REDACTED] and Officer [REDACTED] then both physically removed [REDACTED] from [REDACTED] vehicle, placed [REDACTED] in hand cuffs, and escorted [REDACTED] to the back of a police vehicle.

After [REDACTED] was placed in the back of Officer [REDACTED] police vehicle, Officer [REDACTED] Officer [REDACTED] and Officer [REDACTED] all searched [REDACTED] vehicle for the gun that they believed [REDACTED] was in possession of. No such gun was ever found. After the search, [REDACTED] was released from handcuffs and given permission to leave.



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██████████ then contacted the Police Accountability Board to report this interaction. ██████ chief complaints were an inappropriate use of force and a lack of probable cause relating to his detention.¹ It must be noted that Officer ██████████, Officer ██████████ and Officer ██████████ also arrived on the scene; however, none of these officers had direct contact with either ██████████ or ██████ vehicle. No allegations of misconduct or policy violations have been made against these officers and they are not being investigated for this matter.

Sergeant ██████████ also arrived on the scene and explained to ██████████ that he was detained due to allegations of ██████████ being in possession of a weapon. No allegations of misconduct or policy violations have been made against Sergeant ██████████ and he is not being investigated for this matter.

INVOLVED OFFICERS

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

INVOLVED INDIVIDUALS

Name	Age	Sex	Race/ Ethnicity
██████████	████	████	██████████

ALLEGATIONS

1	Officer ██████████	General Order 337 (Use of Force): Officer ██████ used an inappropriate amount of force against ██████████
2	Officer ██████████	Rules and Regulations 2.1 (General Duties): Officer ██████ incompetently detained ██████████
3	Officer ██████████	General Order 337 (Use of Force): Officer ██████ used an inappropriate amount of force against ██████████
4	Officer ██████████	Rules and Regulations 2.1 (General Duties): Officer ██████ incompetently detained ██████████

¹ ██████████ also made claims of property damage such as a ripped vehicle seat and a torn door handle, however, these claims could not be fully investigated because ██████████ did not provide any supporting documentation and ██████ could not be reached for questioning.



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5	Officer [REDACTED]	General Order 337 (Use of Force): Officer [REDACTED] failed to properly document the show of force used against [REDACTED]
6	Officer [REDACTED]	Body Worn Camera Policy (Recording Requirements and Restrictions): Officer [REDACTED] did not activate his body worn camera during the search of [REDACTED] vehicle.

INVESTIGATION

Reporter [REDACTED] filed a complaint with the Police Accountability Board on May 9, 2023.

The Police Accountability Board notified the Rochester Police Department of its investigation and requested corresponding documents on September 8, 2023.

On September 11, 2023, the Rochester Police Department provided the Police Accountability Board with one incident report, one show of force report, two computer aided dispatch reports, one picture, and eleven body camera videos.

The incident report, authored by Officer [REDACTED] contains a narrative in which he admitted to grabbing [REDACTED] wrist to help [REDACTED] out of [REDACTED] vehicle and ripping the sleeve to [REDACTED] hoodie, accidentally. The show of force report, authored by Officer [REDACTED] contains a narrative in which Officer [REDACTED] admitted that he, as well as Officer [REDACTED] pointed their department issued handguns at [REDACTED], while [REDACTED] was seated in [REDACTED] vehicle. The computer aided dispatch report details the 911 call that was placed informing the operator that [REDACTED] was wearing a lime green hoodie, parked down the street from the caller, and had a weapon on [REDACTED] person. The body camera videos capture when Officer [REDACTED] first arrived on the scene and pointed his department issued handgun at [REDACTED]. The body camera videos also capture when Officer [REDACTED] and Officer [REDACTED] arrived on the scene to assist with the detention of [REDACTED]. In addition, the body camera videos capture when Officer [REDACTED], Officer [REDACTED] and Officer [REDACTED] conducted a thorough search of [REDACTED] vehicle.

Calls were placed to [REDACTED] on April 26, 2024, May 3, 2024, and May 14, 2024. An email was sent to [REDACTED] on May 3, 2024. Communication efforts have not been returned and an interview was not conducted. This investigation concluded after a thorough review of [REDACTED] initial report, as well as all documentation and evidence provided by the Rochester Police Department.

EVIDENCE PROVIDED

Evidence	Description	Provided by	Filename
Intake Report	[REDACTED] initial report	[REDACTED]	i-Sight Case 2023-0077 Details Overview



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Evidence	Description	Provided by	Filename
Request for Information	Initial Notification and Source of Information Request	Rochester Police Department	S-SharePoint File Transfer - InitialNotification 2023-0077 RPD Response 9-11-23.pdf - All Documents
Request for Information Response	Incident Report	Rochester Police Department	S-SharePoint File Transfer - Incident Report, Officer cor [REDACTED], Supervisor cor [REDACTED], Merged By COR [REDACTED].pdf - All Documents
Request for Information Response	Show of Force Report	Rochester Police Department	S-SharePoint File Transfer - Printable Report Rochester PD BlueTeam 6 [REDACTED].pdf - All Documents
Request for Information Response	Computer Aided Dispatch Reports	Rochester Police Department	S-SharePoint File Transfer - CAD - All Documents
Request for Information Response	Body Camera Footage	Police Accountability Board	S-SharePoint File Transfer - C3 - All Documents

EVIDENCE DENIED

Evidence	Description	Reason declined
Formal Officer Statement	Request from the Police Accountability Board to the Rochester Police Department	Compelled police officer statements are in direct conflict with the collective bargaining agreement.

APPLICABLE RULES & LAWS

Rochester Police Department General Orders

337 USE OF FORCE²

² The use of force policy has been condensed for purposes of this document. The entirety of which may be viewed using the following link. [GO 337 Use of Force | Rochester, NY Police Department Open Data Portal \(arcgis.com\)](#).



I. PURPOSE

The purpose of this General Order is to set forth the Rochester Police Department's (RPD) policy on use of force, which establishes when and how a Member may respond to a person exhibiting resistance to commands and/or threatening a Member or another. This policy provides further guidance as to when certain force options may or may not be used. Regardless of the type of force or weapon used, a Member's use of force must be reasonable, necessary, and proportionate.

III. POLICY

- A. RPD recognizes and respects the value and sanctity of all human life. Members are expected to carry out their duties and act with the highest regard for the preservation of human life and the safety of all persons involved.
- B. RPD's goal is to gain voluntary compliance of persons without resorting to the use of force. Though Members are authorized to use reasonable force when necessary, Members should attempt to resolve situations without using force whenever possible.
- C. Members are only authorized to use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, in order to effect a lawful purpose, including to ensure the safety of a Member or third person, stop an attack, make an arrest, control a person evading a Member's lawful commands, or prevent escape.
- D. Members shall use the least amount of force necessary based on the totality of circumstances and shall cease using any force once a person becomes compliant.
- E. Members using force must continually assess the situation and adjust the use of force as necessary. As a person's resistance decreases, Members shall decrease their use of force accordingly.
- F. Whenever safe and feasible to do so, prior to using force, Members should provide verbal commands. Members should defer using force for an objectively reasonable amount of time to allow the person to comply with the command.
- G. Members must act with due regard for the safety of all persons during any use of force.
- H. Members shall use de-escalation techniques and tactics, when it is safe and feasible to do so, to prevent and minimize the need to use force and to increase the likelihood of securing a person's voluntary compliance with police instructions. Members should refer to RPD's De-Escalation policy, G.O. 575.
- I. Members have an affirmative duty to intervene to prevent or stop any Member from using unreasonable force or otherwise acting contrary to law or RPD policy. Members should refer to RPD's Duty to Intervene policy, G.O. 336.
- J. After a use of force, Members shall render medical assistance consistent with their training as follows:



1. When safe and feasible to do so, Members shall immediately evaluate the need for medical attention for the person upon whom force was used. Members shall request medical assistance without delay for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, is suicidal or encountering a mental health crisis, or who was rendered unconscious.
2. Any person who is exposed to a Conducted Electrical Weapon (“CEW”) application and has apparent injuries or complains of injury, or is unconscious or semi-conscious due to alcohol or drug consumption must be transported to a hospital to be seen by a medical professional for treatment.
3. Members are expected to document whether they render aid to any individual in a Subject Resistance Report. Members are required to follow RPD’s Subject Resistance Report policy, G.O. 335.

IV. PROHIBITED USES OF FORCE

Members will not use force in any of the following situations:

- A. Against persons who are handcuffed or restrained except to prevent injury; escape; or otherwise overcome resistance posed by the person;
 1. Members shall not position a restrained person face-down for a prolonged period of time as it may cause positional asphyxia, or on their back as it may cause radial nerve damage to the wrist and forearm area. Restrained persons should be seated or placed on their side, as soon as safe and practical.
- B. To coerce a confession;
- C. As punishment or retaliation (e.g., force used to punish or retaliate against an individual for fleeing, resisting arrest or insulting a Member);
- D. To respond to those engaged in the lawful exercise of First Amendment protected activity, including peaceful protest, the right to assemble, and recording police activity (unless a person’s doing so impedes a Member’s legitimate law enforcement function);
- E. Based on bias against the person’s race, ethnicity, nationality, religion, disability, gender, gender identity, sexual orientation, immigration status, or any other protected characteristic;
- F. To obtain blood, saliva, urine or other bodily fluid or cells, from an individual for the purpose of scientific testing in lieu of a court order where required; or
- G. To extract an item from inside the body of a person, except where exigent circumstances are present;
- H. To stop a person from swallowing a substance that is already in their mouth. A Member may, however, use reasonable force to prevent a suspect from putting a substance in their mouth.



Rochester Police Department Rules and Regulations

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 perform their duties in a competent manner.

Rochester Police Department Body Worn Camera Manual

IV. Recording Requirements and Restrictions³

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 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,

³ 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 \(arcgis.com\)](#)



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.
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.

VI. USE OF LESS LETHAL FORCE OPTIONS
A. General Principles



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1. Less lethal force options are techniques and devices to apply force or restrain aggressive subjects but that are less likely to cause death or serious physical injury than those techniques and devices categorized as Deadly Physical Force.
2. Only those Members who have successfully completed the specific Department approved training and have demonstrated proficiency in the use of each less lethal weapon will be authorized to carry and deploy it.
3. Only currently RPD-approved and issued less lethal weapons will be authorized for use by trained Members.

H. Show of Force

1. Any member who brandishes (also known as pointing or displaying) a chemical agent, firearm, electronic control weapon, or impact weapon at a person, shall document such action in accordance with General Order 335 (Subject Resistance Report).

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, order, 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(l)(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 the much higher standard of proof, which is a preponderance of evidence. When utilizing the 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] used an inappropriate amount of force against [REDACTED]

The Rochester Police Department’s General Order 337 states that an Officer’s use of force must be objectively reasonable, necessary and proportionate. Officers are further instructed to use the least amount of force necessary and to cease the use of force in its entirety once the subject becomes compliant. Furthermore, Officers are instructed to use verbal commands prior to using force in all situations which are safe and feasible to do so.

Officer [REDACTED] responded to the area of [REDACTED] after receiving a 911 call regarding an individual in possession of a handgun. Officer [REDACTED] was the third officer to arrive on the scene. Once on



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the scene, Officer [REDACTED] gave two verbal commands for [REDACTED] to exit [REDACTED] vehicle before Officer [REDACTED] physically grabbed [REDACTED] about [REDACTED] left arm and shoulder and assisted [REDACTED] out of the vehicle. The amount of force used by Officer [REDACTED] did not cause any involuntary body movement from [REDACTED]. [REDACTED] remained upright and on [REDACTED] feet for the duration of the physical contact between [REDACTED] and Officer [REDACTED]. Also, [REDACTED] never complained of pain or physical discomfort during his physical interaction with Officer [REDACTED]. Officer [REDACTED] used an appropriate amount of force in the removal of [REDACTED] from [REDACTED] vehicle after two verbal commands were given.

Allegation 1 against Officer [REDACTED] is exonerated.

Allegation 2: Officer [REDACTED] incompetently detained [REDACTED].

The Rochester Police Department's Rules and Regulations 2.1 mandates that Officers perform their duties in a competent manner. In order to competently detain an individual, an officer must have a reasonable suspicion that the individual is armed, engaged in criminal conduct, or is about to engage in criminal conduct. An officer is considered to have a reasonable suspicion in situations in which specific facts coupled with rational inferences warrant an intrusion. See Terry v. Ohio, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968).

Officer [REDACTED] physically removed [REDACTED] from [REDACTED] own vehicle and placed [REDACTED] in handcuffs. Officer [REDACTED] then escorted [REDACTED] to the back of his police vehicle where [REDACTED] was made to wait until [REDACTED] vehicle was thoroughly searched. The period of time in which [REDACTED]' movement was restricted via handcuffs and being placed in a police vehicle is known as a temporary detention. In order to competently perform a temporary detention, an Officer must have reasonable suspicion that the individual is armed, engaged in criminal conduct, or about to engage in criminal conduct. Officer [REDACTED] had a reasonable suspicion that [REDACTED] was armed. This reasonable suspicion was derived from the 911 call stating that [REDACTED] had a weapon on him coupled with Officer [REDACTED] exclaiming that [REDACTED] hid something under the back seat. See [REDACTED] [81794120230428002400_0003A.MP4 \(sharepoint.com\)](#) at 1:09. [REDACTED] was properly detained due to both the 911 call and the statement made by Officer [REDACTED].

Allegation 2 against Officer [REDACTED] is exonerated.

Allegation 3: Officer [REDACTED] used an inappropriate amount of force against [REDACTED].

The Rochester Police Department's General Order 337 states that an Officer's use of force must be objectively reasonable, necessary and proportionate. Officers are further instructed to use the least amount of force necessary and to cease the use of force in its entirety once the subject becomes compliant. Furthermore, Officers are instructed to use verbal commands prior to using force in all situations which are safe and feasible to do so.

Officer [REDACTED] responded to the area of [REDACTED] after receiving a 911 call regarding an individual in possession of a handgun. Officer [REDACTED] was the second officer to arrive on the scene. Once on the scene, Officer [REDACTED] exited his vehicle with his department issued handgun pointing at [REDACTED]. Officer [REDACTED] ordered [REDACTED] to keep [REDACTED] hands up and to get out of the car. Both commands were repeated multiple times. Officer [REDACTED] then physically grabbed [REDACTED] about [REDACTED] right arm and assisted [REDACTED] out of the vehicle. The amount of force used by Officer [REDACTED] did not cause any involuntary body movement from [REDACTED]. [REDACTED] remained upright and on [REDACTED] feet for the



duration of the physical contact between himself and Officer [REDACTED]. Also, [REDACTED] never complained of pain or physical discomfort during [REDACTED] physical interaction with Officer [REDACTED]. Officer [REDACTED] used an appropriate amount of force in the removal of [REDACTED] from [REDACTED] vehicle after multiple verbal commands were given.

Allegation 3 against Officer [REDACTED] is exonerated.

Allegation 4: Officer [REDACTED] incompetently detained [REDACTED].

The Rochester Police Department's Rules and Regulations 2.1 mandates that Officers perform their duties in a competent manner. In order to competently detain an individual, an officer must have a reasonable suspicion that the individual is armed, engaged in criminal conduct, or is about to engage in criminal conduct. An officer is considered to have a reasonable suspicion in situations in which specific facts coupled with rational inferences warrant an intrusion. See Terry v. Ohio, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968).

Officer [REDACTED] physically removed [REDACTED] from [REDACTED] own vehicle and placed [REDACTED] in handcuffs. Officer [REDACTED] then escorted [REDACTED] to the back of Officer [REDACTED] police vehicle where [REDACTED] was made to wait until [REDACTED]' vehicle was thoroughly searched. The period of time in which [REDACTED] movement was restricted via handcuffs and being placed in a police vehicle is known as a temporary detention. In order to competently perform a temporary detention, an Officer must have reasonable suspicion that the individual is armed, engaged in criminal conduct, or about to engage in criminal conduct. Officer [REDACTED] had a reasonable suspicion that [REDACTED] was armed. This reasonable suspicion was derived from the 911 call stating that [REDACTED] had a weapon on [REDACTED] coupled with Officer [REDACTED] exclaiming that [REDACTED] hid something under the back seat. See [REDACTED] 81794120230428002400_0003A.MP4 (sharepoint.com) at 1:09. [REDACTED] was properly detained due to both the 911 call and the statement made by Officer [REDACTED].

Allegation 4 against Officer [REDACTED] is exonerated.

Allegation 5: Officer [REDACTED] failed to properly document the show of force used against [REDACTED].

The Rochester Police Department's General Order 337 states that any Officer who brandishes (also known as pointing or displaying) a chemical agent, firearm, electronic control weapon, or impact weapon at a person, shall document such action in accordance with General Order 335 (Subject Resistance Report).

Officer [REDACTED] responded to the area of [REDACTED] after receiving a 911 call regarding an individual in possession of a handgun. Officer [REDACTED] was the first to arrive on the scene. Once on the scene, Officer [REDACTED] observed [REDACTED] physically turn around in [REDACTED] driver's side seat so that [REDACTED] was facing the back seat in [REDACTED] vehicle. Officer [REDACTED] then ordered [REDACTED] to put [REDACTED] hands up. [REDACTED] responded by putting one hand up. Officer [REDACTED] then told [REDACTED] to put both hands up. [REDACTED] responded by putting both hands up and then immediately dropped them. Officer [REDACTED] then told [REDACTED] to put both hands up or [REDACTED] is going to get shot. [REDACTED] then put both hands up. Officer [REDACTED] then approached the passenger's side window of [REDACTED]' vehicle with his department issued handgun still pointed at [REDACTED]. Officer [REDACTED] lowered his weapon when [REDACTED] was removed from his vehicle by Officer [REDACTED] and Officer [REDACTED]. Officer [REDACTED] completed a show of force report to



document this interaction. According to policy, Officer [REDACTED] should have instead completed a subject resistance report.

Allegation 5 against Officer [REDACTED] is sustained.

Allegation 6: Officer [REDACTED] did not activate his body worn camera during the search of [REDACTED] vehicle.

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.

Officer [REDACTED] participated in the search of [REDACTED]’ vehicle. Officer [REDACTED] was only identified because Officer [REDACTED] referred to him by name while also searching [REDACTED]’ vehicle. See [REDACTED] [81795320230428003405_0007A.MP4 \(sharepoint.com\)](#) at 1:31. Officer [REDACTED] should have had his body camera turned on during the search of [REDACTED] vehicle as officers are required to “record all activities” unless an enumerated exception applies. There is no such exception that applies to the search of a vehicle.

Allegation 6 against Officer [REDACTED] is sustained.

RECOMMENDED FINDINGS

#	Officer	Allegation	Finding
1	Officer [REDACTED]	General Order 337 (Use of Force): Officer [REDACTED] used an inappropriate amount of force against [REDACTED]	Exonerated
2	Officer [REDACTED]	Rules and Regulations 2.1 (General Duties): Officer [REDACTED] incompetently detained [REDACTED]	Exonerated
3	Officer [REDACTED]	General Order 337 (Use of Force): Officer [REDACTED] used an inappropriate amount of force against [REDACTED].	Exonerated
4	Officer [REDACTED]	Rules and Regulations 2.1 (General Duties): Officer [REDACTED] incompetently detained [REDACTED]	Exonerated
5	Officer [REDACTED]	General Order 337 (Use of Force): Officer [REDACTED] failed to properly document the show of force used against [REDACTED]	Sustained
6	Officer [REDACTED]	Body Worn Camera Policy (Recording Requirements and Restrictions): Officer [REDACTED]	Sustained



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#	Officer	Allegation	Finding
		██████ did not activate his body worn camera during the search of ██████ vehicle.	

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.

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

Sustained Allegation 5 against Officer ██████

Disciplinary Matrix Appendix

Misconduct	Level
General Order 337 (Use of Force): Any Officer who brandishes (also known as pointing or displaying) a chemical agent, firearm, electronic control weapon, or impact weapon at a person, shall document such action in accordance with General Order 335 (Subject Resistance Report).	2

- Recommended Level: 1 (“Minimal negative impact to individuals, community, or public perception of the agency with no impact on relationships with other agencies.”)
- Recommended Discipline (based on 0 prior sustained violations): **Counseling and training**
- Explanation of deviation from presumptive penalty: Officer ██████ did document the brandishing of his department issued hand gun. Officer ██████ just used the incorrect form to do so.

Sustained Allegation 6 against Officer ██████



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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 (based on 0 prior sustained violations): **10 day suspension**
- Explanation of deviation from presumptive penalty: No deviation