



PAB

Disciplinary Matrix

Table of Contents

Disciplinary Matrix	3
Definitions	3
Investigative Procedures	4
Outcome Guidelines	5
Progressive Discipline	6
Selecting Charges	6
Selecting Outcomes	7
Ratification of the Investigative Report.....	8
Categories of Misconduct	9

Disciplinary Matrix

Section 18 of the City Charter requires that the PAB 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 that guide PAB’s own recommendations regarding a response to misconduct. If PAB acquires legal authority to impose binding recommendations this document will be amended.

This disciplinary matrix is founded on the Rochester Police Department (RPD) general values, code of ethics, rules and regulations, and general orders. Under such values, the police department has sworn to:¹

- Serve mankind
- Protect the innocent
- Maintain calmness and courage in the face of danger
- Obey laws and regulations
- Disallow personal biases and prejudice from influencing decision making
- Respect the Constitutional rights of all people

Incorporating these, and other core values of PAB and the community, these guidelines furnish the procedure for appropriate discipline of officers who fail to uphold these values

Definitions

- **Aggravating factors:** Circumstances that increase the culpability of the officer or increase the harm of the misconduct such that the disciplinary outcome should increase in severity.
- **Discipline:** Any act intended to correct or punish misconduct such as counseling, training, written reprimand, salary reduction, fine, suspension, demotion, or termination.
- **Exonerated:** A finding at the conclusion of an investigation 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.
- **Incident:** An event or set of events that occur at a fixed time, date, and location, and are subject to a single investigation into police misconduct.
- **Misconduct:** Any acts or omissions by an officer of the Rochester Police Department that are unlawful, contrary to Rochester Police Department policy, or otherwise inappropriate.

¹ Rochester Police Department Rules and Regulations, Law Enforcement Code of Ethics, 2 (Dec. 27, 2020).

- **Mitigating factors:** Circumstances that decrease the culpability of the officer or decrease the harm of the misconduct such that the disciplinary outcome should decrease in severity.
- **Not sustained:** A finding at the conclusion of an investigation that there is insufficient evidence to establish whether an act of misconduct occurred.
- **Presumptive penalties:** A penalty that must be imposed for the sustained violation of a given offense if no aggravating or mitigating factors are present.
- **Progressive discipline:** The process of implementing increasingly severe measures or penalties to address recurring instances of misconduct.
- **Sustained:** A finding at the conclusion of an investigation that there is sufficient credible evidence to believe that the subject officer committed the act charged in the allegation and committed misconduct.
- **Unfounded:** A finding at the conclusion of an investigation that the act that is the basis of the allegation did not occur.

Investigative Procedures

a. Cooperation

The PAB Rules for Investigation outline the procedure for the PAB to accept reports of misconduct, investigate misconduct, and refer reports of misconduct to other organizations including the Professional Standards Section (PSS) of the Rochester Police Department. After concluding an investigation with a sustained finding, the PAB Disciplinary Matrix is applied to determine the level of misconduct and appropriate recommended discipline. The Matrix provides the PAB's recommendation for consistent and appropriate discipline for all circumstances where discipline is imposed against sworn staff of the Rochester Police Department.

b. Staff and Board Responsibility

The PAB Rules for Investigation outline the responsibilities of the Board and the staff of the PAB in conducting investigations and making determinations utilizing these guidelines.

- ### c. The PAB Investigations Division will make all reasonable efforts to obtain any relevant evidence that would assist in resolution of the complaint of misconduct, including but not limited to:
- Interviewing witnesses, including Officers and any other person listed in a complaint; obtaining RPD personnel documents, including disciplinary records; obtaining video and documentary evidence from RPD and other law enforcement entities, as well as non-law enforcement entities, including by subpoena where necessary; canvassing relevant locations; obtaining evidence from civilians and third parties to the complaint through outreach to those parties.

- d. When an investigation is conducted and a conclusion can be reached regarding one or more allegations of police misconduct, the Investigations Division will produce a written report to be reviewed by a three-member panel of the Board and voted on. The Board Panel vote will determine the final PAB adjudication of the allegation of police misconduct.
- e. If the Board sustains an allegation of police misconduct, the Board will recommend a disciplinary measure for the responsible officer consistent with this Disciplinary Matrix.

Outcome Guidelines

- a. Outcome Guidelines Explained

The purpose of the outcome guidelines in this Disciplinary Matrix is to set expectations for the Rochester Police Department (RPD) and the Police Accountability Board (PAB) and provide greater transparency to the public. The matrix makes officers aware of potential consequences for their actions and ensures that discipline is assigned in a fair and consistent way.

- b. Presumptive Outcomes

This matrix sets out presumptive outcomes for sustained acts of misconduct and violations of policy. A presumptive outcome is the assumed outcome that is appropriate for the specific act. It is not a mandatory minimum or potential maximum, but serves as the starting point for assigning discipline while analyzing the totality of the circumstances, including mitigating and aggravating factors.

In most cases the presumptive outcome should not be mitigated or aggravated to a different outcome. If outcomes are routinely or uniformly mitigated or aggravated the presumptive penalty should be re-evaluated to ensure the presumptive outcome and the ultimate outcomes of the disciplinary system are consistent with community and RPD values.

- c. Mitigating and Aggravating Factors

If the board determines that an action is mitigated or aggravated and it wishes to deviate from the presumptive penalty, it must document the reasons thoroughly and explain its reasoning in a memorandum. The board recommends that the police chief also document their reasoning if they depart from the presumptive penalty or the penalty recommended by the board.

Examples

Mitigating Factors:

Considering the totality of the circumstances, mitigating factors decrease culpability of the officer or decrease the harm of the misconduct

- The officer did not know the proper course of action and did not have access to sufficient training or experience relevant to the misconduct;
- The misconduct was not willful or deliberate;
- The officer attempted to de-escalate the situation;
- Any proactive measure or action that an officer took to prevent the occurrence of a specific conduct;
- The misconduct did not result in harm to a community member.

Aggravating Factors:

Considering the totality of the circumstances, aggravating factors increase the officer's culpability or increase the harm of the misconduct.

- Completion of remedial training.
- Officer's reckless disregard for the wellbeing of citizens.
- The officer was motivated by bias or prejudice;
- The officer was motivated by personal interest or gain, or to receive a benefit from the misconduct;
- The officer failed to de-escalate
- Lack of candor, cooperation, or interference with PAB's investigation
- Extent and nature of the harm or damage caused to persons or property;
- Supervisory status

Progressive Discipline

The disciplinary history of an officer will be considered when assessing an appropriate penalty resulting from the current investigation. Any prior sustained violations will increase the presumptive penalty, regardless of their type or severity relative to the current misconduct. When a prior violation is older than the time limitations listed below, it is not considered a prior sustained complaint and does not increase the severity of the outcome. The date of the prior sustained violation is the earlier of the date the Chief of Police imposed discipline or the PAB recommended discipline. The limitations are as follows:

Violation Level	Limitation
1	3 years
2	4 years
3	5 years
4	7 years
5	No Limitation

Determining Charges

A complaint provided to the PAB may consist of one allegation of misconduct or may contain multiple allegations of misconduct. In the event that alleged misconduct violates more than one RPD policy, then the assigned investigator must select which policy violations to investigate/analyze. In doing so, the assigned Investigators should first select the most specific policy that applies to the alleged misconduct. If multiple specific policies are applicable, they must then select the most serious policy.

In this example, the allegation of misconduct violates more than one RPD policy. The policy highlighted should be selected as it is both the most specific and the highest level of the three options.

Example:

	Policy Violated	Level of Misconduct
Allegation: Reporter alleges that they were falsely arrested.	Rule and Regulation 2.1(b): Employees shall perform their duties in a competent manner.	2
	Rule and Regulation 2.15: Members shall make arrests in full compliance and conformity with all laws and Department procedures	3
	General Order 585 § II(B): It is the policy of the Rochester Police Department (RPD) that no person will be arrested without reasonable cause to believe that an offense has been committed. Authority to arrest is strictly limited to those situations where the Criminal Procedure Law (CPL) of the State of New York authorizes an arrest.	5

Determining Outcomes

a. Disposition of Misconduct

After the Investigator has identified which policies most appropriately describe the alleged misconduct, they will conduct a thorough and nonbiased investigation that could result in the following outcome: sustained, not-sustained, exonerated, or unfounded.

b. Sustained Allegations

For cases with a sustained outcome, the Investigator will utilize the matrix to determine a disciplinary recommendation based on the level of the misconduct and the officer's history of prior discipline. The rows represent the levels of misconduct and the columns represent the number of prior sustained violations. The matrix provides an outcome for each level and number of violations.

Additionally, the matrix allows the PAB Staff and Board to consider alternative outcomes, which are aimed at restoring the relationship between law enforcement and the community as well as providing opportunities for law enforcement officers to learn and grow from their mistakes. Alternative outcomes may be used in addition to traditional penalties, such as a demotion or a monetary fine. For complaints that result in more than one sustained finding of misconduct for the same officer in the same incident, it should be recommended that an officer complete all terms of suspension concurrently.

Standard Outcomes	Alternative Outcomes
Training	Remuneration to the victim
Counseling	Remuneration to the community

Written Reprimand	Engaging in a restorative circle
Suspension	Public service
Termination	Apology
	Fines
	Driver training
	Transfer
	Employee assistance
	Demotion

Ratification of the Investigative Report

After an investigator completes their investigative report, the investigative report must then be sent to the Director of Investigations for review and finalization. Once the report is finalized, it is then voted on by the board during a board panel review. During the board panel review, the board must thoroughly review the investigator's report and determine if they agree with the conclusion and the recommended discipline. The board must also document if they have considered alternative outcomes, whether they have decided to adopt or reject an alternative outcome, and their justification for selecting these outcomes. The Board Panel vote determines the final outcome and recommendation, which is then sent to the Chief of Police for RPD.

Levels of Misconduct

Level	Description	Number of Prior Sustained Violations			
		0	1	2	3 or more
1	Minimal negative impact to individuals, community, or public perception of the agency with no impact on relationships with other agencies.	Counseling and training	Written reprimand	3-day suspension	10-day suspension
2	More than minimal negative impact to individuals, community, public perception of the agency or relationships with other officers, or agencies.	5-day suspension	10-day suspension	30-day suspension	60-day suspension
3	Pronounced negative impact to individuals, community, public perception of the agency or relationships with other officers, or agencies.	10-day suspension	30-day suspension	60-day suspension	Termination
4	Significant negative impact to individuals, community, public perception of the agency or relationships with other officers, or agencies.	30-day suspension	60-day suspension	Termination	
5	Severe negative impact to individuals, community, public perception of the agency or relationships with other officers or agencies also includes conduct rising to a violation or misdemeanor.	90-day suspension	Termination		
5a	Virtually irreparable impact to individuals, community, public perception of the agency or relationships with other officers or agencies, includes conduct rising to the level of a felony	Termination			

Appendix

Attached to this Matrix is an Appendix which lists rules, regulations, laws, and orders to which Rochester Police Officers are subject. The Appendix includes the presumptive Level of Misconduct for a violation of each policy, corresponding with the Disciplinary Matrix. If a policy is not listed in the Appendix, the Board is to find the most analogous policy and utilize the assigned level within their discretion. The Board shall document its reasoning for the assignment of the Level and disciplinary recommendation.

Version Information

Version 2.0: Pursuant to City Charter Sec. 18-5(B), revisions to this document were ratified by Board vote on January 9, 2025. Disciplinary recommendations issued prior to these revisions utilized the prior version of the Disciplinary Matrix.