



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): 2024-0042

Date of Panel Review: 12-Apr-2024 12:53 PM (EDT)

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] Rules and Regulations 2.1 (General Duties): Officer [REDACTED] incompetently performed a stop and frisk search of [REDACTED]

- **Does the Board Agree with the Findings of Fact? Yes**
 - **Does the Board Agree with the Substantiated Evidence of Misconduct? N/A**
 - **Does the Board Agree with the Proposed Disciplinary Action? N/A**
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Officer Name- Allegation # 2:

Officer [REDACTED] Rules and Regulations 2.1 (General Duties): Officer [REDACTED] incompetently performed a stop and frisk search of [REDACTED]

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



CLOSING REPORT

STATEMENT OF AUTHORITY

Article XVIII of the Rochester City Charter defines the authority and duties of the Police Accountability Board. Pursuant to § 18-1, "The Police Accountability Board shall be the mechanism to investigate such complaints of police misconduct and to review and assess Rochester Police Department patterns, practices, policies, and procedure...The Police Accountability Board shall provide a nonexclusive alternative to civil litigation."

EXECUTIVE SUMMARY

The following events took place on March 12, 2024, at approximately 10:00 am, at or near 71 North Clinton Avenue, Rochester, New York, 14604.

On the above mentioned date and time, Officer [REDACTED] and Officer [REDACTED] were patrolling the area of North Clinton Avenue in Rochester, New York. The Officers were told by security at the Rochester Transit System Transit Center that an individual wearing red pants and a yellow hat had a bulge about his waistband that security thought may be a gun.

Officer [REDACTED] and Officer [REDACTED] began to patrol the area when they came into contact with [REDACTED] who was wearing red pants and a yellow hat. The Officers said hello to [REDACTED] and immediately conducted a stop and frisk search of his person. No weapon was found on [REDACTED]

[REDACTED] immediately expressed his discomfort and told the Officers he felt as if his rights had been violated. [REDACTED] then reported the interaction to the Police Accountability Board.

INVOLVED OFFICERS

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

INVOLVED INDIVIDUALS

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



City of Rochester
Police Accountability Board
 Established 2019

245 E. Main Street
 Rochester, NY 14604

ALLEGATIONS

1	Officer [REDACTED]	Rules and Regulations 2.1 (General Duties): Officer [REDACTED] incompetently performed a stop and frisk search of [REDACTED]
2	Officer [REDACTED]	Rules and Regulations 2.1 (General Duties): Officer [REDACTED] incompetently performed a stop and frisk search of [REDACTED]

INVESTIGATION

Reporter [REDACTED] filed a complaint with the Police Accountability Board on March 13, 2024.

The Police Accountability Board notified the Rochester Police Department of its investigation and requested corresponding documents on March 18, 2024.

The Rochester Police Department responded to the request on March 18, 2024, and provided the Police Accountability Board with two computer aided dispatch reports and three body worn camera videos.

The Police Accountability Board conducted an in person interview of [REDACTED] on March 19, 2024 where [REDACTED] also provided photographic evidence.

EVIDENCE PROVIDED

Evidence	Description	Provided by	Filename
Intake Report	[REDACTED] initial report	[REDACTED]	i-Sight Case 2024-0042 Details Overview
Information Request	First Source of Information Request to the Rochester Police Department	Police Accountability Board	S-SharePoint File Transfer - InitialNotification 2024-0042 RPD response 3-18-24.pdf - All Documents
Information Request Response	Computer aided dispatch report	Rochester Police Department	S-SharePoint File Transfer - CAD - All Documents



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Evidence	Description	Provided by	Filename
Information Request Response	Body camera videos	Rochester Police Department	Genetec Clearance Collaborative investigation management
Audio and Visual Recording	Interview of [REDACTED]	Police Accountability Board	IMG_0022.MOV (sharepoint.com)
Photographs	Photos of the parties involved	[REDACTED]	PAB Reports - Photos collected 3.19.24 - All Documents (sharepoint.com)

EVIDENCE DENIED

Evidence	Description	Reason declined
Personnel Records of the Officers involved	Request from the Police Accountability Board to the Rochester Police Department	No response given.
Request for Officer Statement	Request from the Police Accountability Board to the Rochester Police Department	No response given.

APPLICABLE RULES & LAWS

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.

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(1)(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] incompetently performed a stop and frisk search of [REDACTED].
- Allegation 2: Officer [REDACTED] incompetently performed a stop and frisk search of [REDACTED].¹

The Rochester Police Department’s Rules and Regulations 2.1 mandates that Officers perform their duties in a competent manner. In order to competently perform a stop and frisk search, 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. Once a reasonable suspicion is established, the officer then has the authority to conduct a search of an individual’s outer clothing. See Terry v. Ohio, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968).

Officer [REDACTED] and Officer [REDACTED] were told by security officers that an individual was armed. The Officers were then told that the individual had on specific clothing, namely red pants and a yellow hat. The Officers began patrolling the area and came into contact with [REDACTED]. The Officers inferred that the person they came into contact with, [REDACTED], was the person in possession of a weapon because [REDACTED] was also wearing red pants and a yellow hat. They then proceeded to stop and frisk [REDACTED] based upon the report of a weapon and clothing description. The officers had reasonable suspicion to perform a stop and frisk. Officer [REDACTED] and Officer [REDACTED] competently performed a stop and frisk search of [REDACTED].

Allegation 1 against Officer [REDACTED] is exonerated.

Allegation 2 against Officer [REDACTED] is exonerated.

¹ Officer [REDACTED] and Officer [REDACTED] acted in tandem and with the exact same culpability at all times relevant to this complaint. Therefore, the actions of Officer [REDACTED] and Officer [REDACTED] will be analyzed concurrently.



PAB

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RECOMMENDED FINDINGS

#	Officer	Allegation	Finding/Recommendation
1	Officer [REDACTED]	Rules and Regulations 2.1 (General Duties): Officer [REDACTED] incompetently performed a stop and frisk search of [REDACTED]	Exonerated
2	Officer [REDACTED]	Rules and Regulations 2.1 (General Duties): Officer [REDACTED] incompetently performed a stop and frisk search of [REDACTED]	Exonerated