



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): 2024-0043

Date of Panel Review: 30-Apr-2024 1:00 PM (EDT)

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

Case Findings: Sustained

Disciplinary Recommendation: Written reprimand as well as additional training regarding de-escalation and respectful community interactions. Training on witness interviews and investigation.

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:

██████████ Rules and Regulations 4.2 (Courtesy): Officer ██████ used harsh and/or insolent language when speaking with ██████████.

- **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 # 2:

██████████ General Order 401 (Investigation Process): Officer ██████ failed to thoroughly investigate the domestic violence allegations made by ██████████.

- **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**



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 December 31, 2023, at approximately 12:46 pm, at [REDACTED], 14609.

On the above mentioned date and time, Officer [REDACTED] arrived at the above location after two individuals contacted 911 seeking assistance. Once on the scene, Officer [REDACTED] is met by Reporter, [REDACTED] and [REDACTED] a [REDACTED] identified as [REDACTED] ex-[REDACTED]. [REDACTED] and [REDACTED] begin talking over each other in an effort to tell their side of the story to Officer [REDACTED]. [REDACTED] is attempting to tell Officer [REDACTED] that [REDACTED] broke [REDACTED] car mirror. [REDACTED] is attempting to tell Officer [REDACTED] that [REDACTED] pulled a knife on [REDACTED] and poured lighter fluid on [REDACTED] home.

Officer [REDACTED] completed a report detailing the allegations of [REDACTED] damaging [REDACTED] car mirror on December 31, 2023.

Officer [REDACTED] completed a report detailing the allegations of [REDACTED] pouring lighter fluid on [REDACTED]s home on February 14, 2024.

Officer [REDACTED] did not complete a report detailing the allegations of [REDACTED] pulling a knife on [REDACTED]. However, a report was completed by another officer concerning this on February 17, 2024.

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]

¹ Officer [REDACTED] also responded to the scene, however, no allegations have been made against this officer and he is not being investigated for any policy violations or wrong doings.



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INVOLVED INDIVIDUALS

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

ALLEGATIONS

1	Officer ██████████	Rules and Regulations 4.2 (Courtesy): Officer ██████████ used harsh and/or insolent language when speaking with ██████████
2	Officer ██████████	General Order 401 (Investigation Process): Officer ██████████ failed to thoroughly investigate the domestic violence allegations made by ██████████ ██████████

INVESTIGATION

The Rochester Police Department notified the Police Accountability Board on March 14, 2024, of an investigation concerning these events, being conducted by the Police Department’s Professional Standards Section.

On March 15, 2024, the Rochester Police Department provided the Police Accountability Board with eight written reports, thirty eight computer aided dispatch reports, one personnel complaint form, one complainant advisement form, ██████████ transcribed statement to the Professional Standards Section, one email correspondence, three home security camera videos, and four body camera videos.

EVIDENCE PROVIDED

Evidence	Description	Provided by	Filename
Notification of Investigation	Rochester Police Department’s Notification of a Professional Standards Section investigation	Rochester Police Department	S-SharePoint File Transfer - Inv. Notification PSS 24-0146.pdf - All Documents



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Evidence	Description	Provided by	Filename
Investigative Documents	Written Reports sent to the Police Accountability Board	Rochester Police Department	S-SharePoint File Transfer - 01. Crime Reports, IAR's, etc - All Documents
Investigative Documents	Computer Aided Dispatch Reports	Rochester Police Department	S-SharePoint File Transfer - Unit Roster 24-031907.pdf - All Documents
Investigative Documents	Personnel Complaint Form of [REDACTED]	Rochester Police Department	S-SharePoint File Transfer - RPD 1253 PSS 24-0146.pdf - All Documents
Investigative Documents	Complaint Advisement Form	Rochester Police Department	S-SharePoint File Transfer - Complainant Advisement.pdf - All Documents
Investigative Documents	[REDACTED] Transcribed Statement	Rochester Police Department	S-SharePoint File Transfer - [REDACTED] Statement.pdf - All Documents
Investigative Documents	Email Correspondence	Rochester Police Department	S-SharePoint File Transfer - Email from [REDACTED].pdf - All Documents
Investigative Documents	Videos from home security feed	Rochester Police Department	S-SharePoint File Transfer - 07. Pictures & Video - All Documents
Investigative Documents	Body Camera Videos	Rochester Police Department	Genetec Clearance Collaborative investigation management
Audio Interview	Interview of [REDACTED]	Police Accountability Board	New Recording.m4a (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.

APPLICABLE RULES & LAWS

Rochester Police Department Rules and Regulations



4.2 COURTESY

- a) Employees shall be courteous, civil and tactful in the performance of their duties.
- b) Employees shall not express or otherwise manifest any prejudice concerning age, marital status, handicap, disability, race, creed, color, religion, national or ethnic origin, sex, sexual preference, or other personal characteristics.
- c) Employees shall not use harsh, profane, insolent, or intentionally insulting language toward any other employee or other person.

401 INVESTIGATIVE PROCESS²

B. Members of the Rochester Police Department (RPD) will:

- 1. Comply with all legal and constitutional requirements applicable during criminal investigations.
- 2. Conduct vigorous and thorough investigations of all offenses observed or brought to their attention.
- 3. Employ the procedures of Preliminary Investigation and Continued Investigations, as applicable.

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.

² The investigative process policy has been condensed for purposes of this document. The entirety of which may be viewed using the following link. [GO 401 Investigation Process | Rochester, NY Police Department Open Data Portal \(arcgis.com\)](#).



ANALYSIS

The following findings are made based on the above standards:

Allegation 1: Officer [REDACTED] used harsh and/or insolent language when speaking with with [REDACTED]

The Rochester Police Department's Rules and Regulations 4.2 states that Officers shall not use harsh, profane, insolent, or intentionally insulting language toward any other employee or person.

Officer [REDACTED] responded to [REDACTED] in reference to a domestic violence incident. Once on the scene, Officer [REDACTED] made contact with [REDACTED] and [REDACTED]. The first thing that Officer [REDACTED] said to them was "What's the problem today". Officer [REDACTED]' tone and demeanor continued to be nonchalant and dismissive throughout his entire interaction with [REDACTED] and [REDACTED]. Officer [REDACTED] can also be heard telling both parties to "act like adults" and making comments such as "how old are you?" and "you guys are acting like idiots, arguing right now".

Officer [REDACTED] word choice was rude and his tone was condescending. The above examples are illustrative of Officer [REDACTED] use of harsh and/or insolent language towards [REDACTED] and also [REDACTED].

Allegation 1 against Officer [REDACTED] is sustained.

Allegation 2: Officer [REDACTED] failed to thoroughly investigate the domestic violence allegations made by [REDACTED]

The Rochester Police Department's General Order 401 states that Officers shall conduct vigorous and thorough investigations of all offenses observed or brought to their attention.

On December 31, 2023, Officer [REDACTED] was informed of three domestic violence incidents. He was told that [REDACTED] damaged [REDACTED] car window, that [REDACTED] poured lighter fluid on [REDACTED] home, and that [REDACTED] pulled a knife on [REDACTED]. While at [REDACTED] home, Officer [REDACTED] conducted a visual inspection of [REDACTED] car and took pictures of the damage. However, no further inquiries were made into [REDACTED] allegations against [REDACTED] and no reports were done on that day. In fact, Officer [REDACTED] informed [REDACTED] that he did not want to inspect his home for lighter fluid at that time. Furthermore, Officer [REDACTED] did not complete a report detailing the light fluid allegations until February 14, 2024 and Officer [REDACTED] failed to complete a report detailing the knife wielding allegations.

Officer [REDACTED] did not thoroughly investigate the domestic claims made by [REDACTED] in which it was alleged that [REDACTED] poured lighter fluid on [REDACTED] home and pulled a knife on [REDACTED].

Allegation 2 against Officer [REDACTED] is sustained.



RECOMMENDED FINDINGS

#	Officer	Allegation	Finding
1	Officer ██████████	Rules and Regulations 4.2 (Courtesy): Officer ██████████ used harsh and/or insolent language when speaking with ██████████	Sustained
2	Officer ██████████	General Order 401 (Investigation Process): Officer ██████████ failed to thoroughly investigate the domestic violence allegations made by ██████████	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:

Sustained Allegation 1 against Officer ██████████

Disciplinary Matrix Appendix

Misconduct	Level
Rules and Regulations 4.2 (c): Employees shall not use harsh, profane, insolent, or intentionally insulting language toward any person.	3

- Recommended Level: 2 (“More than minimal negative impact to individuals, community, or public perception of the agency or relationships with other officers or agencies.”)



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- Recommended Discipline (based on 0 prior sustained violations): **Additional training regarding domestic violence incidents and de escalation techniques.**
- Explanation of deviation from presumptive penalty: This is the first time Officer [REDACTED] has been the subject of an investigation closed by the Police Accountability Board. While Officer [REDACTED] could have and should have conducted himself with greater professionalism and tact, his tone and communication did not necessitate the need for a suspension.

Sustained Allegation 2 against Officer [REDACTED]

Disciplinary Matrix Appendix

Misconduct	Level
General Order 401 (Investigation Process): Officer [REDACTED] failed to thoroughly investigate the domestic violence allegations made by [REDACTED].	3

- 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): **Written reprimand**
- Explanation of deviation from presumptive penalty: This is the first time Officer [REDACTED] has been the subject of an investigation closed by the Police Accountability Board. While Officer [REDACTED] himself did not investigate and document all three claims, the claims were eventually documented, after supervisor intervention.