



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): 2024-0044

Date of Panel Review: 17-Jul-2024 1:00 PM (EDT)

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

Case Findings: Sustained

The panel voted unanimously to sustain Allegation 12 as they felt by a preponderance of the evidence that Officer [REDACTED] kicked the subject after throwing her to the ground. The Board notes that because the subject was a female, and appeared to be suffering from mental distress, it may have emboldened the Officer's belief that he would get away with mistreating her.

Disciplinary Recommendation: 1. Officer [REDACTED] Termination. The Board panel votes unanimously to terminate this officer based on the egregious conduct here, which included an apparent kick of the subject, and the officer's three prior instances of substantiated misconduct from the Professional Standards Section.

Dissenting Opinion/Comment: N/A. All findings unanimous.



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] Officer [REDACTED] violated General Order 335 § II A by using a level of force beyond what was necessary to guide the subject off of his patrol vehicle and General Order 337 § III B as he did not attempt to resolve the situation without using force and General Order 575 § III B as he did not use de-escalation techniques and tactics to prevent and minimize the need to use force in response to resistance and to increase the likelihood of securing the subject's voluntary compliance with police instructions.

- **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**
-

Officer Name- Allegation # 2:

Officer [REDACTED] Officer [REDACTED] violated General Order 335 § II C as he did not complete a Subject Resistance Report (SRR) until instructed to do so by a supervisor on March 13, 2024.

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

Officer Name- Allegation # 3:

Officer [REDACTED] Officer [REDACTED] violated General Order 335 § III A 1 and the Body Worn Camera (BWC) Manual § IV B as he did not activate his Body Worn Camera throughout the entire interaction.

- **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 # 4:

Officer [REDACTED] Officer [REDACTED] violated General Order 335 § III A 2 as he did not notify an immediate supervisor of the incident.

- **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 # 5:

Officer [REDACTED] Officer [REDACTED] violated General Order 335 § III A 4 (b) and (d) as he did not evaluate the need for medical attention or treatment for the individual upon whom force was used.

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

Officer Name- Allegation # 6:

Officer [REDACTED] Officer [REDACTED] violated General Order 335 § III A 6 as he did not photograph the individual upon whom force was used.

- **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 # 7:

Officer [REDACTED] Officer [REDACTED] violated General Order 335 § III A 10 as he did not prepare and submit a Subject Resistance Report (SRR) by the end of his tour of duty.

- **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 # 8:

Officer [REDACTED] Officer [REDACTED] violated General Order 335 § III A 11 as he did not notify a platoon supervisor that an SRR could not be completed by the end of his tour of duty.

- **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 # 9:

Officer [REDACTED] Officer [REDACTED] violated General Order 517 § III B 3 as he did not seek the aid of the individual’s friends or family, or refer to other community agencies whose services are specifically directed at the needs of disabled individuals and General Order 560 § II A as he was not understanding of and attentive to the problems of the person experiencing mental or emotional difficulties and who may have required police assistance and community mental health resources and General Order 560 § III B 4 (b) as he did not offer available resources or request PIC, FACIT, or FIT to respond.

- **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 # 10:

Officer [REDACTED] Officer [REDACTED] violated RPD Rules and Regulations RPD Rules and Regulations 4.1 (a) as he did not conduct himself as to avoid bringing discredit upon the department and 4.1 (b) as he did engage in conduct which adversely affects the efficiency of the Department and has a tendency to impair public respect for himself and/or the department, and/or impairs confidence in the operation of the 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**

Officer Name- Allegation # 11:

Officer [REDACTED] Officer [REDACTED] violated RPD Rules and Regulations 4.2 (a) as he was not courteous, civil and tactful in the performance of his 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**

Officer Name- Allegation # 12:

Officer [REDACTED] Officer [REDACTED] violated RPD Rules and Regulations 5.1 (a) and New York State Penal Law § 175.30 as he did not disclose that he kicked the subject after forcefully removing them from the hood of the patrol vehicle.

- **Does the Board Agree with the Findings of Fact? No**
- **Does the Board Agree with the Substantiated Evidence of Misconduct? Yes**
- **Does the Board Agree with the Proposed Disciplinary Action? Yes**



Officer Name- Allegation # 13:

Officer [REDACTED] Officer [REDACTED] violated New York State Penal Law § 260.24 as he recklessly engaged in conduct which was likely to be injurious to the physical, mental or moral welfare of a person who is unable to care for himself or herself because of physical disability, mental disease or defect.

- **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 # 14:

Officer [REDACTED] violated General Order 336 § II A as he did not intervene to prevent or stop Officer [REDACTED] from acting contrary to RPD policy.

- **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

On February 25, 2024, around 3:00 PM, Officer [REDACTED] responded to an individual climbing on his patrol vehicle, which was parked outside of the Regional Transit Service (RTS) Central Bus Station on the St. Paul Street side of the building. Footage obtained by the PAB shows Officer [REDACTED] approaching the vehicle, grabbing the subject, and pulling them off the vehicle (Allegations 1, 13). The subject then falls to the ground, at which point Officer [REDACTED] moves his left arm and right leg in a manner that suggests that he may have kicked the subject (Allegation 12). He then yells “Who do you think you are?” to which the subject responds “I’m sick”. He then says “Then you go to the hospital, you don’t come over and climb on my car!”. He then continues to shout and point at the subject, until taking a few steps back (Allegations 5, 6, 9, 10, 11). At this point, Officer [REDACTED] can be seen entering the frame of the video and standing next to Officer [REDACTED] (Allegation 14). Eventually, the subject leaves the area. A Subject Resistance Report was not submitted until March 13, 2024, and no Body Worn Camera (BWC) Footage exists of this incident (Allegations 2, 3, 4, 7, 8).

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
Unknown Individual	Unknown	Unknown	Unknown



ALLEGATIONS

1	Officer [REDACTED]	Officer [REDACTED] violated General Order 335 § II A by using a level of force beyond what was necessary to guide the subject of off his patrol vehicle and General Order 337 § III B as he did not attempt to resolve the situation without using force and General Order 575 § III B as he did not use de-escalation techniques and tactics to prevent and minimize the need to use force in response to resistance and to increase the likelihood of securing the subject’s voluntary compliance with police instructions.
2	Officer [REDACTED]	Officer [REDACTED] violated General Order 335 § II C as he did not complete a Subject Resistance Report (SRR) until instructed to do so by a supervisor on March 13, 2024.
3	Officer [REDACTED]	Officer [REDACTED] violated General Order 335 § III A 1 and the Body Worn Camera (BWC) Manual § IV B as he did not activate his Body Worn Camera throughout the entire interaction.
4	Officer [REDACTED]	Officer [REDACTED] violated General Order 335 § III A 2 as he did not notify an immediate supervisor of the incident.
5	Officer [REDACTED]	Officer [REDACTED] violated General Order 335 § III A 4 (b) and (d) as he did not evaluate the need for medical attention or treatment for the individual upon whom force was used.
6	Officer [REDACTED]	Officer [REDACTED] violated General Order 335 § III A 6 as he did not photograph the individual upon whom force was used.
7	Officer [REDACTED]	Officer [REDACTED] violated General Order 335 § III A 10 as he did not prepare and submit a Subject Resistance Report (SRR) by the end of his tour of duty.
8	Officer [REDACTED]	Officer [REDACTED] violated General Order 335 § III A 11 as he did not notify a platoon supervisor that



		an SRR could not be completed by the end of his tour of duty.
9	Officer [REDACTED]	Officer [REDACTED] violated General Order 517 § III B 3 as he did not seek the aid of the individual’s friends or family, or refer to other community agencies whose services are specifically directed at the needs of disabled individuals and General Order 560 § II A as he was not understanding of and attentive to the problems of the person experiencing mental or emotional difficulties and who may have required police assistance and community mental health resources and General Order 560 § III B 4 (b) as he did not offer available resources or request PIC, FACIT, or FIT to respond.
10	Officer [REDACTED]	Officer [REDACTED] violated RPD Rules and Regulations RPD Rules and Regulations 4.1 (a) as he did not conduct himself as to avoid bringing discredit upon the department and 4.1 (b) as he did engage in conduct which adversely affects the efficiency of the Department and has a tendency to impair public respect for himself and/or the department, and/or impairs confidence in the operation of the Department.
11	Officer [REDACTED]	Officer [REDACTED] violated RPD Rules and Regulations 4.2 (a) as he was not courteous, civil and tactful in the performance of his duties.
12	Officer [REDACTED]	Officer [REDACTED] violated RPD Rules and Regulations 5.1 (a) and New York State Penal Law § 175.30 as he did not disclose that he kicked the subject after forcefully removing them from the hood of the patrol vehicle.
13	Officer [REDACTED]	Officer [REDACTED] violated New York State Penal Law § 260.24 as he recklessly engaged in conduct which was likely to be injurious to the physical, mental or moral welfare of a person who is unable to care for himself or herself because of physical disability, mental disease or defect.



City of Rochester
Police Accountability Board
Established 2019

245 E. Main Street
Rochester, NY 14604

14 officer [REDACTED]	Officer [REDACTED] violated General Order 336 § II A as he did not intervene to prevent or stop officer [REDACTED] from acting contrary to RPD policy.
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INVESTIGATION

On February 25, 2024, the incident described in this report occurred at the Saint Paul Street side outside of the Regional Transit Service (RTS) Transit Center located at 60 Saint Paul Street, Rochester, NY 14604.

On March 7, 2024, a video of the incident was uploaded to the Instagram page “rogonemad”.

On March 19, 2024, the incident was anonymously reported to the Police Accountability Board (PAB) using its online reporting portal. A screen recording of the Instagram video was provided along with the report.

On March 20, 2024, the case was assigned to PAB Investigator [REDACTED]

On March 28, 2024, PAB Investigators [REDACTED] and [REDACTED] canvassed RTS Transit Center to identify cameras that may have recorded the incident. An RTS Supervisor provided contact information for RTS Field Operations Manager [REDACTED]

On April 2, 2024, the initial Notification of Investigation (NOI)/Source of Information (SOI) request was sent to Rochester Police Department (RPD) Captain [REDACTED]

On April 4, 2024, PAB Investigator [REDACTED] and Digital Forensic Analyst (DFA) [REDACTED] visited the RTS Transit Center to request security camera footage from cameras outside of the building. RTS Staff provided contact information for RTS General Counsel [REDACTED]

On April 8, 2024, after clarifying that this report was not generated via PAB internal procedure, RPD Capt. [REDACTED] provided evidence in the case.

On April 9, 2024, an information request was sent to RTS General Counsel [REDACTED] via email for (1) any and all surveillance video from cameras pointed toward Saint Paul Street on February 25, 2024, (2) any and all surveillance video from exterior cameras positioned on the Saint Paul Street side of the Transit Center on February 25, 2024, and (3) any and all logs generated by the surveillance system on February 25, 2024.



On April 10, 2024, PAB Investigator [REDACTED] visited RTS Rochester-Genesee Regional Transit Authority (RGRTA) at 1372 East Main Street, Rochester, NY 14609, and met with RTS Executive Assistant [REDACTED], who provided a flash drive purportedly containing security camera footage. The files on the flash drive were not playable and RTS Executive Assistant [REDACTED] was notified via email the next day.

On April 11, 2024, an additional SOI was sent to RPD requesting the original CAD Job Card with Event Unit and Event Information from February 25, 2024. RPD Capt. [REDACTED] responded on April 11, 2024, confirming that no Job Card or Use of Force Report were created on February 25, 2024. Both documents were created on March 13, 2024, two weeks and three days after the incident.

On April 11, 2024, RPD Capt. [REDACTED] provided a Training Memorandum issued to RPD Officer [REDACTED] that same day, informing him that he violated RPD General Order (GO) 335 § III A 1, 2, 6, and 10. The document instructed Officer [REDACTED] to familiarize himself with the sections he violated and made no reference to violations of other General Orders, Rules and Regulations, or the New York State Penal Law, nor did it impose a level of discipline beyond the aforementioned instruction.

On April 18, 2024, PAB Investigator [REDACTED] and DFA [REDACTED] visited RGRTA and met with [REDACTED] of RTS Safety and Security, who provided a new drive with footage of the incident captured by two cameras mounted on the RTS Transit Center Building. The files provided by RTS did not include a third camera mounted on a lamppost directly above where the incident took place, nor did they include a log generated by the surveillance system on February 25, 2024, as requested on April 9, 2024.

On April 23, 2024, PAB Investigator [REDACTED] reached out to RTS General Counsel [REDACTED] and [REDACTED] of RTS Safety and Security via email asking to obtain footage of the incident from a third camera as per the request sent on April 9, 2024. The third camera is mounted on a lamppost directly above where the incident took place. [REDACTED] of RTS Safety and Security responded via email, stating that the camera is typically pointed towards the entrance to the RTS Transit Center and would not have captured the incident. PAB Investigator [REDACTED] maintained that the PAB would still like a copy of the footage from the date and time of the incident for review, and was informed that the footage no longer exists, as the last day of footage still maintained by the system was February 27, 2024.

On April 23, 2024, PAB Investigator [REDACTED] reached out to RTS General Counsel [REDACTED] via email requesting to interview three RTS employees who witnessed the incident and were



captured in the footage of the incident. This request did not receive a response until April 30, 2024.

On April 24, 2024, PAB Investigator [REDACTED] sent an Officer Statement Request to Officer [REDACTED]

On April 25, 2024, PAB Investigator [REDACTED] reached out to [REDACTED] of RTS Safety and Security, requesting a sample of current or recent footage from the camera on the lamppost showing what it captures so that the final report can show that the camera in question would not have captured the incident. This request did not receive a response.

On April 25, 2024, PAB Investigator [REDACTED] returned to RTS Transit Center and spoke to the RTS Supervisor with whom contact was initially established on March 28, 2024. PAB Investigator [REDACTED] informed the RTS Supervisor that the PAB was attempting to interview witnesses of the incident and provided his business card. The RTS Supervisor stated he would notify his supervisor when she returned from vacation and would put the business card on her desk.

On April 30, 2024, PAB Investigator [REDACTED] had not heard from any RTS representatives regarding interview requests, so RTS was contacted via the Customer Service Line found on its website. The call was placed at 10:13 AM and the request was explained to two customer service representatives before the call was ultimately forwarded to the voicemail box of RTS Field Operations Manager [REDACTED]. PAB Investigator [REDACTED] left a voicemail explaining the request.

On April 30, 2024, at 10:42 AM RTS General Counsel [REDACTED] responded to the request for interviews via email and stated that RTS was attempting to determine if the witnesses were contractors or RTS employees. PAB Investigator [REDACTED] responded via email and reiterated the request for current or recent footage from the camera mounted on the lamppost to show that the incident would not have been captured as stated by [REDACTED] of RTS Safety and Security on April 25, 2024. This request did not receive a response.

On May 3, 2024, RTS Field Operations Manager [REDACTED] called PAB Investigator [REDACTED] and stated he could provide contact information for the three witnesses, as requested.

On May 6, 2024, PAB Investigator [REDACTED] spoke to RTS Field Operations Manager [REDACTED] and obtained contact information for all three witnesses. RTS Field Operations Manager [REDACTED] stated that all three witnesses had been informed of the investigation and had given consent to be contacted, however all three witnesses had been informed that participation in interviews was voluntary.



On May 6, 2024, PAB Investigator called all three witnesses. Two witnesses declined to answer, and voicemails were left requesting interviews. A third witness did answer, and declined to be interviewed.

On May 7, 2024, PAB Investigator [REDACTED] sent a text message to the witness who declined to be interviewed with instructions on how to get in touch if the witness changed their mind. The other witnesses were called again as well, and neither answered. Voicemails were not left.

On May 9, 2024, an Officer Statement Request was sent to Officer [REDACTED] who was at the RTS Transit Center during the incident and can be seen on security footage provided by RTS.

As of June 10, 2024, neither Officer [REDACTED] nor Officer [REDACTED] have responded to Officer Statement Requests.

As of June 10, 2024, none of the three witnesses to the incident has responded to PAB Investigator [REDACTED] regarding interview requests.

EVIDENCE REVIEWED

Evidence	Description	Provided by	Reason declined	Filename
CAD Event Information	Event Information card generated on March 13, 2024.	Capt. [REDACTED]	n/a	I_NetViewer_Event Information.pdf
CAD Event Unit	Event Unit card generated on March 13, 2024.	Capt. [REDACTED]	n/a	I_NetViewer_Event Unit.pdf
Use of Force Report/Subject Resistance Report (SRR)	Report which describes type of force used, incident narrative written by Officer [REDACTED] and [REDACTED] and locations on an individual's	Capt. [REDACTED]	n/a	Printable Report_Rochester PD BlueTeam 6 [REDACTED] use of force.pdf



EVIDENCE REVIEWED

Evidence	Description	Provided by	Reason declined	Filename
	body where force was applied. Report lists Officer [REDACTED] as a witness. Generated on March 13, 2024			
Training Memorandum	Memorandum describing Officer [REDACTED] violation of RPD General Order 335 § III A 1, 2, 6, and 10. Document directs Officer [REDACTED] to familiarize himself with the provisions of the General Order that he violated.	Capt. [REDACTED]	n/a	Training Memorandum.pdf
RPD NOI/SOI Response	RPD Capt. [REDACTED] response to initial NOI/SOI sent by PAB questioning if this report was internally generated and suggesting that if so, PAB	Capt. [REDACTED]	n/a	InitialNotification 2024-0044 rpd response 4-3-24.pdf



EVIDENCE REVIEWED

Evidence	Description	Provided by	Reason declined	Filename
	make RPD aware so that RPD may properly investigate the incident.			
Original video posted to “rogonemad” on Instagram	Link to Instagram video of incident.	Capt. [REDACTED]	n/a	Never a dull moment at the transit center #rogonemad #rochesterny #rochester - Instagram
Supplemental SOI Response	RPD Response to Supplemental SOI that explained that the report was submitted anonymously via the PAB’s online reporting portal.	Capt. [REDACTED]	n/a	SupplementalSOI 2024-0044 RPD response 4-8-24.pdf
Additional SOI Response	RPD Response to second SOI requesting CAD information from the date of the incident. Document confirms that CAD information and use of force report were not created until	Capt. [REDACTED]	n/a	SOI 2024-0044-02 RPD response 4-11-24.pdf



EVIDENCE REVIEWED

Evidence	Description	Provided by	Reason declined	Filename
	March 13, 2024.			
Security Camera Footage	Footage of the incident captured from the North side of the RTS Transit center. Use of force takes place at 4 minutes and 34 seconds; however, a glare obscures the incident until 7 minutes and 4 seconds. Officer ██████ enters the frame at 5 minutes and 6 seconds.	RTS	n/a	118 St.Paul Exterior (North) Plaza – View-only
Security Camera Footage	Footage of the incident captured from the North side of the RTS Transit center. Use of force takes place at 4 minutes and 34 seconds; however, a flagpole obscures much of the incident. Officer ██████	RTS	n/a	118 St.Paul Exterior (South) Plaza – View-only



EVIDENCE REVIEWED

Evidence	Description	Provided by	Reason declined	Filename
	<p>██████ enters the frame at 5 minutes and 2 seconds.</p>			
<p>Bystander Cellphone Video</p>	<p>Footage of the incident captured via cellphone video of a bystander and provided by an anonymous reporter to the PAB. Footage contains Audio and appears to show Officer ██████ kicking the subject at 2 seconds.</p>	<p>Anonymous Reporter</p>	<p>n/a</p>	<p>Screen Recording 20240307 161932 Instagram~2</p>
<p>Request for Data</p>	<p>Request form sent to RTS for security footage from all cameras on Saint Paul side of the Transit Center as well as all logs generated by the surveillance system on February 25, 2024.</p>	<p>PAB</p>	<p>n/a</p>	<p>Request for Data 2024-0044.pdf</p>
<p>Folder of Emails</p>	<p>Email chains between PAB</p>	<p>PAB</p>	<p>n/a</p>	<p>conversations with RTS</p>



EVIDENCE REVIEWED

Evidence	Description	Provided by	Reason declined	Filename
	Investigator [REDACTED] and various RTS employees documenting attempts to obtain security footage and conduct witness interviews.			
Past Disciplinary History	Redacted Disciplinary History of Officer [REDACTED] from City of Rochester's Police Department Discipline Database containing PSS IA # 2012-1192 and 2015-0466.	City of Rochester	n/a	7f3 [REDACTED] Index Redacted.pdf
Past Disciplinary History	Plea offer letter from former RPD Chief [REDACTED] explaining findings of PSS IA # 2015-0466.	City of Rochester	n/a	[REDACTED] Plea Offer Redacted.pdf
Past Disciplinary History	Intra-Departmental Correspondence	City of Rochester	n/a	[REDACTED] Guilty Pleas.pdf



EVIDENCE REVIEWED

Evidence	Description	Provided by	Reason declined	Filename
	signed by Officer ██████ in ██████ in which he pleads guilty to the charges in PSS IA # 2015-0466			
Past Disciplinary History	Executive Summary containing recommended sustained findings of PSS IA # 2018-0187	City of Rochester	n/a	Executive Summary 18-0187.pdf
Past Disciplinary History	Stipulation of Settlement signed by Officer ██████ and former RPD Chief ██████ in ██████ in which Officer ██████ pleads guilty to RPD Rules and Regulations 1.1a and 1.2.	City of Rochester	n/a	Signed ██████ SOS.pdf



APPLICABLE RULES & LAWS

Rochester Police Department General Orders

335: Subject Resistance Report

II. POLICY

A. Members may use only that level of physical force necessary in the performance of their duties within the limits established by Article 35 of the New York State Penal Law and consistent with the training and policies of the Rochester Police Department (RPD). Appropriateness of force used is dependent on the “totality of the circumstances” at the moment the force is used. The Use of Deadly Physical Force will be governed by G.O. 340.

C. All force used, to include displaying a chemical agent (PLS, O.C. and chemical munitions), with the exception of mere handcuffing, blanketing, escorting or application of hobble, will require a Subject Resistance Report (SRR). This report will be completed in the current electronic format (Blue Team).

III. PROCEDURES

A. Any member using force pursuant to their duties, or any off-duty member using force regardless of whether or not it is pursuant to their duty as a police officer, will:

1. If on-duty and assigned a Body-Worn Camera (BWC), ensure the BWC is activated and recording in accordance with policy. See Body Worn Camera Manual.
2. Immediately notify their immediate supervisor of the incident.
4. After force is used, immediately evaluate the need for medical attention or treatment for that person upon whom the techniques were used and arrange for appropriate treatment when:
 - b) The Subject complains of injury or requests medical attention;
 - d) The subject appears to be mentally ill and is conducting themselves in a manner which is likely to result in serious harm to themselves or others.
6. After force is used, photograph all subjects upon whom the techniques were used prior to being released or brought to booking (non-custodial persons have the right to refuse).



10. Prepare and submit the SRR and related reports to their supervisor by the end of their tour of duty, unless directed otherwise by a platoon supervisor. All criminal incidents will be documented on an RMS Incident Report with the appropriate ‘Occurred Incident Type.’ All copies of these report(s) will be forwarded together, along with other applicable reports, to the coordinating supervisor for approval.

11. Notify a platoon supervisor for any SRR or related report(s) that cannot be completed by the end of that tour of duty. The supervisor will grant approval to complete the SRR immediately or grant approval to complete the SRR during the following tour of duty. If approval is granted to complete the reports the next day, the supervisor will ensure that any reports or documents (e.g. accusatory instrument) that are immediately required for an arrest are completed and submitted before the member secures from that tour of duty.

336: Duty to Intervene

II. POLICY

A. All Members have an affirmative duty to intervene to prevent or stop any member from using unreasonable force or otherwise acting contrary to law or RPD policy.

337: Use of Force

III. POLICY

B. RPD’s goal is to gain voluntary compliance of persons without resorting to the use of force. Though Members are authorized to use reasonable force when necessary, Members should attempt to resolve situations without using force whenever possible.

517: Americans With Disabilities Act

III. PROCEDURES

B. Intellectual Disability

3. In responding to the needs of persons with a severe or profound intellectual disability, the employee should seek the aid of the individual's friends or family, or refer to other community agencies whose services are specifically directed at the needs of disabled individuals.

560: Psychiatric Crisis Intervention



II. POLICY

A. Members of the Rochester Police Department (RPD), when dealing with persons during contacts on the street as well as during interviews and interrogations, will be understanding of and attentive to the problems of persons experiencing mental or emotional difficulties and who may require police assistance and community mental health resources.

III. PROCEDURES

B. Response

4. Be truthful with the individual, family and other involved persons.

(b) Offer available resources or request PIC, FACIT, FIT, to respond.

575: De-Escalation

III. POLICY

B. Members shall use de-escalation techniques and tactics, when it is safe and feasible to do so, to prevent and minimize the need to use force in response to resistance and to increase the likelihood of securing a subject's voluntary compliance with police instructions.

Rochester Police Department Body Worn Camera (BWC) Manual

IV. RECORDING REQUIREMENTS AND RESTRICTIONS

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 events.

Rochester Police Department Rules and Regulations

4.1: CONDUCT

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



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.

4.2: COURTESY

a) Employees shall be courteous, civil and tactful in the performance of their duties.

5.1: ALTERING, DELAYING, OR FALSIFYING REPORTS

a) Employees shall not steal, alter, falsify, tamper with, withdraw, or request that any other person do the same to any report, letter, request, or other communication that is being forwarded through the chain of command. The removal of any record, card, report, letter, document, or other official file from the Department, or the permitting of inspection of same, except by process of law or as directed by the Chief of Police or a superior, is prohibited. Additionally, the obtaining/duplicating or attempted obtaining or duplicating of any information from Department files, sources or reports other than that to which one is properly entitled in accordance with one's duties/assignments is prohibited. This shall not apply to the correction of errors.

New York State Penal Law

§ 175.30: OFFERING A FALSE INSTRUMENT FOR FILING IN THE SECOND DEGREE

A person is guilty of offering a false instrument for filing in the second degree when, knowing that a written instrument contains a false statement or false information, he offers or presents it to a public office or public servant with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office or public servant. Offering a false instrument for filing in the second degree is a class A misdemeanor.

§ 260.24: ENDANGERING THE WELFARE OF AN INCOMPETENT OR PHYSICALLY DISABLED PERSON IN THE SECOND DEGREE

A person is guilty of endangering the welfare of an incompetent or physically disabled person in the second degree when he or she recklessly engages in conduct which is likely to be injurious to the physical, mental or moral welfare of a person who is unable to care for himself or herself because of physical disability, mental disease or defect. Endangering the welfare of an incompetent or physically disabled person in the second degree is a class A misdemeanor.



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).

Allegation 1: Officer [REDACTED] violated General Order 335 § II A by using a level of force beyond what was necessary to guide the subject of off his patrol vehicle and General Order 337 § III B as he did not attempt to resolve the situation without using force and General Order 575 § III B as he did not use de-escalation techniques and tactics to prevent and minimize the need to use force in response to resistance and to increase the likelihood of securing the subject’s voluntary compliance with police instructions.

RPD General Order 335 § II A states that “Members may use only that level of physical force necessary in the performance of their duties within the limits established by Article 35 of the New York State Penal Law and consistent with the training and policies of the Rochester Police Department (RPD). Appropriateness of force used is dependent on the ‘totality of the circumstances’ at the moment the force is used. The Use of Deadly Physical Force will be governed by G.O. 340.”



RPD General Order 337 III B states that “RPD’s goal is to gain voluntary compliance of persons without resorting to the use of force. Though Members are authorized to use reasonable force when necessary, Members should attempt to resolve situations without using force whenever possible.”

RPD General Order 575 § III B states that “Members shall use de-escalation techniques and tactics, when it is safe and feasible to do so, to prevent and minimize the need to use force in response to resistance and to increase the likelihood of securing a subject’s voluntary compliance with police instructions.”

A review of the [footage captured by a bystander](#) and uploaded to Instagram which was provided to the PAB by an anonymous reporter shows Officer ██████ using force to pull the subject off of his patrol vehicle, resulting in the subject falling to the ground. Upon using force to remove the subject from the hood of his vehicle, Officer ██████ yells “Who do you think you are” at the subject. He continues to shout and point at the subject before eventually walking away.

A review of the [security camera footage](#) obtained by the PAB shows Officer ██████ approach his patrol vehicle while the subject can be seen on the hood, and initiate his use of force immediately upon reaching the vehicle. While the security camera footage does not have audio, it can be surmised that beyond any unconfirmed verbal commands that may have been given to the subject while he was approaching the vehicle, Officer ██████ did not attempt to convince the subject to voluntarily climb down from the hood of the vehicle. Additionally, Officer ██████ did not make an attempt or offer to assist the subject in climbing down from the hood of the vehicle.

A review of the [Use of Force Report](#) confirms that no damage was done to the patrol vehicle. In his narrative, Officer ██████ states “No damage was caused to the patrol veh and Jane [D]oe was asked to leave the area...No charges were filed because no damage was caused to the patrol veh.” Furthermore, the [Use of Force Report](#) does not mention any threats made to Officer ██████ and there is no evidence available to suggest that Officer ██████ felt he was in danger. Additionally, the report states that the subject was smaller than Officer ██████ and did not resist Officer ██████ use of force.

The allegation that Officer ██████ violated General Order 335 § II A, General Order 337 § III B, and General Order 575 § III B is recommended as Sustained.



Allegation 2: Officer ████████ violated General Order 335 § II C as he did not complete a Subject Resistance Report (SRR) until instructed to do so by a supervisor on March 13, 2024.

RPD General Order 335 § II C states “All force used, to include displaying a chemical agent (PLS, O.C. and chemical munitions), with the exception of mere handcuffing, blanketing, escorting or application of hobble, will require a Subject Resistance Report (SRR). This report will be completed in the current electronic format (Blue Team).”

A review of the [Use of Force Report](#) provided by the RPD as well as an [April 11, 2024 response to a Source of Information Request](#) to the PAB by RPD Captain ████████ verifies that the report in question was not created until March 13, 2024. However, General Order 335 § II C does not specify the time frame in which the report must be completed. Therefore, while the alleged conduct did occur, it does not violate General Order 335 § II C.

The allegation that Officer ████████ violated General Order 335 § II C is recommended as Exonerated.

Allegation 3: Officer ████████ violated General Order 335 § III A 1 and the Body Worn Camera (BWC) Manual § IV B as he did not activate his Body Worn Camera throughout the entire interaction.

RPD General Order 335 § III A 1 states that “Any member using force pursuant to their duties, or any off-duty member using force regardless of whether or not it is pursuant to their duty as a police officer, will: If on-duty and assigned a Body-Worn Camera (BWC), ensure the BWC is activated and recording in accordance with policy. See Body Worn Camera Manual.”

The Body Worn Camera (BWC) Manual § IV B states that “Members assigned a BWC will activate it and record all activities, and contact with persons, in the course of performing or when present at any enforcement activity, or upon direction of a supervisor. There are no exceptions to the requirement to record mandatory events.”

In responding to an SOI requesting BWC footage of the incident, RPD Captain ████████ [confirmed](#) that none exists. In his response, Captain ████████ references the [Use of Force Report](#), which also confirms that there is “No Video” of the incident captured by the involved officer.

A review of the [Training Memorandum](#) issued to Officer ████████ on April 11, 2024, confirms that Officer ████████ failed to activate his BWC and instructs him to familiarize himself with RPD General Order 335 § III A 1, 2, 6, and 10.



The allegation that Officer ██████ violated General Order 335 § III A 1 and The Body Worn Camera (BWC) Manual § IV B is recommended as Sustained.

Allegation 4: Officer ██████ violated General Order 335 § III A 2 as he did not notify an immediate supervisor of the incident.

RPD General Order 335 § III A 2 states that “Any member using force pursuant to their duties, or any off-duty member using force regardless of whether or not it is pursuant to their duty as a police officer, will: Immediately notify their immediate supervisor of the incident.”

A review of the [Training Memorandum](#) issued to Officer ██████ on April 11, 2024, confirms that Officer ██████ “did not immediately notify [his] immediate supervisor or a section supervisor to the scene.” The Training Memorandum instructs Officer ██████ to familiarize himself with RPD General Order 335 § III A 1, 2, 6, and 10.

The allegation that Officer ██████ violated General Order 335 § III A 2 is recommended as Sustained.

Allegation 5: Officer ██████ violated General Order 335 § III A 4 (b) and (d) as he did not evaluate the need for medical attention or treatment for the individual upon whom force was used.

RPD General Order 335 § III A 4 (b) and (d) states that “Any member using force pursuant to their duties, or any off-duty member using force regardless of whether or not it is pursuant to their duty as a police officer, will: After force is used, immediately evaluate the need for medical attention or treatment for that person upon whom the techniques were used and arrange for appropriate treatment when: The Subject complains of injury or requests medical attention; The subject appears to be mentally ill and is conducting themselves in a manner which is likely to result in serious harm to themselves or others.”

While impossible to gauge the subject’s mental health status from a review of the [available footage](#), the subject can be heard shouting “I’m sick” after the use of force has been applied. Additionally, a review of the [Use of Force Report](#) shows that in his narrative of the incident, Officer ██████ states that “The Jane Doe fell to the ground because of her intoxication but then got up on her own power.”

Among the evidence provided and obtained, nothing suggests that Officer ██████ took steps to determine the subject’s level or lack of intoxication. Additionally, the [Use of Force Report](#) in which Officer ██████ mentions the subject’s intoxication was written two weeks and three days



after the incident took place and is the only piece of evidence available to the PAB that suggests that the subject was intoxicated. Based on the information reviewed by the PAB, there is not sufficient evidence to determine if the subject was intoxicated. However, there is sufficient evidence to determine that Officer [REDACTED] was unable to reliably determine the subject's level or lack of intoxication. Therefore, the possibility that the subject was experiencing a Mental Health Crisis instead of, or in addition to intoxication, was impossible to rule out at the time of the incident.

A review of the [Use of Force Report](#) verifies that Officer [REDACTED] did not apply any medical treatments to the subject or evaluate the subject's need for medical attention. In the narrative section of the report, Officer [REDACTED] states that after the use of force took place, "...Jane Doe was asked to leave the area."

A review of the [security camera footage](#) provided by RTS shows that after the use of force took place, Officer [REDACTED] stood near the entrance of the Transit Center, while the subject upon whom force was used remained near St. Paul Street until eventually leaving.

The allegation that Officer [REDACTED] violated RPD General Order 335 § III A 4 (b) and (d) is recommended as Sustained.

Allegation 6: Officer [REDACTED] violated General Order 335 § III A 6 as he did not photograph the subject upon whom force was used.

RPD General Order 335 § III A 6 states that "Any member using force pursuant to their duties, or any off-duty member using force regardless of whether or not it is pursuant to their duty as a police officer, will: After force is used, photograph all subjects upon whom the techniques were used prior to being released or brought to booking (non-custodial persons have the right to refuse)."

A review of the [Training Memorandum](#) issued to Officer [REDACTED] on April 11, 2024, confirms that Officer [REDACTED] "did not photograph the subject after using force." The Training Memorandum instructs Officer [REDACTED] to familiarize himself with RPD General Order 335 § III A 1, 2, 6, and 10.

The allegation that Officer [REDACTED] violate General Order 335 § III A 6 is recommended as Sustained.



Allegation 7: Officer ████████ violated General Order 335 § III A 10 as he did not prepare and submit a Subject Resistance Report (SRR) by the end of his tour of duty.

RPD General Order 335 § III A 10 states that “Any member using force pursuant to their duties, or any off-duty member using force regardless of whether or not it is pursuant to their duty as a police officer, will: Prepare and submit the SRR and related reports to their supervisor by the end of their tour of duty, unless directed otherwise by a platoon supervisor. All criminal incidents will be documented on an RMS Incident Report with the appropriate ‘Occurred Incident Type.’ All copies of these report(s) will be forwarded together, along with other applicable reports, to the coordinating supervisor for approval.”

A review of the [Use of Force Report](#) provided by the RPD as well as an [April 11, 2024 response to a Source of Information Request](#) to the PAB by RPD Captain ████████ verifies that the report in question was not created until March 13, 2024.

A review of the [Training Memorandum](#) issued to Officer ████████ on April 11, 2024, confirms that Officer ████████ “did not prepare and submit [his] RPD Use of Force form by the end of [his] tour of duty for review nor did he request permission by a supervisor to submit it at a later time.”

The allegation that Officer ████████ violated General Order 335 § III A 10 is recommended as Sustained.

Allegation 8: Officer ████████ violated General Order 335 § III A 11 as he did not notify a platoon supervisor that an SRR could not be completed by the end of his tour of duty.

RPD General Order 335 § III A 11 states that “Any member using force pursuant to their duties, or any off-duty member using force regardless of whether or not it is pursuant to their duty as a police officer, will: Notify a platoon supervisor for any SRR or related report(s) that cannot be completed by the end of that tour of duty. The supervisor will grant approval to complete the SRR immediately or grant approval to complete the SRR during the following tour of duty. If approval is granted to complete the reports the next day, the supervisor will ensure that any reports or documents (e.g. accusatory instrument) that are immediately required for an arrest are completed and submitted before the member secures from that tour of duty.”

A review of the [Training Memorandum](#) issued to Officer ████████ on April 11, 2024, confirms that Officer ████████ “did not prepare and submit [his] RPD Use of Force form by the end of [his] tour of duty for review nor did he request permission by a supervisor to submit it at a later time.”



The allegation that Officer ████████ violated General Order 335 § III A 11 is recommended as Sustained.

Allegation 9: Officer ████████ violated General Order 517 § III B 3 as he did not seek the aid of the individual’s friends or family, or refer to other community agencies whose services are specifically directed at the needs of disabled individuals and General Order 560 § II A as he was not understanding of and attentive to the problems of the person experiencing mental or emotional difficulties and who may have required police assistance and community mental health resources and General Order 560 § III B 4 (b) as he did not offer available resources or request PIC, FACIT, or FIT to respond.

RPD General Order 517 § III B 3 states that “In responding to the needs of persons with a severe or profound intellectual disability, the employee should seek the aid of the individual's friends or family, or refer to other community agencies whose services are specifically directed at the needs of disabled individuals.”

RPD General Order 560 § II A states that “Members of the Rochester Police Department (RPD), when dealing with persons during contacts on the street as well as during interviews and interrogations, will be understanding of and attentive to the problems of persons experiencing mental or emotional difficulties and who may require police assistance and community mental health resources.”

RPD General Order 560 § III B 4 (b) states “Be truthful with the individual, family and other involved persons. Offer available resources or request PIC, FACIT, FIT, to respond.”

While impossible to gauge the subject’s mental health status from a review of the [available footage](#), the subject can be heard shouting “I’m sick” after the use of force has been applied. Additionally, a review of the [Use of Force Report](#) shows that in his narrative of the incident, Officer ████████ states that “The Jane Doe fell to the ground because of her intoxication but then got up on her own power.”

Among the evidence provided and obtained, nothing suggests that Officer ████████ took steps to determine the subject’s level or lack of intoxication. Additionally, the [Use of Force Report](#) in which Officer ████████ mentions the subject’s intoxication was written two weeks and three days after the incident took place and is the only piece of evidence available to the PAB that suggests that the subject was intoxicated. Based on the information reviewed by the PAB, there is not sufficient evidence to determine if the subject was intoxicated. However, there is sufficient evidence to determine that Officer ████████ was unable to reliably determine the subject's level or lack of intoxication. Therefore, the possibility that the subject was experiencing a Mental Health



Crisis instead of, or in addition to intoxication, was impossible to rule out at the time of the incident.

A review of the [Use of Force Report](#) and the available [security camera footage](#) provided by RTS suggests that Officer ██████ asked the subject to leave and returned towards the entrance of the Transit Center, where he waited until the subject left. The evidence available to the PAB suggests that Officer ██████ did not make an attempt to contact the subject's friends and family and did not seek the aid of any community resources including PIC, FACIT, or FIT.

The allegation that Officer ██████ violated General Order 517 § III B 3 and General Order § II A and § III B 4 (b) is recommended as Sustained.

Allegation 10: Officer ██████ violated RPD Rules and Regulations RPD Rules and Regulations 4.1 (a) as he did not conduct himself as to avoid bringing discredit upon the department and 4.1 (b) as he did engage in conduct which adversely affects the efficiency of the Department and has a tendency to impair public respect for himself and/or the department, and/or impairs confidence in the operation of the Department.

RPD Rules and Regulations 4.1 (a) states that “Employees shall so conduct themselves in both their private and professional lives as to avoid bringing discredit upon the Department.”

RPD Rules and Regulations 4.1 (b) states that “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.”

A review of the [security camera footage](#) provided by RTS shows that Officer ██████ approaches the subject climbing on the hood of the patrol vehicle and instantly employs force to remove the subject which results in the subject falling to the ground. Upon reaching the vehicle, Officer ██████ makes no attempt to convince the subject to climb down and does not offer to help the subject down without using force.

A review of the [Use of Force Report](#) verifies that Officer ██████ did not apply any medical treatments to the subject or evaluate the subject's need for medical attention. In the narrative section of the report, Officer ██████ states that after the use of force took place, “...Jane [Doe] was asked to leave the area.”

A review of the [bystander footage](#) of the incident confirms that upon using force to remove the subject from the hood of his vehicle, Officer ██████ yells “Who do you think you are” at the subject. He continues to shout and point at the subject before eventually walking away.



Additionally, this footage was posted to Instagram and was likely viewed by many community members.

A review of the [Training Memorandum](#) issued to Officer [REDACTED] on April 11, 2024, confirms that Officer [REDACTED] “did not prepare and submit [his] RPD Use of Force form by the end of [his] tour of duty for review nor did he request permission by a supervisor to submit it at a later time.” Additionally, the memorandum confirms that he did not activate his Body Worn Camera (BWC) throughout the duration of the incident.

The allegation that Officer [REDACTED] violated RPD Rules and Regulations 4.1 (a) and (b) is recommended as Sustained.

Allegation 11: Officer [REDACTED] violated RPD Rules and Regulations 4.2 (a) as he was not courteous, civil and tactful in the performance of his duties.

RPD Rules and Regulations 4.2 (a) states that “Employees shall be courteous, civil and tactful in the performance of their duties.”

A review of the [security camera footage](#) provided by RTS shows that Officer [REDACTED] approaches the subject climbing on the hood of the patrol vehicle and instantly employs force to remove the subject which results in the subject falling to the ground. Upon reaching the vehicle, Officer [REDACTED] makes no attempt to convince the subject to climb down and does not offer to help the subject down without using force.

A review of the [bystander footage](#) of the incident confirms that upon using force to remove the subject from the hood of his vehicle, Officer [REDACTED] yells “Who do you think you are” at the subject. He continues to shout and point at the subject before eventually walking away.

The allegation that Officer [REDACTED] violated RPD Rules and Regulations 4.2 (a) is recommended as Sustained.

Allegation 12: Officer [REDACTED] violated RPD Rules and Regulations 5.1 (a) and New York State Penal Law § 175.30 as he did not disclose that he kicked the subject after forcefully removing them from the hood of his patrol vehicle.

RPD Rules and Regulations 5.1 (a) states that “Employees shall not steal, alter, falsify, tamper with, withdraw, or request that any other person do the same to any report, letter, request, or other communication that is being forwarded through the chain of command. The removal of any record, card, report, letter, document, or other official file from the Department, or the permitting



of inspection of same, except by process of law or as directed by the Chief of Police or a superior, is prohibited. Additionally, the obtaining/duplicating or attempted obtaining or duplicating of any information from Department files, sources or reports other than that to which one is properly entitled in accordance with one's duties/assignments is prohibited. This shall not apply to the correction of errors."

New York State Penal Law § 175.30 states that "A person is guilty of offering a false instrument for filing in the second degree when, knowing that a written instrument contains a false statement or false information, he offers or presents it to a public office or public servant with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office or public servant. Offering a false instrument for filing in the second degree is a class A misdemeanor."

A review of the [bystander footage](#) of the incident appears to show Officer [REDACTED] left arm and right leg moving in a way consistent with a kick to the subject's body as the subject lands on the ground after being forcefully removed from the hood of the patrol vehicle. However, the footage does not depict Officer [REDACTED] foot making contact with the subject's body. The [Use of Force Report](#) completed by Officer [REDACTED] on March 13, 2024, does not mention Officer [REDACTED] kicking the subject after forcefully removing the subject from the hood of his patrol vehicle.

A review of both angles of [security camera footage](#) provided by RTS does not confirm if Officer [REDACTED] kicked the subject due to the incident being obscured by a flag pole and a glare. Footage from the third security camera was not provided by RTS, and the PAB did not succeed in scheduling witness interviews with RTS employees. Finally, neither Officer [REDACTED] nor Officer [REDACTED] responded to a request for an interview or statement. As such, there is insufficient evidence to confirm if Officer [REDACTED] kicked the subject after forcefully removing the subject from the hood of his patrol vehicle.

The allegation that Officer [REDACTED] violated RPD Rules and Regulations 5.1 (a) and New York State Penal Law § 175.30 is recommended as Not Sustained.

Allegation 13: Officer [REDACTED] violated New York State Penal Law § 260.24 as he recklessly engaged in conduct which was likely to be injurious to the physical, mental or moral welfare of a person who is unable to care for himself or herself because of physical disability, mental disease or defect.

New York State Penal Law § 260.24 states that "A person is guilty of endangering the welfare of an incompetent or physically disabled person in the second degree when he or she recklessly engages in conduct which is likely to be injurious to the physical, mental or moral welfare of a



person who is unable to care for himself or herself because of physical disability, mental disease or defect. Endangering the welfare of an incompetent or physically disabled person in the second degree is a class A misdemeanor.”

A review of the [security camera footage](#) provided by RTS shows that Officer [REDACTED] approaches the subject climbing on the hood of the patrol vehicle and instantly employs force to remove the subject which results in the subject falling to the ground.

The [Use of Force Report](#) does not mention any threats made to Officer [REDACTED] and there is no evidence available to suggest that Officer [REDACTED] felt he was in danger. Additionally, the report states that the subject was smaller than Officer [REDACTED] did not damage his patrol vehicle, and did not resist Officer [REDACTED] use of force.

While impossible to gauge the subject’s mental health status from a review of the [available footage](#), the subject can be heard shouting “I’m sick” after the use of force has been applied. Additionally, a review of the [Use of Force Report](#) shows that in his narrative of the incident, Officer [REDACTED] states that “The Jane Doe fell to the ground because of her intoxication but then got up on her own power.”

Among the evidence provided and obtained, nothing suggests that Officer [REDACTED] took steps to determine the subject’s level or lack of intoxication. Additionally, the [Use of Force Report](#) in which Officer [REDACTED] mentions the subject’s intoxication was written two weeks and three days after the incident took place and is the only piece of evidence available to the PAB that suggests that the subject was intoxicated. Based on the information reviewed by the PAB, there is not sufficient evidence to determine if the subject was intoxicated. However, there is sufficient evidence to determine that Officer [REDACTED] was unable to reliably determine the subject's level or lack of intoxication. Therefore, the possibility that the subject was experiencing a Mental Health Crisis instead of, or in addition to intoxication, was impossible to rule out at the time of the incident.

The allegation that Officer [REDACTED] violated New York State Penal Law § 260.24 is recommended as Sustained.



PAB

City of Rochester
Police Accountability Board
Established 2019

245 E. Main Street
Rochester, NY 14604

Allegation 14: Officer [REDACTED] violated General Order 336 § II A as he did not intervene to prevent or stop officer [REDACTED] from acting contrary to RPD policy.

RPD General Order 336 § II A states that “All Members have an affirmative duty to intervene to prevent or stop any member from using unreasonable force or otherwise acting contrary to law or RPD policy.”

A review of the [security camera footage](#) show Officer [REDACTED] exiting the Transit Center and approaching the scene of the incident after the use of force has concluded and after Officer [REDACTED] has walked away from the subject. Footage from the third security camera was not provided by RTS, and the PAB did not succeed in scheduling witness interviews with RTS employees. Finally, neither Officer [REDACTED] nor Officer [REDACTED] responded to a request for an interview or statement. Therefore, it is impossible to verify if Officer [REDACTED] witnessed Officer [REDACTED] using force through the glass doors of the Transit Center entrance, which would have compelled Officer [REDACTED] to intervene in any subsequent misconduct committed by Officer [REDACTED]

The allegation that Officer [REDACTED] violated General Order 336 § II A is recommended as Not Sustained.



RECOMMENDED FINDINGS

#	Officer	Allegation	Finding/Recommendation
1	Officer ██████████	Officer ██████████ violated General Order 335 § II A by using a level of force beyond what was necessary to guide the subject of off his patrol vehicle and General Order 337 § III B as he did not attempt to resolve the situation without using force and General Order 575 § III B as he did not use de-escalation techniques and tactics to prevent and minimize the need to use force in response to resistance and to increase the likelihood of securing the subject’s voluntary compliance with police instructions.	Sustained
2	Officer ██████████	Officer ██████████ violated General Order 335 § II C as he did not complete a Subject Resistance Report (SRR) until instructed to do so by a supervisor on March 13, 2024.	Exonerated
3	Officer ██████████	Officer ██████████ violated General Order 335 § III A 1 and the Body Worn Camera (BWC) Manual § IV B as he did not activate his Body Worn Camera throughout the entire interaction.	Sustained
4	Officer ██████████	Officer ██████████ violated General Order 335 § III A 2 as he did not notify an immediate supervisor of the incident.	Sustained
5	Officer ██████████	Officer ██████████ violated General Order 335 § III A 4 (b) and (d) as	Sustained



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#	Officer	Allegation	Finding/Recommendation
		he did not evaluate the need for medical attention or treatment for the individual upon whom force was used.	
6	Officer ██████████	Officer ██████████ violated General Order 335 § III A 6 as he did not photograph the subject upon whom force was used.	Sustained
7	Officer ██████████	Officer ██████████ violated General Order 335 § III A 10 as he did not prepare and submit a Subject Resistance Report (SRR) by the end of his tour of duty.	Sustained
8	Officer ██████████	Officer ██████████ violated General Order 335 § III A 11 as he did not notify a platoon supervisor that an SRR could not be completed by the end of his tour of duty.	Sustained
9	Officer ██████████	Officer ██████████ violated General Order 517 § III B 3 as he did not seek the aid of the individual's friends or family, or refer to other community agencies whose services are specifically directed at the needs of disabled individuals and General Order 560 § II A as he was not understanding of and attentive to the problems of the person experiencing mental or emotional difficulties and who may have required police assistance and community mental health resources and General Order 560 § III B 4 (b) as he did not offer available resources or request PIC, FACIT, or FIT to respond.	Sustained
10	Officer ██████████	Officer ██████████ violated RPD Rules and Regulations 4.1 (a) as he	Sustained



City of Rochester
Police Accountability Board
 Established 2019

245 E. Main Street
 Rochester, NY 14604

#	Officer	Allegation	Finding/Recommendation
		did not conduct himself as to avoid bringing discredit upon the department and 4.1 (b) as he did engage in conduct which adversely affects the efficiency of the Department and has a tendency to impair public respect for himself and/or the department, and/or impairs confidence in the operation of the Department.	
11	Officer ██████████	Officer ██████████ violated RPD Rules and Regulations 4.2 (a) as he was not courteous, civil and tactful in the performance of his duties.	Sustained
12	Officer ██████████	Officer ██████████ violated RPD Rules and Regulations 5.1 (a) and New York State Penal Law § 175.30 as he did not disclose that he kicked the subject after forcefully removing them from the hood of his patrol vehicle.	Not Sustained
13	Officer ██████████	Officer ██████████ violated New York State Penal Law § 260.24 as he recklessly engaged in conduct which was likely to be injurious to the physical, mental or moral welfare of a person who is unable to care for himself or herself because of physical disability, mental disease or defect.	Sustained
14	Officer ██████████	Officer ██████████ violated General Order 336 § II A as he did not intervene to prevent or stop officer ██████████ from acting contrary to RPD policy.	Not 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 ██████████

This is the first time Officer ██████████ has been the subject of an investigation closed by the PAB.

A review of the [Police Department Discipline Database](#) located on the City of Rochester’s website suggests that Officer ██████████ has been the subject of three previous investigations by the RPD Professional Standards Section (PSS).

On January 14, 2013, concluding the investigation into allegations reported in PSS IA # 2012-1192, Officer ██████████ was found to have [failed to file a Subject Resistance Report](#), in violation of RPD General Order 335 § II C.

On October 31, 2016, concluding the investigation into allegations reported in PSS IA # 2015-0466, Officer ██████████ [plead guilty](#) to violating RPD General Order 401 § III A 15 (a) and RPD General Order 450 § II C and D.

On January 11, 2019, sustained findings that Officer ██████████ violated RPD General Order 401 and RPD Rules and Regulations 1.2 were recommended in the [Executive Report](#) of the investigation into allegations reported in PSS IA # 2018-0187. However, on January 8, 2020,



Officer [REDACTED] signed a [Stipulation of Settlement](#) with the City of Rochester in which he plead guilty to violating RPD Rules and Regulations 1.1 (a) and 1.2.

However, the PAB understands that the database is incomplete.

RPD declined to provide disciplinary records for Officer [REDACTED]

Finally, on April 11, 2024, Officer [REDACTED] was issued a [Training Memorandum](#) confirming that he violated RPD General Order 335 § III A 1, 2, 6, and 10 during the February 25, 2024 incident being investigated by the PAB. It is unclear if this incident resulted in a PSS investigation.

Sustained Allegation #1 against Officer [REDACTED] Officer [REDACTED] violated General Order 335 § II A by using a level of force beyond what was necessary to guide the subject of off his patrol vehicle and General Order 337 § III B as he did not attempt to resolve the situation without using force and General Order 575 § III B as he did not use de-escalation techniques and tactics to prevent and minimize the need to use force in response to resistance and to increase the likelihood of securing the subject’s voluntary compliance with police instructions.

Disciplinary Matrix Appendix

Misconduct	Level
<p>General Order 335 § II A: Members may use only that level of physical force necessary in the performance of their duties within the limits established by Article 35 of the New York State Penal Law and consistent with the training and policies of the Rochester Police Department (RPD). Appropriateness of force used is dependent on the “totality of the circumstances” at the moment the force is used. The Use of Deadly Physical Force will be governed by G.O. 340.</p> <p>General Order 337 § III B: RPD’s goal is to gain voluntary compliance of persons without resorting to the use of force. Though Members are authorized to use reasonable force when necessary, Members should attempt to resolve situations without using force whenever possible.</p> <p>General Order 575 § III B: Members shall use de-escalation techniques and tactics, when it is safe and feasible to do so, to prevent and minimize the need to use force in response to resistance and to increase the likelihood of securing a subject’s voluntary compliance with police instructions.</p>	5



- **Recommended Level: 4** (“Significant negative impact on the community or department image or operations, or relationships with other officers, or agencies”)
- **Recommended Discipline: 60-day suspension**
- **Explanation for deviation:** The force used was minimal, and no one was apparently injured. However, the officer’s inappropriate use of force was publicized and negatively impacted the community.

Sustained Allegation #3 against Officer [REDACTED] Officer [REDACTED] violated General Order 335 § III A 1 and the Body Worn Camera (BWC) Manual § IV B as he did not activate his Body Worn Camera throughout the entire interaction.

Disciplinary Matrix Appendix

Misconduct	Level
<p>General Order 335 § III A 1: Any member using force pursuant to their duties, or any off-duty member using force regardless of whether or not it is pursuant to their duty as a police officer, will:</p> <p>If on-duty and assigned a Body-Worn Camera (BWC), ensure the BWC is activated and recording in accordance with policy. See Body Worn Camera Manual.</p> <p>Body Worn Camera (BWC) Manual § IV 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 events.</p>	<p>4</p>

- **Recommended Level: 4** (“Significant negative impact on the community or department image or operations, or relationships with other officers, or agencies”)
- **Recommended Discipline : 60-day suspension**



Sustained Allegation #4 against Officer ██████ Officer ██████ violated General Order 335 § III A 2 as he did not notify an immediate supervisor of the incident.

Disciplinary Matrix Appendix

Misconduct	Level
General Order 335 § III A 2: Any member using force pursuant to their duties, or any off-duty member using force regardless of whether or not it is pursuant to their duty as a police officer, will: Immediately notify their immediate supervisor of the incident.	3

- **Recommended Level:** 3 (“Pronounced negative impact on the community or department image or operations, or relationships with other officers, or agencies”)
- **Recommended Discipline:** 10-day suspension

Sustained Allegation #5 against Officer ██████ Officer ██████ violated General Order 335 § III A 4 (b) and (d) as he did not evaluate the need for medical attention or treatment for the individual upon whom force was used

Disciplinary Matrix Appendix

Misconduct	Level
General Order 335 § III A 4 (b) and (d): Any member using force pursuant to their duties, or any off-duty member using force regardless of whether or not it is pursuant to their duty as a police officer, will: After force is used, immediately evaluate the need for medical attention or treatment for that person upon whom the techniques were used and arrange for appropriate treatment when: The Subject complains of injury or requests medical attention; and The subject appears to be mentally ill and is conducting themselves in a manner which is likely to result in serious harm to themselves or others.	4



- **Recommended Level: 4** (“Significant negative impact on the community or department image or operations, or relationships with other officers, or agencies”)
- **Recommended Discipline: 60-day suspension**

Sustained Allegation #6 against Officer ██████ Officer ██████ violated General Order 335 § III A 6 as he did not photograph the subject upon whom force was used.

Disciplinary Matrix Appendix

Misconduct	Level
General Order 335 § III A 6: Any member using force pursuant to their duties, or any off-duty member using force regardless of whether or not it is pursuant to their duty as a police officer, will: After force is used, photograph all subjects upon whom the techniques were used prior to being released or brought to booking (non-custodial persons have the right to refuse).	1

- **Recommended Level: 1** (“Minimal negative impacts on the community or department image or operations with no impact on relationships with other agencies.”)
- **Recommended Discipline: Written reprimand**

Sustained Allegation #7 against Officer ██████ Officer ██████ violated General Order 335 § III A 10 as he did not prepare and submit a Subject Resistance Report (SRR) by the end of his tour of duty.

Disciplinary Matrix Appendix

Misconduct	Level
General Order 335 § III A 10: Any member using force pursuant to their duties, or any off-duty member using force regardless of whether or not it is pursuant to their duty as a police officer, will:	2



<p>Prepare and submit the SRR and related reports to their supervisor by the end of their tour of duty, unless directed otherwise by a platoon supervisor. All criminal incidents will be documented on an RMS Incident Report with the appropriate ‘Occurred Incident Type.’ All copies of these report(s) will be forwarded together, along with other applicable reports, to the coordinating supervisor for approval.</p>	
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- **Recommended Level: 2** (“More than minimal negative impact on the community or department image or operations, or relationships with other officers, or agencies”)
- **Recommended Discipline: 5-day suspension**

Sustained Allegation #8 against Officer ██████ Officer ██████ violated General Order 335 § III A 11 as he did not notify a platoon supervisor that an SRR could not be completed by the end of his tour of duty.

Disciplinary Matrix Appendix

Misconduct	Level
<p>General Order 335 § III A 11: Any member using force pursuant to their duties, or any off-duty member using force regardless of whether or not it is pursuant to their duty as a police officer, will:</p> <p>Notify a platoon supervisor for any SRR or related report(s) that cannot be completed by the end of that tour of duty. The supervisor will grant approval to complete the SRR immediately or grant approval to complete the SRR during the following tour of duty. If approval is granted to complete the reports the next day, the supervisor will ensure that any reports or documents (e.g. accusatory instrument) that are immediately required for an arrest are completed and submitted before the member secures from that tour of duty.</p>	2

- **Recommended Level: 2** (“More than minimal negative impact on the community or department image or operations, or relationships with other officers, or agencies”)
- **Recommended Discipline: 5-day suspension**



Sustained Allegation #9 against Officer [REDACTED] Officer [REDACTED] violated General Order 517 § III B 3 as he did not seek the aid of the individual’s friends or family, or refer to other community agencies whose services are specifically directed at the needs of disabled individuals and General Order 560 § II A as he was not understanding of and attentive to the problems of the person experiencing mental or emotional difficulties and who may have required police assistance and community mental health resources and General Order 560 § III B 4 (b) as he did not offer available resources or request PIC, FACIT, or FIT to respond.

Disciplinary Matrix Appendix

Misconduct	Level
<p>General Order 517 § III B 3: In responding to the needs of persons with a severe or profound intellectual disability, the employee should seek the aid of the individual's friends or family, or refer to other community agencies whose services are specifically directed at the needs of disabled individuals.</p> <p>General Order 560 § II A: Members of the Rochester Police Department (RPD), when dealing with persons during contacts on the street as well as during interviews and interrogations, will be understanding of and attentive to the problems of persons experiencing mental or emotional difficulties and who may require police assistance and community mental health resources.</p> <p>General Order 560 § III B 4 (b): Be truthful with the individual, family and other involved persons.</p> <p>Offer available resources or request PIC, FACIT, FIT, to respond.</p>	<p>4</p>

- **Recommended Level:** 4 (“Significant negative impact on the community or department image or operations, or relationships with other officers, or agencies”)
- **Recommended Discipline:** 60-day suspension

Sustained Allegation #10 against Officer [REDACTED] Officer [REDACTED] violated RPD Rules and Regulations 4.1 (a) as he did not conduct himself as to avoid bringing discredit upon the department and 4.1 (b) as he did engage in conduct which adversely affects the efficiency of the Department and has a tendency to impair public respect for himself and/or the department, and/or impairs confidence in the operation of the Department.



Disciplinary Matrix Appendix

Misconduct	Level
RPD Rules and Regulations 4.1 (a): Employees shall so conduct themselves in both their private and professional lives as to avoid bringing discredit upon the Department. RPD Rules and Regulations 4.1 (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.	4

- **Recommended Level: 4** (“Significant negative impact on the community or department image or operations, or relationships with other officers, or agencies”)
- **Recommended Discipline: 60-day suspension**

Sustained Allegation #11 against Officer ██████ Officer ██████ violated RPD Rules and Regulations 4.2 (a) as he was not courteous, civil and tactful in the performance of his duties.

Disciplinary Matrix Appendix

Misconduct	Level
RPD Rules and Regulations 4.2 (a): Employees shall be courteous, civil and tactful in the performance of their duties.	3

- **Recommended Level: 3** (“Pronounced negative impact on the community or department image or operations, or relationships with other officers, or agencies”)
- **Recommended Discipline: 10-day suspension**

Sustained Allegation #13 against Officer ██████ Officer ██████ violated New York State Penal Law § 260.24 as he recklessly engaged in conduct which was likely to be injurious to



the physical, mental or moral welfare of a person who is unable to care for himself or herself because of physical disability, mental disease or defect.

Disciplinary Matrix Appendix

Misconduct	Level
New York State Penal Law § 260.24: A person is guilty of endangering the welfare of an incompetent or physically disabled person in the second degree when he or she recklessly engages in conduct which is likely to be injurious to the physical, mental or moral welfare of a person who is unable to care for himself or herself because of physical disability, mental disease or defect. Endangering the welfare of an incompetent or physically disabled person in the second degree is a class A misdemeanor.	5

- **Recommended Level: 4** (“Significant negative impact on the community or department image or operations, or relationships with other officers, or agencies”)
- **Recommended Discipline: 60-day suspension**
- **Explanation for deviation:** The force used was minimal, and no one was apparently injured.