



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): 2023-0170

Date of Panel Review: 19-Dec-2023 1:30 PM (EST)

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

Case Findings: Exonerated

Disciplinary Recommendation: N/A

Dissenting Opinion/Comment: N/A



DEFINITIONS

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

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

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

Closed: Vote to close the case.



Officer Name- Allegation # 1:

Officer [REDACTED] - Investigative Process (G.O. 401 §II (B) (2)) – It is alleged that Officer [REDACTED] did not take the statement of the complainant.

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

Officer Name- Allegation # 2:

Officer [REDACTED] - Rule and regulation - 5.1c (Altering, delaying, or falsifying reports) – It is alleged that Officer [REDACTED] recorded the case number incorrectly.

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



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 at [REDACTED] 14615 on both 03/26/2023 and 04/06/2023. The issue that created the complaint occurred on 04/06/2023 the reporter filed the complaint with Rochester’s Police Accountability Board on 08/30/2023.

On 03/26/2023 the reporter called 911 at approximately 11:46 a.m. due to a physical altercation with a neighbor that led to damaged property. Officers [REDACTED] and [REDACTED] arrived to the apartment on [REDACTED] at 12:26 p.m. The reporter and their spouse explained to the responding officers how the altercation occurred and that there has been ongoing issues with this specific neighbor. Officer [REDACTED] attempted to speak with the other party to explain their side of how the altercation occurred, but the neighbor refused to come out of the apartment.

Officer [REDACTED] explained steps to the reporter on how to press charges and reiterated to both parties that they need to be civil. Reports show that Officer [REDACTED] produced an investigative action report that showed the report number as 23-063842. This resulted in the reporter getting an order of protection and the arrest of the neighbor. On 04/07/2023, the reporter called 911 for the accusation of Officer [REDACTED] not taking a statement and provided a wrong report number resulting in the order of protection to be voided. Officer [REDACTED] and a second officer, Officer [REDACTED] went to the apartment at [REDACTED] and spoke with the reporter, Officer [REDACTED] explained he made a mistake of the report numbers being transposed. The case number provided on the report was 23-068342, but the actual number was 23-063842.



City of Rochester
Police Accountability Board
 Established 2019

245 E. Main Street
 Rochester, NY 14604

INVOLVED OFFICERS

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

INVOLVED INDIVIDUALS

Name	Age	Sex	Race/ Ethnicity
Anonymous	[REDACTED]	[REDACTED]	[REDACTED]

ALLEGATIONS

1	Officer [REDACTED]	Investigative Process (G.O. 401 §II (B) (2)) – It is alleged that Officer [REDACTED] did not take the statement of the complainant.
2	Officer [REDACTED]	Rule and regulation - 5.1c (Altering, delaying, or falsifying reports) – It is alleged that Officer [REDACTED] recorded the case number incorrectly.

INVESTIGATION

On 08/30/2023 the reporter filed a complaint with the Rochester Police Accountability Board based on the allegation that Officer [REDACTED] did not take a statement and incorrectly documenting the report number that voided the reporter’s order of protection.

The Rochester Police Department was notified of PAB’s investigation on 09/11/2023. Captain [REDACTED] initially provided the PAB with one body-worn camera file from Officers [REDACTED] and one body-worn camera file [REDACTED] the export log, as well as CAD card information from dispatch for the date of 04/07/23. A second request for information went to the Rochester Police Department on 10/23/2023, and on 10/25/2023 Captain [REDACTED] provided two body-worn camera files from Officer [REDACTED] and three body-worn camera files from Officer [REDACTED] the export log, and reports completed by [REDACTED] and [REDACTED].

The reports provided from Captain [REDACTED] contain documents for the neighbor involved such as a warrant and prisoner data report. Reports containing information related to the incident include the incident report with a narrative documenting what occurred in the apartment, two incident reports documenting what occurred during the incident and what proceeded with next steps to be followed, and an investigative action report/case update stating that Officer [REDACTED] [REDACTED] documented the report number incorrectly, followed by the correct report number.



Officer Statement Request letters for Officer [REDACTED] were sent to the Rochester Police Department Chief of Police [REDACTED] on 11/30/2023. Officers were given five business days to schedule an interview or provide a statement to PAB regarding the alleged misconduct. The request was denied by City of Rochester Deputy Corporation Counsel [REDACTED] on 11/30/2023.

EVIDENCE REQUESTED

Evidence	Description	Provided by	Reason declined	Filename
CAD sheet	Shows the call from dispatch from the reporter	Capt. [REDACTED] Rochester Police Department	N/A	I NetViewer Event Information 23-72587.pdf
CAD sheet	Shows the call from dispatch from the reporter	Capt. [REDACTED] Rochester Police Department	N/A	I NetViewer Event Unit 23-72587.pdf
Body-worn camera video	Officer [REDACTED] body-camera footage	Capt. [REDACTED] Rochester Police Department	N/A	00732 [REDACTED] 20230406125212_0005.MP4
Export Log	Officer [REDACTED] body-worn camera export log	Capt. [REDACTED] Rochester Police Department	N/A	00732 [REDACTED] 20230406125212_0005.txt
Body-worn camera video	Officer [REDACTED] body-worn camera footage	Capt. [REDACTED] Rochester Police Department	N/A	B4650 [REDACTED] 20230406124950_0012A.MP4
Export log	Body-worn camera footage export log	Capt. [REDACTED] Rochester Police Department	N/A	ExportLog_20230911_114133.txt
Initial Notification	Response to first request for information	Capt. [REDACTED] Rochester	N/A	InitialNotification_2023-0170 RPD Response 9-11-23.pdf



		Police Department		
CAD sheet	Shows the call from dispatch from the reporter – second request	Capt. [REDACTED] Rochester Police Department	N/A	I NetViewer _ Event Information 3-26-23.pdf
CAD sheet	Shows the call from dispatch from the reporter – second request	Capt. [REDACTED] Rochester Police Department	N/A	I NetViewer _ Event Unit 3-26-23.pdf
Body-worn camera video	Body-worn camera footage from Officer [REDACTED]	Capt. [REDACTED] Rochester Police Department	N/A	B4646 [REDACTED] 20230326122634_0002A.MP4
Body-worn camera video	Body-worn camera footage from Officer [REDACTED]	Capt. [REDACTED] Rochester Police Department	N/A	B4646 [REDACTED] 20230326125156_0003A.MP4
Body-worn camera video	Body-worn camera footage from Officer [REDACTED]	Capt. [REDACTED] Rochester Police Department	N/A	B4646 [REDACTED] 20230326125434_0004A.MP4
Body-worn camera video	Officer [REDACTED] body-camera footage	Capt. [REDACTED] Rochester Police Department	N/A	00732 [REDACTED] 20230326123300_0001.MP4
Body-worn camera video	Officer [REDACTED] body-camera footage	Capt. [REDACTED] Rochester Police Department	N/A	00732 [REDACTED] 20230326130310_0002.MP4
Export log	Body-worn camera export log	Capt. [REDACTED] Rochester	N/A	ExportLog_20231025_112602.txt



		Police Department		
Investigative Action Report Case Update	Case update from Officer [REDACTED] documenting the mistaken report number	Capt. [REDACTED] Rochester Police Department	N/A	IAR Case Update, Officer cor [REDACTED], Supervisor cor [REDACTED], Merged By COR [REDACTED].pdf
Incident Report	Incident Report taken by Officer [REDACTED]	Capt. [REDACTED] Rochester Police Department	N/A	Incident Report, Officer cor [REDACTED], Supervisor cor [REDACTED], Merged By COR [REDACTED].pdf
Incident Report	Incident Report taken by Officer [REDACTED]	Capt. [REDACTED] Rochester Police Department	N/A	Incident Report, Officer cor [REDACTED], Supervisor cor [REDACTED], Merged By COR [REDACTED].pdf
Prisoner Data Report	Record of arrest from the Rochester Police Department	Capt. [REDACTED] Rochester Police Department	N/A	PDR, Officer cor [REDACTED], Supervisor cor [REDACTED], Merged By [REDACTED].pdf
Warrant Tracker	Warrant verification of neighbor	Capt. [REDACTED] Rochester Police Department	N/A	Warrant Tracker.pdf
Officer Statement/Interview Request	Statement from Officer [REDACTED]	[REDACTED]	Deputy Corporation Counsel [REDACTED] Denied Request	
Memorandum of Record	Training memorandum for Officer [REDACTED]	Capt. [REDACTED] Rochester Police Department		memo sent to PAB 12-29-23.pdf



APPLICABLE RULES & LAWS

- **Investigative Process (G.O. 401 §II (B) (2)):**

- II. Policy

- B) Members of the Rochester Police Department (RPD) will: Conduct vigorous and thorough investigations of all offenses observed or brought to their attention

- III. Preliminary Procedures

- (a) 8. Interview the complainant, witness(es) and suspects;

- (b) 14. Continue the preliminary investigation until:

- All useful information has been obtained from the complainant, victim(s), witness(es), neighbors and other people present in the area;

- (c) 15. At the conclusion of the preliminary investigation:

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

- **Rule and regulation - 5.1c (Altering, delaying, or falsifying reports):**

- Section V – Reports:

- 5.1 ALTERING, DELAYING, OR FALSIFYING REPORTS: C) Employees shall not falsely make or submit any type of official report or knowingly enter or cause to be entered any inaccurate, false, or improper information on the records of the Department.

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 evidence 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).

Allegation 1: Investigative Process (G.O. 401 §II (B) (2)): It is alleged that Officer [REDACTED] did not take the statement of the complainant.

The GO 401 (investigation process) policy states that Officer [REDACTED] must “conduct vigorous and thorough investigations of what is brought to their attention” as well as following the procedures for preliminary investigations by “interviewing all parties involved and those who are witnesses”. When concluding the investigation an incident report must be complete.

Based on the situation between the reporter and neighbor Officer [REDACTED] body worn camera footage shows him and other officers on the scene speaking with those who live in the building as well the landlord to get names and information on the residents. Captain [REDACTED] provided the Rochester Police Accountability Board with reports completed by Officer [REDACTED]. From the analysis of all provided evidence and the totality of the circumstances surrounding the altercation between both parties, the level of investigation into the matter could be considered appropriate and reasonable.

Allegation 2: Rule and regulation - 5.1c (Altering, delaying, or falsifying reports): It is alleged that Officer [REDACTED] wrote the wrong report number on a report.

The allegation of Officer [REDACTED] occurred when the reporter accused Officer [REDACTED] of putting the wrong report number on order of protection. The Rule and Regulation pertaining to report writing states that, “Employees shall not falsely make or submit any type of official report or knowingly enter or cause to be entered any inaccurate, false, or improper information on the records of the Department”. Officer [REDACTED] did incorrectly write the report number. Although the allegation is correct, it does not rise to the level of misconduct to be considered intentionally



PAB

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altered or falsified as listed in the rule and regulation. Officer [REDACTED] documented on the case update report that he did put the incorrect report number and corrected it with the right number.

RECOMMENDED FINDINGS

#	Officer	Allegation	Finding/Recommendation
1	Officer [REDACTED]	Investigative Process (G.O. 401): Officer [REDACTED] did not take the statement of the complainant and wrote the wrong case number on the incident report.	Exonerated
2	Officer [REDACTED]	Rule and regulation - 5.1c (Altering, delaying, or falsifying reports) – It is alleged that Officer [REDACTED] wrote the wrong report number on a report.	Exonerated