



## 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.

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## BOARD DECISION

**Public Tracking Number (PTN):** 2022-0003

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

**Board Members Present:** [REDACTED]

**Case Findings:** Sustained

**Disciplinary Recommendation:**

1. Officer [REDACTED] 10-day suspension
2. Officer [REDACTED] 10-day suspension

**Dissenting Opinion/Comment:** N/A.



## **DEFINITIONS**

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

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

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

**Closed:** Vote to close the case.



**Officer Name- Allegation # 1:**

Officer [REDACTED] Rules and Regulations 4.2 (c) (Courtesy): Officer [REDACTED] used harsh and/or profane language when speaking to [REDACTED]

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

Officer [REDACTED] General Order 337 (Use of Force): Officer [REDACTED] used an inappropriate amount of force in his interaction with [REDACTED]

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

**Officer Name- Allegation # 3:**

Officer [REDACTED] Body Worn Camera Policy (Recording Requirements and Restrictions):  
Officer [REDACTED] did not activate his body worn camera during his first interaction with [REDACTED]

- **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**
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**Officer Name- Allegation # 4:**

Officer [REDACTED] Rules and Regulations 4.2 (c) (Courtesy): Officer [REDACTED] used harsh and/or profane language when speaking to [REDACTED]

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



# PAB

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**Officer Name- Allegation # 5:**

Officer [REDACTED] General Order 337 (Use of Force): Officer [REDACTED] used an inappropriate amount of force in his interaction with [REDACTED]

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

**Officer Name- Allegation # 6:**

Officer [REDACTED] Body Worn Camera Policy (Recording Requirements and Restrictions): Officer [REDACTED] did not activate his body worn camera during his first interaction with [REDACTED]

- **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

PTN: 2022-0003



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## CLOSING REPORT

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### STATEMENT OF AUTHORITY

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**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.”**

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### EXECUTIVE SUMMARY

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The following events took place on May 3, 2022, at approximately 8:54 pm, at [REDACTED], Rochester, New York, 14606.

On the above mentioned date and time, [REDACTED] contacted 911 to report a domestic incident with her boyfriend, [REDACTED]. Officers [REDACTED] and [REDACTED] responded to [REDACTED], where Mr. [REDACTED] lived upstairs and [REDACTED] lives downstairs. In speaking with Mr. [REDACTED] he alleged that [REDACTED] was evicted from her residence recently and that she was at his home and he wished her to leave his property. Officers [REDACTED] and [REDACTED] then attempted to speak with [REDACTED] to ask her to leave. [REDACTED] was admittedly visibly intoxicated at the time and Officer [REDACTED] and Officer [REDACTED] instructed [REDACTED] to get in her car and drive away. [REDACTED] did not initially want to speak with Officer [REDACTED] and Officer [REDACTED] nor did she want to leave Mr. [REDACTED] home.

[REDACTED] then alleges that Officer [REDACTED] and/or Officer [REDACTED] then went up the stairs to where [REDACTED] was standing, forcefully dragged her down the stairs (Allegations 1 and 4) and called her a dumb bitch. (Allegations 2 and 5). [REDACTED] then alleges that the Officers then left the scene. Neither Officer [REDACTED] nor Officer [REDACTED] activated their body worn camera during their first interaction with [REDACTED] (Allegations 3 and 6). Because of such, there is no body camera footage, nor are there any written reports, to independently verify this interaction. In addition, [REDACTED] did not identify which officer dragged her down the stairs or which officer called her a dumb bitch.

Shortly after, [REDACTED] contacted 911 for a second time, again to report a domestic incident. Officers [REDACTED] and [REDACTED] responded to this call as well. Once back at [REDACTED], Officers [REDACTED] and [REDACTED] approached [REDACTED] who was sitting in the back of an Uber vehicle. [REDACTED] asked to file a police report for a bruise located on her shoulder that she said she got “a couple of days ago”. [REDACTED] did not provide any further details when asked by



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Officer [REDACTED] and Officer [REDACTED] Officers [REDACTED] and [REDACTED] then asked [REDACTED] [REDACTED] to leave the scene.

[REDACTED] [REDACTED] reported these interactions to the Police Accountability Board. [REDACTED] [REDACTED] chief complaint related to the manner in which Officer [REDACTED] and Officer [REDACTED] handled her domestic violence call.

#### INVOLVED OFFICERS

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

#### INVOLVED INDIVIDUALS

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

#### ALLEGATIONS

1	Officer [REDACTED]	Rules and Regulations 4.2 (c) (Courtesy): Officer [REDACTED] used harsh and/or profane language when speaking to [REDACTED] [REDACTED]
2	Officer [REDACTED]	General Order 337 (Use of Force): Officer [REDACTED] used an inappropriate amount of force in his interaction with [REDACTED] [REDACTED]
3	Officer [REDACTED]	Body Worn Camera Policy (Recording Requirements and Restrictions): Officer [REDACTED] did not activate his body worn camera during his first interaction with [REDACTED] [REDACTED]
4	Officer [REDACTED]	Rules and Regulations 4.2 (c) (Courtesy): Officer [REDACTED] used harsh and/or profane language when speaking to [REDACTED] [REDACTED]





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5	Officer [REDACTED]	General Order 337 (Use of Force): Officer [REDACTED] used an inappropriate amount of force in his interaction with [REDACTED] [REDACTED]
6	Officer [REDACTED]	Body Worn Camera Policy (Recording Requirements and Restrictions): Officer [REDACTED] did not activate his body worn camera during his first interaction with [REDACTED] [REDACTED]

### INVESTIGATION

Reporter [REDACTED] [REDACTED] filed a complaint with the Police Accountability Board on August 20, 2022.

The Police Accountability Board notified the Rochester Police Department of its investigation and requested corresponding documents to which the Rochester Police Department responded on September 28, 2022.

On September 28, 2022, the Rochester Police Department provided the Police Accountability Board with one domestic incident report, disciplinary records for Officer [REDACTED] and Officer [REDACTED] and two body worn camera videos.

The domestic incident report was authored by Officer [REDACTED] and detailed two interactions between himself and [REDACTED] [REDACTED] that occurred on May 3, 2022. Officer [REDACTED] disciplinary records states that he had two citizen complaints filed against him but neither were substantiated. Officer [REDACTED] disciplinary records state that he had one citizen complaint filed against him and that complaint was also not substantiated. The body worn camera footage showed the interaction between Officer [REDACTED] Officer [REDACTED] and [REDACTED] [REDACTED] after they arrived at [REDACTED] for a second time on May 3, 2022.

On September 20, 2023, the Police Accountability Board sent a second request to the Rochester Police Department seeking additional information.

On September 21, 2023, the Rochester Police Department provided the Police Accountability Board with one data screen capture and four computer aided dispatch reports.

The data screen capture showed that there were two separate events in which Rochester Police Officers were dispatched to [REDACTED] on May 3, 2022. The computer aided dispatch reports detailed the calls that [REDACTED] [REDACTED] made to 911 dispatch.



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The Police Accountability Board scheduled an interview with [REDACTED] [REDACTED] on or around May 6, 2024. [REDACTED] [REDACTED] did not appear for the interview and when contacted she stated that “now is not a good time”. The Police Accountability Board has made multiple attempts at rescheduling this interview to no avail, including an email was sent to [REDACTED] [REDACTED] on May 21, 2024, with no response; a text message to [REDACTED] [REDACTED] on May 21, 2024, with no response; And calls to [REDACTED] [REDACTED] on May 20, 2024, May 21, 2024, and May 24, 2024, with no response..

This investigation concluded after a thorough review of all available evidence which included [REDACTED] [REDACTED] initial complaint made to the Police Accountability Board and all documents provided by the Rochester Police Department. There are no audio and/or visual recordings of the first interaction between Officer [REDACTED] Officer [REDACTED] and [REDACTED] [REDACTED] as neither Officer [REDACTED] nor Officer [REDACTED] activated their body camera. In addition, a request was made to the Rochester Police Department for an officer statement, however, such request was denied and deemed to be in violation of the collective bargaining agreement which governs the Rochester Police Department.

### EVIDENCE PROVIDED

Evidence	Description	Provided by	Filename
Intake Report	[REDACTED] [REDACTED] initial report	[REDACTED] [REDACTED]	<a href="#">i-Sight   Case 2022-0003   Details   Overview</a>
Request for Information Response	Domestic Incident Report	Rochester Police Department	<a href="#">S-SharePoint File Transfer - police report 22-086642.pdf - All Documents</a>
Request for Information Response	Officer Disciplinary Reports	Rochester Police Department	<a href="#">S-SharePoint File Transfer - ii. discipline record - All Documents</a>
Request for Information Response	Body Worn Camera Footage	Rochester Police Department	<a href="#">S-SharePoint File Transfer - BWC 22-086642 - All Documents</a>
Request for Information	Second Request for Information and Response	Rochester Police Department	<a href="#">S-SharePoint File Transfer - SOI 2022-0003-02 RPD response 9-21-23.pdf - All Documents</a>
Request for Information Response	Data Screen Capture	Rochester Police Department	<a href="#">S-SharePoint File Transfer - Capture screen shot 5-1 to 5-4-22.PNG - All Documents</a>
Request for Information Response	Computer Aided Dispatch Reports	Rochester Police Department	<a href="#">S-SharePoint File Transfer - Sent 9-21-23 - All Documents</a>





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### EVIDENCE DENIED

Evidence	Description	Reason declined
Body Camera Footage of the First Interaction between Officer [REDACTED] and [REDACTED]	Request from the Police Accountability Board to the Rochester Police Department	None exists.
Formal Officer Statement	Request from the Police Accountability Board to the Rochester Police Department	Officers refused to speak with the Police Accountability Board, citing their Collective Bargaining Agreement.

### APPLICABLE RULES & LAWS

#### Rochester Police Department Rules and Regulations

##### 4.2 COURTESY

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

#### Rochester Police Department General Order

##### 337 USE OF FORCE<sup>1</sup>

##### I. PURPOSE

The purpose of this General Order is to set forth the Rochester Police Department's (RPD) policy on use of force, which establishes when and how a Member may respond to a person exhibiting resistance to commands and/or threatening a Member or another. This policy provides further guidance as to when certain force options may or may not be used. Regardless of the type

<sup>1</sup> The use of force policy has been condensed for purposes of this document. The entirety of which may be viewed using the following link. [GO 337 Use of Force | Rochester, NY Police Department Open Data Portal \(arcgis.com\)](#).



of force or weapon used, a Member's use of force must be reasonable, necessary, and proportionate.

### III. POLICY

A. RPD recognizes and respects the value and sanctity of all human life. Members are expected to carry out their duties and act with the highest regard for the preservation of human life and the safety of all persons involved.

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.

C. Members are only authorized to use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, in order to effect a lawful purpose, including to ensure the safety of a Member or third person, stop an attack, make an arrest, control a person evading a Member's lawful commands, or prevent escape.

D. Members shall use the least amount of force necessary based on the totality of circumstances and shall cease using any force once a person becomes compliant.

E. Members using force must continually assess the situation and adjust the use of force as necessary. As a person's resistance decreases, Members shall decrease their use of force accordingly.

F. Whenever safe and feasible to do so, prior to using force, Members should provide verbal commands. Members should defer using force for an objectively reasonable amount of time to allow the person to comply with the command.

G. Members must act with due regard for the safety of all persons during any use of force.

H. 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 and to increase the likelihood of securing a person's voluntary compliance with police instructions. Members should refer to RPD's De-Escalation policy, G.O. 575.

I. 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. Members should refer to RPD's Duty to Intervene policy, G.O. 336.

J. After a use of force, Members shall render medical assistance consistent with their training as follows:



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1. When safe and feasible to do so, Members shall immediately evaluate the need for medical attention for the person upon whom force was used. Members shall request medical assistance without delay for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, is suicidal or encountering a mental health crisis, or who was rendered unconscious.
2. Any person who is exposed to a Conducted Electrical Weapon (“CEW”) application and has apparent injuries or complains of injury, or is unconscious or semi-conscious due to alcohol or drug consumption must be transported to a hospital to be seen by a medical professional for treatment.
3. Members are expected to document whether they render aid to any individual in a Subject Resistance Report. Members are required to follow RPD’s Subject Resistance Report policy, G.O. 335.

#### IV. PROHIBITED USES OF FORCE

Members will not use force in any of the following situations:

A. Against persons who are handcuffed or restrained except to prevent injury; escape; or otherwise overcome resistance posed by the person;

1. Members shall not position a restrained person face-down for a prolonged period of time as it may cause positional asphyxia, or on their back as it may cause radial nerve damage to the wrist and forearm area. Restrained persons should be seated or placed on their side, as soon as safe and practical.

B. To coerce a confession;

C. As punishment or retaliation (e.g., force used to punish or retaliate against an individual for fleeing, resisting arrest or insulting a Member);

D. To respond to those engaged in the lawful exercise of First Amendment protected activity, including peaceful protest, the right to assemble, and recording police activity (unless a person’s doing so impedes a Member’s legitimate law enforcement function);

E. Based on bias against the person’s race, ethnicity, nationality, religion, disability, gender, gender identity, sexual orientation, immigration status, or any other protected characteristic;

F. To obtain blood, saliva, urine or other bodily fluid or cells, from an individual for the purpose of scientific testing in lieu of a court order where required; or

G. To extract an item from inside the body of a person, except where exigent circumstances are present;



H. To stop a person from swallowing a substance that is already in their mouth. A Member may, however, use reasonable force to prevent a suspect from putting a substance in their mouth.

## **Rochester Police Department Body Worn Camera Manual**

### **IV. Recording Requirements and Restrictions<sup>2</sup>**

A. Members assigned a BWC will activate it and record all activities, and all contact with persons, in the course of performing police duties as soon as it is safe and practical to do so, as set forth in this Manual.

1. Members will activate and record with the BWC preferably upon being dispatched and prior to exiting their police vehicle, or prior to commencing any activity if on foot patrol, as set forth below.

2. Members will immediately activate the BWC when required unless it is not safe and practical, i.e., the member cannot immediately activate the BWC due to an imminent threat to the member's safety, physical resistance, flight, or other factors rendering immediate activation impractical. In such cases, the member will activate the BWC as soon as possible.

B. **Mandatory BWC Recordings.** 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.

1. "Enforcement activities" are:
  - a. arrests and prisoner transports (including issuance of appearance tickets and mental hygiene arrests);
  - b. pursuits (pursuit driving as defined by G.O. 530, Pursuit Driving, and foot pursuits);
- i. Members will activate the BWC and record any involvement or assistance with a vehicle or foot pursuit, including direct involvement in the pursuit, deploying a tire deflation device, blocking traffic or taking a

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<sup>2</sup> The body worn camera policy has been condensed for purposes of this document. The entirety of which may be viewed using the following link. [Body Worn Camera \(BWC\) Manual | Rochester, NY Police Department Open Data Portal \(arcgis.com\)](#)



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traffic point, paralleling, following from a distance, responding to the general area to provide assistance if needed, and responding to and while present at the apprehension/arrest site.

- c. detentions/stops of persons and vehicles;
- d. force.

C. Standard BWC Recordings. Unless a specific exception exists, members assigned a BWC will activate it and record all activities, and contact with persons, in the course of performing police duties. This includes all calls for service and self-initiated police activity unless listed as Optional below.

D. Optional BWC Recording. Unless a mandatory or standard event arises which must be recorded, members are not required to record the following activities with a BWC, but may do so if the member believes it serves a legitimate law enforcement purpose:

1. While driving or a passenger during routine vehicle patrol.
2. Traffic control and traffic points.
3. Walking beats, directed patrol, corner posts, and special attention checks.
4. Completing reports when no longer in the presence of civilians (e.g., in a police car or in a police facility).
5. Interviewing cooperative victims, witnesses, and persons with knowledge in a private residence or a police facility.
6. Conducting general photo queries, photo arrays, and physical line-ups.
7. While conducting parking enforcement if no civilians are present.
8. Completing security surveys.
9. Conducting a neighborhood canvass.
10. During community or neighborhood meetings; or meetings of government bodies or agencies.





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11. Routine walk-up requests for information or assistance (e.g., giving directions).
12. Civilian transports.

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### STANDARD OF PROOF

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The Police Accountability Board is tasked with determining whether or not sworn Rochester Police Department Officers have committed any actions in violation of department policies, order, or training. In order for a finding of misconduct to be considered sustained, the Police Accountability Board is authorized to use a “substantial evidence” standard of proof. See City of Rochester Charter § 18-5(I)(10).

Substantial evidence “is that which a reasonable mind might accept as adequate to support a conclusion”.

NLRB v. Int’l Bhd. of Elec. Workers, Local 48, 345 F.3d 1049, 1054 (9th Cir. 2003). This standard is met when there is enough relevant and credible evidence in the record as a whole that a reasonable person could support the conclusion made. See 4 CFR § 28.61(d).

Even though authorized, the Police Accountability Board of Rochester, New York, utilizes the much higher standard of proof, which is a preponderance of evidence. When utilizing the standard of a preponderance of the evidence “the relevant facts must be shown to be more likely true than not” [true]. United States v. Montano, 250 F.3d 709 (9th Cir. 2001). This is commonly understood to mean that there is at least a 51% chance that the allegations made are in fact true.

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### ANALYSIS

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The following findings are made based on the above standards:

Allegation 1: Officer [REDACTED] used harsh and/or profane language when speaking to [REDACTED]

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

[REDACTED] [REDACTED] alleges that she was called a dumb bitch\* by a Rochester Police Department Officer. [REDACTED] [REDACTED] however, is unable to identify which officer used such profanity. After a review of all of the body worn camera footage and written reports provided by the Rochester Police Department, this investigator is also unable to ascertain the identity of the officer accused of calling [REDACTED] [REDACTED] a dumb bitch. Officer [REDACTED] activated his body camera during the second



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interaction with [REDACTED] and there is no evidence of him saying dumb bitch in this recording. Without any information as to the identity of the officer, nor any evidence or documentation regarding this interaction, this allegation is determined to be not sustained.

*Allegation 1 against Officer [REDACTED] is not sustained.*

Allegation 2: Officer [REDACTED] used an inappropriate amount of force in his interaction with [REDACTED].

The Rochester Police Department's General Order 337 states that an Officer's use of force must be objectively reasonable, necessary and proportionate. Officers are further instructed to use the least amount of force necessary and to cease the use of force in its entirety once the subject becomes compliant. Furthermore, Officers are instructed to use verbal commands prior to using force in all situations which are safe and feasible to do so.

[REDACTED] alleges that she was forcefully dragged down the stairs. [REDACTED] however, is unable to identify which officer dragged her down the stairs. After a review of all of the body worn camera footage and written reports provided by the Rochester Police Department, this investigator is also unable to ascertain the identity of the officer accused of dragging [REDACTED] down the stairs. Officer [REDACTED] activated his body camera during the second interaction with [REDACTED] and there is no evidence of him dragging her down the stairs. Without any information as to the identity of the officer, nor any evidence or documentation regarding this interaction, this allegation is determined to be not sustained.

*Allegation 2 against Officer [REDACTED] is not sustained.*

Allegation 3: Officer [REDACTED] did not activate his body worn camera during his first interaction with [REDACTED].

The Rochester Police Department's Body Worn Camera Policy states that Officers are to activate their body worn camera and record all activities and all contact with persons unless an enumerated exception applies. Some exceptions which may override the necessity of standard body camera recording are: during routine traffic patrols, when completing reports and outside of the presence of civilians, and when interviewing cooperative victims in a private residence or police facility.



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The interaction between Officer [REDACTED] and [REDACTED] occurred both inside and outside of Mr. [REDACTED] home. The only exception relevant which would allow for body camera to not be activated occurs if a witness is cooperative and being interviewed in a private residence. [REDACTED] while admittedly intoxicated, was not behaving in a cooperative manner. No other exception applies and after a thorough search of the Rochester Police Department's database, there is no video evidence of the first interaction between Officer [REDACTED] and [REDACTED]. Officer [REDACTED] did not activate his body worn camera during this interaction. Due to the location of the interaction, no RPD exception applies and the first interaction between Officer [REDACTED] and [REDACTED] should have been captured on his body worn camera.

*Allegation 3 against Officer [REDACTED] is sustained.*

Allegation 4: Officer [REDACTED] used harsh and/or profane language when speaking to [REDACTED].

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

[REDACTED] alleges that she was called a dumb bitch\* by a Rochester Police Department Officer. [REDACTED] however, is unable to identify which officer used such profanity. After a review of all of the body worn camera footage and written reports provided by the Rochester Police Department, this investigator is also unable to ascertain the identity of the officer accused of calling [REDACTED] a dumb bitch. Officer [REDACTED] activated his body camera during the second interaction with [REDACTED] and there is no evidence of him saying dumb bitch in this recording. Without any information as to the identity of the officer, nor any evidence or documentation regarding this interaction, this allegation is determined to be not sustained.

*Allegation 4 against Officer [REDACTED] is not sustained.*

Allegation 5: Officer [REDACTED] used an inappropriate amount of force in his interaction with [REDACTED].

The Rochester Police Department's General Order 337 states that an Officer's use of force must be objectively reasonable, necessary and proportionate. Officers are further instructed to use the least amount of force necessary and to cease the use of force in its entirety once the subject becomes compliant. Furthermore, Officers are instructed to use verbal commands prior to using force in all situations which are safe and feasible to do so.



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■■■■■ alleges that she was forcefully dragged down the stairs. ■■■■■ however, is unable to identify which officer dragged her down the stairs. After a review of all of the body worn camera footage and written reports provided by the Rochester Police Department, this investigator is also unable to ascertain the identity of the officer accused of dragging ■■■■■ down the stairs. Officer ■■■■■ activated his body camera during the second interaction with ■■■■■ and there is no evidence of him dragging her down the stairs. Without any information as to the identity of the officer, nor any evidence or documentation regarding this interaction, this allegation is determined to be not sustained.

*Allegation 5 against Officer ■■■■■ is not sustained.*

Allegation 6: Officer ■■■■■ did not activate his body worn camera during his first interaction with ■■■■■.

The Rochester Police Department's Body Worn Camera Policy states that Officers are to activate their body worn camera and record all activities and all contact with persons unless an enumerated exception applies. Some exceptions which may override the necessity of standard body camera recording are: during routine traffic patrols, when completing reports and outside of the presence of civilians, and when interviewing cooperative victims in a private residence or police facility.

The interaction between Officer ■■■■■ and ■■■■■ occurred both inside and outside of ■■■■■ home. The only exception relevant which would allow for body camera to not be activated occurs if a witness is cooperative and being interviewed in a private residence. ■■■■■ while admittedly intoxicated, was not behaving in a cooperative manner. No other exception applies and after a thorough search of the Rochester Police Department's database, there is no video evidence of the first interaction between Officer ■■■■■ and ■■■■■. Officer ■■■■■ did not activate his body worn camera during this interaction. Due to the location of the interaction, no RPD exception applies and the first interaction between Officer ■■■■■ and ■■■■■ should have been captured on his body worn camera.

*Allegation 6 against Officer ■■■■■ is sustained.*

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### RECOMMENDED FINDINGS

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#	Officer	Allegation	Finding
1	Officer ■■■■■	Rules and Regulations 4.2 (a) (Courtesy): Officer ■■■■■ used harsh and/or	Not Sustained



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#	Officer	Allegation	Finding
		profane language when speaking to [REDACTED]	
2	Officer [REDACTED]	General Order 337 (Use of Force): Officer [REDACTED] used an inappropriate amount of force in his interaction with [REDACTED]	Not Sustained
3	Officer [REDACTED]	Body Worn Camera Policy (Recording Requirements and Restrictions): Officer [REDACTED] did not activate his body worn camera during his first interaction with [REDACTED]	Sustained
4	Officer [REDACTED]	Rules and Regulations 4.2 (a) (Courtesy): Officer [REDACTED] used harsh and/or profane language when speaking to [REDACTED]	Not Sustained
5	Officer [REDACTED]	General Order 337 (Use of Force): Officer [REDACTED] used an inappropriate amount of force in his interaction with [REDACTED]	Not Sustained
6	Officer [REDACTED]	Body Worn Camera Policy (Recording Requirements and Restrictions): Officer [REDACTED] did not activate his body worn camera during his first interaction with [REDACTED]	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





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disciplinary matrix is a non-binding set of guidelines for the Police Accountability Board's own recommendations regarding officer misconduct.

According to the matrix, the disciplinary history of an officer will be considered when assessing an appropriate penalty resulting from the current investigation. Prior discipline changes the presumptive penalties according to the matrix. Mitigating and aggravating factors related to the misconduct may be considered when determining the level of discipline, so long as an explanation is provided.

The Recommended Disciplinary Action based on the above Recommended Findings is as follows:

Sustained Allegation 3 against Officer [REDACTED]

Disciplinary Matrix Appendix

Misconduct	Level
Body Worn Camera Policy: Officers shall activate their body worn camera and record all activities and all contact with persons unless an enumerated exception applies.	3

- Recommended Level: 3 ("Pronounced negative impact to individuals, community, public perception of the agency or relationships with other officers, or agencies.")
- Recommended Discipline (based on 0 prior sustained violations): **10 day suspension;** This officer's failure to follow the body worn camera policy resulted in the Reporter's allegations of discourtesy and excessive force being not sustained.
- Explanation of deviation from presumptive penalty: No deviation.

Sustained Allegation 6 against Officer [REDACTED]

Disciplinary Matrix Appendix

Misconduct	Level
Body Worn Camera Policy: Officers shall activate their body worn camera and record all activities and all contact with persons unless an enumerated exception applies.	3



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- Recommended Level: 3 (“Pronounced negative impact to individuals, community, public perception of the agency or relationships with other officers, or agencies”)
- Recommended Discipline (based on 0 prior sustained violations): **10 day suspension;** This officer’s failure to follow the body worn camera policy resulted in the Reporter’s allegations of discourtesy and excessive force being not sustained.
- Explanation of deviation from presumptive penalty: No deviation