



### 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):** 2023-0166

**Date of Panel Review:** 21-Nov-2024 1:00 PM (EST)

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

**Case Findings:**

Allegations 1, 2,3,4,5,6, and 7: Sustained

**Disciplinary Recommendation:**

Officer [REDACTED] [REDACTED] : 20-day suspension and Written reprimand/counseling and training

Officer [REDACTED] [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.

**Allegation # 1:**

Officer [REDACTED] [REDACTED] : Officer [REDACTED] violated General Order 530 regarding emergency response driving and General Order 345 regarding Police Vehicle Accidents by failing to drive with due regard for the safety of all persons.

- **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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**Allegation # 2:**

Officer [REDACTED] [REDACTED] : Officer [REDACTED] violated Rules 2.1a and 2.1b by failing to protect life and property and competently perform [REDACTED] duties.

- **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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**Allegation # 3:**

Officer [REDACTED] [REDACTED] : Officer [REDACTED] violated Rule 4.1a by bringing discredit upon the Rochester Police Department.

- **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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**Allegation # 4:**

Officer [REDACTED] [REDACTED] : Officer [REDACTED] violated Rule 4.1b by adversely affecting the efficiency of the Rochester Police Department and engaging in conduct that tends to impair public respect for the employee.

- **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? No – The Board deviated down to a 20 day suspension.**

**Allegation # 5:**

Officer [REDACTED] [REDACTED] : Officer [REDACTED] violated Rule 4.18 by failing to properly care for and use [REDACTED] department-issued property/equipment.

- **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**
- 

**Allegation # 6:**

Officer [REDACTED] [REDACTED] : Officer [REDACTED] violated the Body-Worn Camera Manual policy.

- **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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**Allegation # 7:**

Officer [REDACTED] [REDACTED] : Officer [REDACTED] violated the Body-Worn Camera Manual policy.

- **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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## CLOSING REPORT

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### STATEMENT OF AUTHORITY

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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.”

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### EXECUTIVE SUMMARY

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On 08/19/2023 at approximately 2:08 PM, Officer 1 was dispatched to respond to a call about a person who had jumped into the river and required rescue. The person was standing against the river wall, with their feet touching the ground.

According to ECD records, at 2:08:02 PM, near the intersection of Vassar Street and Park Avenue, Officer 1 accelerated to approximately 84 Miles per Hour (MPH). Officer 1’s speed was recorded as follows:

2:08:02 PM – 84 MPH  
2:08:06 PM – 66 MPH  
2:08:10 PM – 64 MPH  
2:08:14 PM – 52 MPH  
2:08:18 PM – 64 MPH  
2:08:22 PM – 55 MPH  
2:08:30 PM – 58 MPH  
2:08:34 PM – 72 MPH  
2:08:38 PM – 69 MPH  
2:09:04 PM – 0 MPH

According to the City of Rochester vehicle and traffic ordinances, the city speed limit is 30 miles per hour.

At approximately 2:09 PM, Officer 1 struck the rear of Witness 1's vehicle with the front of [REDACTED] car. The New York State Department of Motor Vehicles Police Accident Report notes that after striking Witness 1’s vehicle, Officer 1 hit a parked car, which caused three parked, unoccupied vehicles to collide.



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

245 E. Main Street  
 Rochester, NY 14604

**INVOLVED OFFICERS**

Officer #	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]
Officer 3	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Officer 4	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Officer 5	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Officer 6	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Officer 7	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

**INVOLVED INDIVIDUALS**

Designation	Name	Age	Sex	Race/ Ethnicity
Witness 1	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Witness 2	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Witness 3	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Witness 4	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Witness 5	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

**ALLEGATIONS**

1	Officer 1	Officer 1 violated General Order 530 regarding emergency response driving and General Order 345 regarding Police Vehicle Accidents by failing to drive with due regard for the safety of all persons.
2	Officer 1	Officer 1 violated Rules 2.1a and 2.1b by failing to protect life and property and competently perform [REDACTED] duties.
3	Officer 1	Officer 1 violated Rule 4.1a by bringing discredit upon the Rochester Police Department.
4	Officer 1	Officer 1 violated Rule 4.1b by adversely affecting the efficiency of the Rochester Police Department and engaging in conduct that tends to impair public respect for the employee.
5	Officer 1	Officer 1 violated Rule 4.18 by failing to properly care for and use [REDACTED] department-issued property/equipment.



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6	Officer 1	Officer 1 violated the Body-Worn Camera Manual policy.
7	Officer 2	Officer 2 violated the Body-Worn Camera Manual policy.

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### INVESTIGATION

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On 08/19/2023 at approximately 2:08 PM, Officer 1 was involved in a five-vehicle car crash. The PAB subsequently opened an investigation into this incident.

On 08/21/2023, PAB investigators canvassed the Park Avenue neighborhood to seek video footage, pictures, witness testimony, and other evidence related to this event.

Three individuals approached the investigators as the team was observing damages on a gray Toyota Corolla parked on the street. The individuals requested anonymity. They provided video footage and information regarding the incident. The individuals informed the PAB team that they heard the crash. They indicated they witnessed Officer 1 driving "way too fast" as [REDACTED] hit a black van attempting to make a left turn at Park Ave and Rowley Street. The black van spun onto the curb, leaving marks in the yard of 171 Park Avenue.

The investigative team canvassed local businesses and residences to obtain video or security footage. However, the PAB was unable to acquire any footage. The investigators also noted the location of various blue light cameras in the area.

On 08/22/2023, The PAB submitted a Notification of Initiation of PAB Investigation and a Source of Information (hereinafter "SOI") request to the Rochester Police Department ("RPD"). The PAB requested all records related to this incident, all video and audio recordings, all interdepartmental communications, and all disciplinary records, personnel records, and training records for all RPD officers involved in this incident. On 08/23/2023, Officer [REDACTED] [REDACTED] (PAB liaison) responded that [REDACTED] uploaded the Body-Worn camera for the incident and the Computer-Aided Dispatch job card. Officer [REDACTED] requested that PAB inquire again about the fleet vehicle package at a later date.

On 09/18/2023, the PAB submitted a second SOI request for documents, reports, witness statements, blue light camera footage, Ring/surveillance footage, communications, personnel files, and disciplinary and training records. The PAB also requested the job card for the incident Officer 1 was responding to, the fleet package, and GPS trackers or speed monitors for Officer 1's squad car. The same day, Officer [REDACTED] responded that [REDACTED] would "seek guidance from Corporation Counsel about providing the additional request." Officer [REDACTED] did not clarify what request [REDACTED] was referring to. Officer [REDACTED] also informed the PAB that the "fleet motor vehicle accident package" had not yet been received.



On 09/20/2023, Officer [REDACTED] updated [REDACTED] response to indicate that [REDACTED] had provided the motor vehicle accident report. Additionally, Officer [REDACTED] stated, "RPD, to the best of my knowledge, does not possess the GPS tracker or monitor for this vehicle."

On 09/26/2023, the PAB submitted a third SOI request to RPD asking RPD to explicitly confirm whether or not RPD possesses GPS or speed trackers for Officer 1's vehicle and whether any RPD vehicles contain GPS/speed trackers. Furthermore, the PAB noted that several officers responded to the scene, yet RPD only provided Officer 3's BWC.

On 09/27/2023, Officer [REDACTED] responded that [REDACTED] had located a BWC file for Officer 4, which had been tagged under the incorrect number. Officer [REDACTED] also stated, "RPD does not possess any GPS or speed trackers and this was confirmed through the Deputy Chief."

On 10/05/2023, the PAB submitted a fourth Source of Information request, which stated that the PAB knew that RPD vehicles are equipped with GPS trackers based on ride-a-longs and the RPD Civilian Training. The PAB reiterated its request for Officer 1's speed tracker data. On 10/12/2023, Officer [REDACTED] replied that [REDACTED] spoke with the City's Corporation Counsel and the Emergency Communications Department (hereinafter "ECD") regarding the GPS data. Officer [REDACTED] indicated that the county maintains historical GPS data and that RPD has live GPS data. [REDACTED] suggested that the PAB contact ECD to obtain this evidence. Additionally, [REDACTED] noted that [REDACTED] uploaded the fleet package to the RPD-PAB SharePoint transfer. However, the package was redacted to exclude this incident's chain of command findings.

On 04/24/2024, the PAB obtained the data associated with 1's vehicle through ECD.

On 09/26/2024, the PAB submitted a supplemental SOI to confirm Officer 2's identity and to clarify whether all officers listed as being dispatched to an event on a Computer-Aided Dispatch (CAD) card must respond to the incident. Several officers were named as being dispatched to the accident scene, but RPD only provided BWC for two officers. [REDACTED] [REDACTED] responded that day and indicated that an officer might be named on the CAD card but ultimately not respond to the event for various reasons.

It should be noted that the PAB was unable to obtain any direct footage of the incident.

A review of available evidence revealed that on 08/19/2023 at approximately 2:08 PM, Officer 1 was dispatched to respond to a call about a person who had jumped into the river and required rescue. The person was standing against the river wall, with their feet able to touch the ground.

According to ECD records, at 2:08:02 PM, near the intersection of Vassar Street and Park Avenue, Officer 1 accelerated to approximately 84 Miles per Hour (MPH). Officer 1's speed was recorded as follows:

2:08:02 PM – 84 MPH





2:08:06 PM – 66 MPH  
2:08:10 PM – 64 MPH  
2:08:14 PM – 52 MPH  
2:08:18 PM – 64 MPH  
2:08:22 PM – 55 MPH  
2:08:30 PM – 58 MPH  
2:08:34 PM – 72 MPH  
2:08:38 PM – 69 MPH  
2:09:04 PM – 0 MPH

According to the City of Rochester vehicle and traffic ordinances, the city speed limit is 30 miles per hour.

At approximately 2:09 PM, Officer 1 struck the rear of Witness 1's vehicle with the front of [REDACTED] car. The New York State Department of Motor Vehicles Police Accident Report notes that after striking Witness 1's vehicle, Officer 1s hit a parked car, which caused three parked, unoccupied vehicles to collide.

The RPD Police Accident Report notes that Officer 1's failure to yield to the right-of-way was an apparent contributing factor to the accident.

Officer 2 wrote on the vehicle accident report, "City blue light cameras did not capture this event. There are no other cameras in the area that could have captured this event."

Officer 4's Body-Worn Camera (BWC) captured Officer 1's account of what occurred. According to Officer 1, [REDACTED] was traveling west to respond to a call. [REDACTED] was behind Witness 1, who was also traveling west, and they were both in the left lane. As Witness 1 turned left onto Rowley Street, Officer 1 attempted to get into the right lane and "clipped" Witness 1's vehicle.

In [Video 6](#) at 4:40, Officer 4 spoke with Witness 1. Witness 1 said that [REDACTED] was making a left onto Rowley Street, and the next thing [REDACTED] knew, [REDACTED] "was like a pinball."

Officer 3 also responded to the scene. In [Video 1](#) at 1:00 of Officer 3's BWC, Witness 2 approached Officer 3 and stated, "[REDACTED] was going like 80 down the street and then hit this car and smashed into that car - And, like, didn't even bother to slow down if there was anyone in the crosswalk."

Officer 3 asked if [REDACTED] had witnessed the event. [REDACTED] responded yes and said the Officer was going "at least 80." Officer 3 said [REDACTED] would return to talk to [REDACTED] after parking [REDACTED] car to block traffic.

Officer 3 parked [REDACTED] car and spoke with more witnesses down the street. One gentleman stated that [REDACTED] saw the whole incident. [REDACTED] reported that the Officer was traveling straight and tried to go around the left side of the person turning, but the person was already turning with [REDACTED] signal on, and the Officer hit [REDACTED]. The man said that the Officer was "hauling ass." Another man, who was



identified as Witness 3, said that [REDACTED] heard the sirens, and when [REDACTED] ran outside, [REDACTED] saw the Officer smash into the (parked) cars. [REDACTED] added that the driver said [REDACTED] was listening to music and wouldn't have turned had [REDACTED] heard the sirens.

In [Video 1](#) at 7:07, Witness 2 walked toward Officer 3 and asked if [REDACTED] was taking "official statements." While speaking to a bystander, Witness 2 said [REDACTED] nearly crossed the street when the event occurred.

Officer 1 walked up to Officer 3 and the witnesses and stated that [REDACTED] had the driver's information and the information of one witness. Officer 1 then turned to a bystander and said [REDACTED] had not yet taken [REDACTED] name. Officer 3 replied that [REDACTED] would obtain witness information. Officer 1 is captured on BWC throughout the incident, lingering in the area while Officer 3 interviews witnesses.

In [Video 1](#) at 9:50, Witness 2 recounted the events. Witness 2 said [REDACTED] was about to cross the crosswalk and could not even hear sirens because the Officer was going so fast. [REDACTED] stated Officer 1 gave [REDACTED] "no time to react" and that [REDACTED] was going at least 80 miles per hour through the intersection. Witness 2's mother stood beside [REDACTED] and stated, "It was over 100." In [Video 1](#) at 10:09, Witness 2 stated, "[REDACTED] was lucky no one was crossing in the crosswalk at that time because we were about to."

Witness 2 reported the other car was already pulling out, and they collided. Witness 2 remarked that Officer 1 was "going so fast," [REDACTED] swerved and smashed into three cars. Witness 2 said that there was no time to react. Witness 2 and [REDACTED] mother stated that Officer 1 lost control of the vehicle. Furthermore, in [Video 1](#) at 11:06, Witness 2 noted that if they were one step out, Officer 1 "would have just killed" them. Witness 2 also said [REDACTED] was lucky no one was on a bike in the area. Witness 2 stated, "I know there is no limit to the speed, but going through Park Ave, and if it's not an active pursuit - it's just scary." Officer 3 agreed with Witness 2.

In [Video 1](#) at 11:40, Officer 4 approached Officer 3 and stated, "I think Central should be coming down, so I'll just leave the report to Central there. Sounds like [REDACTED] was going west and [REDACTED] crushed this guy who was just trying to take a left-hand turn." Officer 3 replied, "Yeah, sounds like..." and turned off [REDACTED] camera.

A few seconds later, the footage resumed. In [Video 2](#) at 0:06, Officer 3 collected the information of Witness 3. Witness 3 recounted what [REDACTED] witnessed again. Witness 3 stated that [REDACTED] heard the sirens, and when [REDACTED] went outside, [REDACTED] saw Officer 1's vehicle "screeching," about to hit the parked cars. Witness 3 stated, "That's all I saw. But like, all I'm saying is if I hear the sirens. Like, if [REDACTED] - Why did I hear the sirens? [REDACTED] didn't hear the sirens? If [REDACTED] heard the sirens, why did [REDACTED] turn? I don't understand. That's all I wanted to say. You know what I mean? So, like, and [REDACTED] even said [REDACTED] wasn't paying attention, [REDACTED] had [REDACTED] music on, [REDACTED] didn't hear it. The man even said that."

On Officer 3's BWC ([Video 4](#) at 0:05) [REDACTED] is captured speaking to Witness 4. Officer 1 is in the background of the footage, pacing as Officer 3 speaks to witnesses. The beginning of the footage



does not have sound. When the sound resumed, Witness 4 stated, "90-ish percent going this way," as ■ motioned with ■ hands, "Obviously, this car hit it from behind."

In [Video 4](#) at 0:44, a woman asked, "Was this car playing loud music and stuff?" The witness shook ■ head "no" and shrugged ■ shoulders. The woman responded, "You don't know? Someone said that; I'm just asking if you heard it." Witness 4 replied, "Not loud enough for me to hear. I'd say the only loud sound was probably the cars hitting. There was nothing before for me to be able to say." Witness 4 identified himself and the BWC footage clip concluded.

The camera resumed approximately 8 minutes later. Officer 3 is speaking with Witness 1. Witness 1 stated that ■ was traveling down Park Avenue and had just come through the light at Goodman Street, and ■ slowed to make a left onto Rowley Street, and the next thing ■ knew, ■ was spinning around "like a pinball." Witness 1 stated that ■ could not remember if ■ was waiting for someone before ■ made ■ left-hand turn and noted that ■ "drives slow on this street." Officer 3 agreed, stating, "Yeah, it's Park Ave. There's lots of turns and stuff. I'm very familiar with Park Ave." Witness 1 said, "It just happened so fast; I never saw ■ coming from behind me. Now, I wasn't looking in my review mirror because I was getting ready to make a left, so - but I didn't hear ■ I did have my music on, but not super loud." This is inconsistent with Officer 2's vehicle accident report, which stated that Witness 1 "said ■ was listening to music loudly in the vehicle."

Officer 3's BWC clip concludes after 1 minute 52 seconds.

## EVIDENCE REVIEWED

Evidence	Description	Provided by	Filename
Officer 3's Body-worn camera footage	Body-worn camera footage of the response to the incident.	RPD	<a href="#">Video 1</a> <a href="#">Video 2</a> <a href="#">Video 3</a> <a href="#">Video 4</a> <a href="#">Video 5</a>
Officer 4's Body-Worn camera footage	Body-worn camera footage of the response to the incident.		<a href="#">Video 6</a>
Photographs taken by Officer 5	Officer 5's photographs depict the scene of the crash. Officer 1's squad car sustained extensive damage, and the airbags deployed. Witness 1's van sustained extensive damage to the rear of the vehicle.	RPD	<a href="#">23-195525FleetMVA</a>
Photographs taken by Officer 1	The photographs taken by Officer 1 depict the scene of the crash, as well as photos of Witness 1.	RPD	<a href="#">1-■■■■-818774</a>



### EVIDENCE REVIEWED

Evidence	Description	Provided by	Filename
Computer-Aided Dispatch Card (Event Information)	Outlines the car crash and subsequent police response.	RPD	<a href="#">I_NetViewer_Event Information.pdf</a>
Computer-Aided Dispatch Card (Event Information regarding a woman who jumped into the river)	The Computer-Aided Dispatch Card indicates that a woman jumped into the river, was conscious, breathing, and holding a stick against the concrete barrier. The woman was able to respond to questions and could stand while touching the bottom. The event started at 2:07 PM. The woman was removed from the water by firefighters by 2:13 PM.	RPD	<a href="#">I_NetViewer_Event Information Jumper.pdf</a>
Computer-Aided Dispatch Card (Event Unit regarding a woman who jumped into the river)	Outlines the unit response to the incident.	RPD	<a href="#">I_NetViewer_Event Unit Jumper.pdf</a>
Email from Witness 5, forwarded to the Professional Standards Section (PSS) email	The email from Witness 5, which was forwarded to the PSS, states the following:  “Hi! Officer 1 was responsible for totaling my parked car two weeks ago and I am having a very hard time replacing it through my insurance agency. I would like to speak to someone about how to make this right. [REDACTED] was going way too fast on a road without shoulders to pull over to and totaled mine and probably two other peoples’ car. I feel the city of Rochester should be held responsible for this.”	RPD	<a href="#">Email.pdf</a>
Voicemail	Voicemail from Officer 6 of the Professional Standards Section regarding the email sent to RPD.	RPD	<a href="#">VM left 1Sept23.wav</a>
1 Fleet Package	The fleet vehicle accident referral (RPD 1230) indicates that Officer 1 operated a marked car (serial number	RPD	<a href="#">1 fleet REDACTED.pdf</a>



**EVIDENCE REVIEWED**

Evidence	Description	Provided by	Filename
(Provided Redacted)	<p>201322, radio call number 209.) The report states that Officer 1’s flashers and sirens were on.</p> <p>According to the report, Officer 1 attempted to pass a vehicle on the left as it made a turn, which caused the accident. The crash was documented as being "avoidable," and Officer 1 received a Memorandum of Record. Officer 1 caused \$33,122 of damage. Officer 7 noted in Officer 1's Memorandum of Record that when driving in emergency mode, ■ must drive with due care, and be sure that other vehicles yield to ■ emergency equipment prior to proceeding. Officer 7 indicated that the cause of the accident was Officer 1’s failure to wait until the vehicle ■ was overtaking yielded.</p> <p>Officer 1 was directed to familiarize himself with General Order 345 Section II (A) and Rule 4.18, which states in part, "When operating fleet vehicles all employees are to drive with due care and regard for the safety of all persons" and that "employees shall be held responsible for the proper care and use of property and equipment assigned to or used by them."</p> <p>Officer 1 was advised that similar conduct on ■ part may result in disciplinary action, and that issuance of the memorandum did not preclude the initiation of disciplinary action regarding the matter.</p> <p>Officer 2 completed the Vehicle Accident report, which Officer 7 reviewed and attached to the fleet package.</p>		
Accident Information Exchange Form	The Accident Information Exchange Form captures the information of those whose cars were involved in the accident.	RPD	<a href="#">ACC</a> <a href="#">AccidentInfo-FQWS99H35K</a> <a href="#">J5.pdf</a>



**EVIDENCE REVIEWED**

Evidence	Description	Provided by	Filename
<p>Police Accident Report Diagram</p>		<p>RPD</p>	<p><a href="#">ACC_REPOR T_01_MV104 A_DIAGRAM - FQWS99H35K J5</a></p>
<p>The Police Accident Report (MV-104A)</p>	<p>The Police Accident Report (MV-104A) indicates, "This accident occurred in a Police vehicle owned and operated by the Rochester Police Department while responding to an emergency. V2 was heading West on Park Ave. V1 was heading West on Park Ave behind V2. V1 had activated lights and sirens to respond to an emergency call. V2 said [REDACTED] was listening to music loudly in the vehicle and did not see or hear V1 coming from behind [REDACTED]. When V2 noticed V1, V2 was in mid turn to head South on Rowley. V2 stopped [REDACTED] vehicle in the middle of the turn. The front of V1 struck the rear end of V2 causing V2 to spin around and into the yard. V1 then struck V3- an unoccupied parked vehicle on the Northern side of Park Ave. V3 then hit V4 and V4 hit V5. V3 had front and rear end damage. V4 had front and rear end damage. V5 appeared to have minimal rear end damage since V4 struck the tow hitch of V5. V3, V4 and V5 were all parked, unoccupied vehicles. V1 said [REDACTED] activated [REDACTED] emergency lights and sirens heading West down Park Ave. V1 realized that V2 was not pulling over to the right side of the road. V1 started driving in the opposing lane to go around V2. When V2 started turning left and then stopped in the middle of the road, V1 swerved to the right to avoid striking V2. V1 struck V2 and then struck V3. V1 said V2 did not put on [REDACTED] left hand turn signal until last</p>	<p>RPD</p>	<p><a href="#">ACC_REPOR T_01_MV104 A- FQWS99H35K J5.pdf</a></p>



### EVIDENCE REVIEWED

Evidence	Description	Provided by	Filename
	<p>minute. The driver of V2 was refused all medical treatment and appeared to be uninjured. The driver of V1 refused all medical treatment and appeared to be uninjured. W1 said ■ saw V1 operating with lights and sirens and watched the entire incident. W2 said ■ saw V1 moving at a high rate of speed with lights and sirens and was still able to hear music coming from V2's vehicle. W3 said ■ saw the incident. City blue light cameras did not capture this event. There are no other cameras in the area that could have captured this event."</p>		
<p>Report of Motor Vehicle Accident Police Line of Duty Accident</p>	<p>The Report of Motor Vehicle Accident Police Line of Duty Accident lists the vehicles involved in the accident and their license plates.</p>	<p>RPD</p>	<p><a href="#">ACC_REPORT_01_MV104_L-FQWS99H35KJ5.pdf</a></p>
<p>Report Attachment Description</p>	<p>The Report Attachment Description is a blank document.</p>	<p>RPD</p>	<p><a href="#">ACC_REPORT_ATTACHMENT-FQWS99H35KJ5.pdf</a></p>
<p>The Police Accident Report</p>	<p>The Police Accident Report states that the accident occurred during daylight, the weather was clear, and the road surface was dry. Officer 1's failure to yield right-of-way was an apparent contributing factor. The report also lists Witness 1's inattention, distraction, and use of "headphones" as contributing factors.</p> <p>Officer 1 sustained damage to the front right, left, and center. Witness 1 sustained damage to the rear right, center, and left. Multiple parked cars also sustained damage. Officer 2 created this report, and Officer 7 reviewed it.</p>	<p>RPD</p>	<p><a href="#">ACC_REPORT-FQWS99H35KJ5.pdf</a></p>
<p>Speed and GPS tracker for Officer 1's vehicle</p>	<p>Raw data of the Speed and GPS tracker for Officer 1's vehicle.</p>	<p>ECD</p>	<p><a href="#">CTYP_08-19-2023.trk</a></p>



### EVIDENCE REVIEWED

Evidence	Description	Provided by	Filename
Initial Notification Package	Initial Notification Package from PAB to RPD. This package includes the first Source of Information request to RPD.	PAB	<a href="#">InitialNotification 2023-0166 RPD Response 8-23-23.pdf</a>
Second Source of Information (SOI) Request	The Second Source of Information (SOI) Request from PAB to RPD.	PAB	<a href="#">SOI_2023-0166-02 RPD Response 9-18-23.pdf</a>
Second Source of Information (SOI) Request; Updated RPD response	The Second Source of Information (SOI) Request from PAB to RPD with an updated response from RPD.	RPD	<a href="#">SOI_2023-0166-02 response 9-20-23.pdf</a>
Third Source of Information (SOI) Request	The Third Source of Information (SOI) Request from PAB to RPD.	PAB	<a href="#">SOI_2023-0166-02 response 9-20-23.pdf</a>
Fourth Source of Information (SOI) Request	The Fourth Source of Information (SOI) Request from PAB to RPD.	RPD	<a href="#">SOI_2023-0166-04 RPD response 10-12-23.pdf</a>
Supplemental Source of Information (SOI) Request	Supplemental Source of Information (SOI) Request to the fourth SOI.	PAB	<a href="#">SupplementalSOI_2023-0166-092624 RPD response 9-27-24.pdf</a>
Officer Statement Request	Statement/interview request for Officer 1.	PAB	<a href="https://cityofrochester.i-sight.com/file/d04ff06f-444a-4cfd-81fa-0216e3f2b161">https://cityofrochester.i-sight.com/file/d04ff06f-444a-4cfd-81fa-0216e3f2b161</a>





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

245 E. Main Street  
 Rochester, NY 14604

**EVIDENCE REVIEWED**

Evidence	Description	Provided by	Filename
Officer Statement Request	Statement/interview request for Officer 2.	PAB	
Images of the Crash	Images of the crash.	Outside source	<a href="#">MXBD0815.JPG</a> <a href="#">UHAZ2025.JPG</a> <a href="#">IMG_0978.JPG</a> <a href="#">IMG_0978.MOV</a> <a href="#">IMG_0982.JPG</a> <a href="#">IMG_0982.MOV</a> <a href="#">MXBD0815.JPG</a> <a href="#">UHAZ2025.JPG</a>
Images and Video of the PAB Canvass	Images and video from the PAB canvass.	PAB	<a href="#">IMG_0205.JPG</a> <a href="#">IMG_0205.MOV</a> <a href="#">IMG_0206.JPG</a> <a href="#">IMG_0206.MOV</a> <a href="#">IMG_0207.JPG</a> <a href="#">IMG_0207.MOV</a> <a href="#">IMG_0208.JPG</a> <a href="#">IMG_0208.MOV</a> <a href="#">IMG_0978.JPG</a> <a href="#">IMG_0978.MOV</a>



**EVIDENCE DENIED**

Evidence	Description	Request Date	Reason Declined
Disciplinary Records, Personnel Records, and Training Records.	Disciplinary records, personnel records, and training records for all RPD officers involved in this incident.	08/22/2023 09/18/2023	No reason provided

**APPLICABLE RULES & LAWS**

General Order 530 (EMERGENCY RESPONSE DRIVING; PURSUIT DRIVING)

[file:///C:/Users/818952/Downloads/GO\\_530\\_Emergency\\_Response\\_Driving\\_Pursuit\\_Driving%20\(10\).pdf](file:///C:/Users/818952/Downloads/GO_530_Emergency_Response_Driving_Pursuit_Driving%20(10).pdf)

**II. POLICY**

A. NYS Vehicle and Traffic Law exempts authorized emergency vehicles involved in emergency operations from some restrictions of the Vehicle and Traffic Law. This exemption, however, “will not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor will such provisions protect the driver from the consequences of their reckless disregard for the safety of others” (V & T 1104-4e).

B. During an emergency response or pursuit, members will:

1. Drive with due regard for the safety of all persons and property.
2. Terminate a pursuit as instructed by a supervisor, or when a pursuit or emergency response is causing a dangerous and/or hazardous condition to the member and/or others.

D. Members will not initiate or continue a pursuit or emergency response if not in accordance with this Order. Members must constantly evaluate the risks involved initiating or continuing a pursuit or emergency response. A pursuit may only be initiated if there is reasonable suspicion to

believe that the operator of, or a passenger within, the vehicle pursued has committed (to include wanted packages) or is about to commit a crime listed in Appendix A, attached hereto.

General Order 345 (POLICE FLEET VEHICLE ACCIDENTS)

[file:///C:/Users/818952/Downloads/GO\\_345\\_Fleet\\_Vehicle\\_Accidents%20\(7\).pdf](file:///C:/Users/818952/Downloads/GO_345_Fleet_Vehicle_Accidents%20(7).pdf)

II. POLICY

A. When operating police fleet vehicles whether on or off duty, all employees are to drive with due care and regard for the safety of all persons. All traffic laws will be obeyed and occupant safety restraint devices and applicable child restraint seats should be utilized to safeguard occupants from air bag injury, except when it would interfere with the safety of the employee.

RPD Rules

<https://data-rpdny.opendata.arcgis.com/documents/4d9bb1ad70a9439c9edf21f130d6f5e7/explore>

Rule 2.1a

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.

Rule 2.1b

GENERAL DUTIES

b) Employees shall perform their duties in a competent manner.

Rule 4.1a

CONDUCT

a) Employees shall so conduct themselves in both their private and professional lives as to avoid bringing discredit upon the Department.

Rule 4.1b

b) Employees shall not engage in conduct on or off-duty which adversely affects the efficiency of the Department, or engage in conduct on or off-duty which has a tendency to impair public



respect for the employee and/or the Department, and/or impair confidence in the operation of the Department.

Rule 4.18

#### DEPARTMENT PROPERTY AND EQUIPMENT

Employees shall be held responsible for the proper care and use of property and equipment assigned to or used by them. When obtaining any equipment, and again upon its return, it is the employee's responsibility to inspect the equipment.

#### Body-Worn Camera Policy

(<https://data-rpdny.opendata.arcgis.com/documents/9a0f005d1ae24ddd9932e192c77491d8/explore>)

#### RECORDING REQUIREMENTS AND RESTRICTIONS

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 Recording: 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 event.



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## ANALYSIS

### 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: Officer 1 violated General Order 530 regarding emergency response driving and General Order 345 regarding Police Vehicle Accidents by failing to drive with due regard for the safety of all persons.**

General Order 530 states, "During an emergency response or pursuit, members will drive with due regard for the safety of all persons and property," and that members terminate an emergency response if it "is causing a dangerous and/or hazardous condition to the member and/or others."

General Order 345 notes, "When operating police fleet vehicles, whether on or off duty, all employees are to drive with due care and regard for the safety of all persons. All traffic laws will be obeyed, and occupant safety restraint devices and applicable child restraint seats should be utilized to safeguard occupants from airbag injury, except when it would interfere with the safety of the employee."

Officer 1 was responding to a call regarding a person who jumped into the river. However, this person was conscious, breathing, responsive to questions, and able to touch their feet to the



bottom. Officer 1 accelerated to 84 MPH. The city speed limit is 30 MPH.

Approximately one minute after dispatching, Officer 1 crashed into the rear of Witness 1's vehicle as Witness 1 was attempting to turn left onto Rowley Street. Officer 1 subsequently crashed into a parked car, which caused several other vehicles to collide. Several bystanders noted Officer 1's excessive speed.

Officer 1 caused over \$33,000 of damage to [REDACTED] police cruiser alone.

Officer 1 failed to act with due regard for the safety of all persons and property.

***The allegation that Officer 1 violated General Order 530 (Emergency Response Driving) and General Order 345 (Police Vehicle Accidents) by failing to drive with due regard for the safety of all persons is sustained.***

**Allegation 2: Officer 1 violated Rules 2.1a and 2.1b by failing to protect life and property and competently perform [REDACTED] duties.**

Rule 2.1a regarding General Duties states, "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."

Rule 2.1b states, "Employees shall perform their duties in a competent manner."

Officer 1 failed to protect life and property and competently perform [REDACTED] duties when [REDACTED] operated [REDACTED] vehicle unsafely, which caused a multi-car collision. Bystanders noted that Officer 1 operated [REDACTED] car too fast and did not slow down at the crosswalk. Furthermore, Officer 1's actions caused extensive damage to [REDACTED] police cruiser and other involved vehicles.

***The allegation that Officer 1 violated Rules 2.1a and 2.1b by failing to protect life and property and competently perform [REDACTED] duties is sustained.***



**Allegation 3: Officer 1 violated Rule 4.1a by bringing discredit upon the Rochester Police Department.**

Rule 4.1a states, "Employees shall so conduct themselves in both their private and professional lives as to avoid bringing discredit upon the Department."

Officer 1 engaged in unsafe driving, causing a multi-car collision, which several people witnessed. Witnesses noted that Officer 1 was driving "way too fast." One bystander indicated that Officer 1 "didn't even bother to slow down if there was anyone in the crosswalk." Another witness stated that ■■■ nearly crossed the street when the event occurred. Furthermore, Officer 1's actions caused extensive damage to ■■■ police cruiser and other involved vehicles. Officer 1 conducted himself in a manner that discredited the Rochester Police Department.

*The allegation that Officer 1 violated Rule 4.1a by bringing discredit upon the Department is sustained.*

**Allegation 4: Officer 1 violated Rule 4.1b by adversely affecting the efficiency of the Rochester Police Department and engaging in conduct that tends to impair public respect for the employee.**

Rule 4.1b states, "Employees shall not engage in conduct on or off-duty which adversely affects the efficiency of the Department, or engage in conduct on or off-duty which has a tendency to impair public respect for the employee and/or the Department, and/or impair confidence in the operation of the Department."

Officer 1 engaged in unsafe driving, causing a multi-car collision, which several people witnessed. Witnesses noted that Officer 1 was driving "way too fast." One bystander indicated that Officer 1 "didn't even bother to slow down if there was anyone in the crosswalk." Another witness stated that ■■■ nearly crossed the street when the event occurred. Officer 1's actions likely impaired the public's respect for ■■■

Additionally, several officers had to respond to the car crash, adversely affecting the Department's efficiency.

*The allegation that Officer 1 violated Rule 4.1b by adversely affecting the efficiency of the Department and engaging in conduct that tends to impair public respect for the employee is sustained.*



**Allegation 5: Officer 1 violated Rule 4.18 by failing to properly care for and use [REDACTED] department-issued property/equipment.**

Rule 4.18 states, "Employees shall be held responsible for the proper care and use of property and equipment assigned to or used by them."

Officer 1 failed to act with due regard to [REDACTED] department-issued property/equipment. Subsequently, Officer 1 caused over \$33,000 of damage to [REDACTED] police cruiser.

***The allegation that Officer 1 violated Rule 4.18 by failing to properly care for and use [REDACTED] department-issued property/equipment is sustained.***

**Allegation 6: Officer 1 violated the Body-Worn Camera Manual policy.**

The Body-Worn Camera Manual defines a mandatory recording as "Any event or activity that requires BWC recording without exception, i.e., upon direction of a supervisor, and 'enforcement activities' as defined in this Manual." Additionally, the manual states, "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," and "Members will activate and record with the BWC preferably upon being dispatched and prior to exiting their police vehicle."

Officer 1 never activated [REDACTED] camera despite having contact with witnesses and performing police duties.

***The allegation that Officer 1 violated the Body-Worn Camera Manual is sustained.***

**Allegation 7: Officer 2 violated the Body-Worn Camera Manual policy.**

Officer 2 completed the incident report for this event. [REDACTED] is captured on BWC interacting with witnesses. However, Officer 2 failed to activate [REDACTED] camera in compliance with the Body-worn Camera manual policy, despite having contact with witnesses and performing police duties.

***The allegation that Officer 2 violated the Body-Worn Camera Manual is sustained.***





**RECOMMENDED FINDINGS**

<b>Allegation #</b>	<b>Officer</b>	<b>Allegation</b>	<b>Finding/Recommendation</b>
1	Officer 1	Officer 1 violated General Order 530 regarding emergency response driving and General Order 345 regarding Police Vehicle Accidents by failing to drive with due regard for the safety of all persons.	Sustained
2	Officer 1	Officer 1 violated Rules 2.1a and 2.1b by failing to protect life and property and competently perform [REDACTED] duties.	Sustained
3	Officer 1	Officer 1 violated Rule 4.1a by bringing discredit upon the Rochester Police Department.	Sustained
4	Officer 1	Officer 1 violated Rule 4.1b by adversely affecting the efficiency of the Rochester Police Department and engaging in conduct that tends to impair public respect for the employee.	Sustained
5	Officer 1	Officer 1 violated Rule 4.18 by failing to properly care for and use [REDACTED] department-issued property/equipment.	Sustained
6	Officer 1	Officer 1 violated the Body-Worn Camera Manual policy.	Sustained
7	Officer 2	Officer 2 violated the Body-Worn Camera Manual policy.	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.

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

**Officer 1**

This is the first time PAB has sustained an allegation against Officer 1.

A review of the Rochester Police Department Discipline Database located on the City of Rochester’s website suggests that Officer 1 has not been the subject of a previous investigation by the RPD Professional Standards Section (PSS).

However, the PAB understands that the database is incomplete.

RPD declined to provide disciplinary records for Officer 1.

**Sustained Allegation #1 against Officer 1**

**DISCIPLINARY MATRIX APPENDIX**

Misconduct	Level
Officer 1 violated General Order 530 regarding emergency response driving and General Order 345 regarding Police Vehicle Accidents by failing to drive with due regard for the safety of all persons.	<b>3</b>

- **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

**Sustained Allegation #2 against Officer 1**



### DISCIPLINARY MATRIX APPENDIX

Misconduct	Level
Officer 1 violated Rules 2.1a and 2.1b by failing to protect life and property and competently perform [redacted] duties.	<b>3</b>

- **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

#### **Sustained Allegation #3 against Officer 1**

### DISCIPLINARY MATRIX APPENDIX

Misconduct	Level
Officer 1 violated Rule 4.1a by bringing discredit upon the Rochester Police Department.	<b>1</b>

- **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:** Written reprimand/counseling and training

#### **Sustained Allegation #4 against Officer 1**

### DISCIPLINARY MATRIX APPENDIX

Misconduct	Level
Officer 1 violated Rule 4.1b by adversely affecting the efficiency of the Rochester Police Department and engaging in conduct that tends to impair public respect for the employee.	<b>4</b>

- **Recommended Level:** 4 (Significant negative impact to individuals, community, public perception of the agency or relationships with other officers, or agencies.)
- **Recommended Discipline:** 60-day suspension



**Sustained Allegation #5 against Officer 1**

**DISCIPLINARY MATRIX APPENDIX**

Misconduct	Level
Officer 1 violated Rule 4.18 by failing to properly care for and use [REDACTED] department-issued property/equipment.	1

- **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:** Written reprimand/counseling and training

**Sustained Allegation #6 against Officer 1**

**DISCIPLINARY MATRIX APPENDIX**

Misconduct	Level
Officer 1 violated the Body-Worn Camera Manual policy.	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

**Officer 2**

This is the first time PAB has sustained an allegation against Officer 2.

A review of the Rochester Police Department Discipline Database located on the City of Rochester’s website suggests that Officer 2 has not been the subject of a previous investigation by the RPD Professional Standards Section (PSS).

However, the PAB understands that the database is incomplete.

RPD declined to provide disciplinary records for Officer 2.



City of Rochester  
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245 E. Main Street  
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**Sustained Allegation #7 against Officer 2**

**DISCIPLINARY MATRIX APPENDIX**

<b>Misconduct</b>	<b>Level</b>
Officer 2 violated the Body-Worn Camera Manual policy.	<b>3</b>

- **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