



## 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):** 2022-0162

**Date of Panel Review:** 30-May-2024 1:15 PM (EDT)

**Board Members Present:** [REDACTED]

### Case Findings:

Allegation 1: Exonerated

Allegations 2-9: Sustained

Allegation 10: Not Sustained

Allegation 11: Sustained

### Disciplinary Recommendation:

Officer [REDACTED] 60 day suspension , written reprimand, and de-escalation training (added by Board for allegation 5).

Officer [REDACTED] : 60 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] Officer [REDACTED] violated General Order 335 § II A as he used a level of physical force beyond what was necessary to detain [REDACTED] and broke his hand in the process.

- **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] Officer [REDACTED] violated General Order 335 § II B and General Order 350 § IV A 13 and General Order 350 § IV B as he carried equipment that was not issued or approved by the Department and did not have written permission of the Chief of Police.

- **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 # 3:**

Officer [REDACTED] Officer [REDACTED] violated General Order 335 § II C as he failed to complete a Subject Resistance Report following the incident which involved force beyond mere handcuffing.

- **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] Officer [REDACTED] violated General Order 335 § III A 4(b) and RPD Rules and Regulations 2.14 as he failed to immediately evaluate the need for medical attention or treatment of [REDACTED] as he complained of injury.

- **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 575 § III B as he did not use de-escalation techniques and tactics, when it was safe and feasible to do so, to prevent and minimize the need to use force in response to resistance.

- **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**

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**Officer Name- Allegation # 6:**

Officer [REDACTED] Officer [REDACTED] violated RPD Rules and Regulations 4.1 (a) as he did not conduct himself so as to avoid bringing discredit upon 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**

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**Officer Name- Allegation # 7:**

Officer [REDACTED] Officer [REDACTED] violated RPD Rules and Regulations 4.1 (b) as he did engage in conduct on-duty which has a tendency to impair public respect for an employee and/or 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**

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**Officer Name- Allegation # 8:**

Officer [REDACTED] Officer [REDACTED] violated RPD Rules and Regulations 4.2 (a) as he was not courteous, civil, or 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 # 9:**

Officer [REDACTED] Officer [REDACTED] violated RPD Rules and Regulations 4.2 (c) as he used harsh, profane, insolent, and intentionally insulting language toward another person.

- **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 # 10:**

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.

- **Does the Board Agree with the Findings of Fact? No**
  - **Does the Board Agree with the Substantiated Evidence of Misconduct? No**
  - **Does the Board Agree with the Proposed Disciplinary Action? No**
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**Officer Name- Allegation # 11:**

Officer [REDACTED] Officer [REDACTED] violated General Order 335 § III A 4(b) and RPD Rules and Regulations 2.14 as he failed to immediately evaluate the need for medical attention or treatment of [REDACTED] as he complained of injury.

- **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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## 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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On January 27<sup>th</sup>, 2022, at or around 10:30 PM, Officers [REDACTED] and [REDACTED] respond to [REDACTED] 14620, for a report of [REDACTED] making threats to kill [REDACTED]. This incident involves [REDACTED], [REDACTED], [REDACTED]. Upon arrival, Officer [REDACTED] speaks with [REDACTED] outside of the building, who explains to him that he has been having ongoing issues with [REDACTED], and has started the eviction process. Officer [REDACTED] speaks with [REDACTED] on the front porch, who tells Officer [REDACTED] that [REDACTED] had called 911 as [REDACTED] had threatened to kill [REDACTED] after [REDACTED] addressed [REDACTED] alleged drug use and partying the night before. Officer [REDACTED] then explains to [REDACTED] that officers are not able to arrest [REDACTED] and search the residence for drugs due to New York State Bail Reform, and provides [REDACTED] with instructions for how to file an order of protection against [REDACTED]. Officer [REDACTED] also provides [REDACTED] with contact information for housing support options due to the ongoing eviction process. Officer [REDACTED] explains to [REDACTED] that no further action will be taken, and [REDACTED] states he is going to leave and go for a walk. Both officers then leave the scene as [REDACTED] re-enters the building and [REDACTED] leaves on foot.

At or around 11:30 PM, both officers return to the scene to find that [REDACTED] had called 911 as [REDACTED] had broken a side door of the residence to enter. [REDACTED] then explains to Officer [REDACTED] that he is not planning on pressing charges against [REDACTED], and Officer [REDACTED] speaks to [REDACTED] in [REDACTED]. [REDACTED] states that after Officers [REDACTED] and [REDACTED] left, [REDACTED] was locked out of the building, called the police, and was advised to break in. At this point, Officer [REDACTED] raises his voice at [REDACTED] tells [REDACTED] to stop lying, tells [REDACTED] to “shut his mouth”, and eventually tells [REDACTED] “I don’t care what you have to say”, and again tells [REDACTED] to “shut up”. He then explains to [REDACTED] that [REDACTED] is not interested in having [REDACTED] arrested, and then states “I’ll gladly arrest you, I will talk him ([REDACTED]) into getting you arrested”. [REDACTED] then asks Officer [REDACTED] for his badge number and name, which [REDACTED] provides. At this point, [REDACTED], who is speaking with Officer [REDACTED] and overhears [REDACTED] ask for Officer [REDACTED] badge number and name, tells



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Officer [REDACTED] “You know what? Arrest him.”.Officer [REDACTED] then grabs [REDACTED] arm, turns [REDACTED] around, states “I didn’t say you have an option right now”, and proceeds to put [REDACTED] in handcuffs. [REDACTED] then begins screaming and informs officers that [REDACTED] hand is broken. As Officers [REDACTED] and [REDACTED] are leading [REDACTED] out of the building, [REDACTED] explains to [REDACTED] why [REDACTED] ended up in handcuffs. [REDACTED] pleads with him, and [REDACTED] again tells [REDACTED] to shut up. [REDACTED] is then placed in the back seat of Officer [REDACTED] car while Officer [REDACTED] asks [REDACTED] questions to fill out a report. Eventually, Officer [REDACTED] approaches the car and explains to [REDACTED] that [REDACTED] is not being criminally charged, and that a non-criminal incident report will be written for insurance purposes. [REDACTED] is then helped out of the back of the vehicle, and as Officer [REDACTED] begins removing the handcuffs, he asks [REDACTED] which wrist is injured. Upon removing the handcuffs, Officers [REDACTED] and [REDACTED] walk [REDACTED] back into the building and lead [REDACTED]. [REDACTED] is then advised that both parties are encouraged to avoid each other, [REDACTED] agrees, and officers leave the scene.

**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]	[REDACTED]	[REDACTED]	[REDACTED]



**ALLEGATIONS**

1	Officer [REDACTED]	Officer [REDACTED] violated General Order 335 § II A as he used a level of physical force beyond what was necessary to detain [REDACTED].
2	Officer [REDACTED]	Officer [REDACTED] violated General Order 335 § II B and General Order 350 § IV A 13 and General Order 350 § IV B as he carried equipment that was not issued or approved by the Department and did not have written permission of the Chief of Police.
3	Officer [REDACTED]	Officer [REDACTED] violated General Order 335 § II C as he failed to complete a Subject Resistance Report following the incident which involved force beyond mere handcuffing.
4	Officer [REDACTED]	Officer [REDACTED] violated General Order 335 § III A 4(b) and RPD Rules and Regulations 2.14 as he failed to immediately evaluate the need for medical attention or treatment of [REDACTED] as [REDACTED] complained of injury.
5	Officer [REDACTED]	Officer [REDACTED] violated General Order 575 § III B as he did not use de-escalation techniques and tactics, when it was safe and feasible to do so, to prevent and minimize the need to use force in response to resistance.
6	Officer [REDACTED]	Officer [REDACTED] violated RPD Rules and Regulations 4.1 (a) as he did not conduct himself so as to avoid bringing discredit upon the Department.
7	Officer [REDACTED]	Officer [REDACTED] violated RPD Rules and Regulations 4.1 (b) as he did engage in conduct on-duty which has a tendency to impair public respect for an employee and/or the Department.
8	Officer [REDACTED]	Officer [REDACTED] violated RPD Rules and Regulations 4.2 (a) as he was not courteous, civil, or tactful in the performance of his duties.
9	Officer [REDACTED]	Officer [REDACTED] violated RPD Rules and Regulations 4.2 (c) as he used harsh, profane, insolent, and intentionally insulting language toward another person.





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10	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.
11	Officer [REDACTED]	Officer [REDACTED] violated General Order 335 § III A 4(b) and RPD Rules and Regulations 2.14 as he failed to immediately evaluate the need for medical attention or treatment of [REDACTED] as [REDACTED] complained of injury.



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## INVESTIGATION

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On March 17, 2022, A document titled “Reporter Statement” was uploaded to the [REDACTED] case file by former Deputy Chief of Case Management [REDACTED]. The document is dated February 1, 2022, yet it is unclear if the report was made to the PAB on this date or if it was dated in error. At this point, a PAB intake process had not yet been formalized.

On June 20, 2022, the Police Accountability Board began taking civilian complaints of police misconduct. An email was sent to [REDACTED] that day informing [REDACTED] of the same and providing [REDACTED] with instructions to file a report.

Several unsuccessful attempts were made to contact [REDACTED] between June 20, 2022 and October 17, 2022 by dialing [REDACTED]. It has since been revealed throughout the process of this investigation that [REDACTED] phone number is actually [REDACTED].

On August 30, 2022, Capt. [REDACTED] provided data and evidence from a PSS investigation into the incident to the PAB.

On October 17, 2022, the case was transferred to the investigations division.

In late November, 2022, the investigator assigned to this case resigned from the PAB.

On January 6, 2023, a new investigator was assigned to this case.

On October 6, 2023, the case was reassigned to former Director of Investigations [REDACTED].

On April 15, 2024, the case was reassigned to PAB Investigator [REDACTED].

On April 29, 2024, PAB Investigator [REDACTED] requested any and all recordings and transcripts of 911 calls coming from [REDACTED] from the Emergency Communications Department (ECD).

On April 30, 2024, Officer Statement Requests were sent to Officers [REDACTED] and [REDACTED].

On April 30, 2024, PAB Investigator [REDACTED] called [REDACTED] to set up an interview. [REDACTED] stated he would return the call at 1:00 PM that day, which he did not. At 1:25 PM, PAB Investigator [REDACTED] called [REDACTED] back and left a voicemail.



On May 2, 2024, PAB Investigator [REDACTED] called [REDACTED] again. [REDACTED] did not pick up. No voicemail was left.

On May 7, 2024, PAB Investigator [REDACTED] called [REDACTED] again. [REDACTED] did not pick up. Investigator left a voicemail requesting a call back to set up an interview.

On May 13, 2024, ECD provided one .mp3 file of a recording of the initial 911 call made by [REDACTED] as well as the Event Chronology.

On May 14, 2024, PAB Investigator [REDACTED] sent an additional Source of Information Request (SOI) to RPD for the stenographic transcript of a follow up PSS interview of Officer [REDACTED] on July 11, 2022.

On May 15, 2024, Capt. [REDACTED] responded to the SOI and provided an Inter-Departmental Correspondence (IDC) dated July 4, 2022, which appears to indicate that the July 11, 2022 follow-up PSS interview did not occur. The IDC also states that Officers [REDACTED] and [REDACTED] were exonerated in detaining [REDACTED] as [REDACTED] admitted to breaking into the residence.

As of May 21, 2024, [REDACTED] has not returned any phone calls.

As of May 21, 2024, Officers [REDACTED] and [REDACTED] have not responded to either Officer Statement Request.

**EVIDENCE REVIEWED**

Evidence	Description	Provided by	Reason declined	Filename
Original SOI Response	Cover letter responding to original SOI initiated under acting manager [REDACTED]	Capt. [REDACTED]	N/A	<a href="#">Cover Letter to PAB.docx</a>
RPD Response to Second SOI	Second SOI returned with narrative section indicating that PSS will not	Capt. [REDACTED]	N/A	<a href="#">SOI – 2022_162-02 RPD response sent 12-15-22.pdf</a>

**EVIDENCE REVIEWED**

<b>Evidence</b>	<b>Description</b>	<b>Provided by</b>	<b>Reason declined</b>	<b>Filename</b>
	disclose its findings			
Disciplinary History: Officer ██████	Document which appears to show that this is Officer ██████ first disciplinary incident	Capt. ██████	N/A	<a href="#">Ofc. ██████ discipline record.pdf</a>
Disciplinary History: Officer ██████	Document which appears to show that this is Officer ██████ first disciplinary incident	Capt. ██████	N/A	<a href="#">Ofc. ██████ discipline record.pdf</a>
Non-Criminal Incident Report	Incident Report completed by Officer ██████	Capt. ██████	N/A	<a href="#">22-17374 Incident Report.pdf</a>
CAD Job Card	CAD Card showing dispatch activity on 1/27/2022	Capt. ██████	N/A	<a href="#">22-1374 ECD (2).pdf</a>
CAD Job Card	Additional CAD Card showing dispatch activity on 1/27/2022 and 1/28/2022	Capt. ██████	N/A	<a href="#">22-17374 ECD.pdf</a>
Witness Statement to PSS	Recording of PSS interview of ██████	Capt. ██████	N/A	<a href="#">████████ recorded call 3 15 22.mp3</a>



**EVIDENCE REVIEWED**

<b>Evidence</b>	<b>Description</b>	<b>Provided by</b>	<b>Reason declined</b>	<b>Filename</b>
PDF of Officer [REDACTED] Advisement Form	Signed form notifying Officer [REDACTED] of the PSS investigation into the incident	Capt. [REDACTED]	N/A	[REDACTED] <a href="#">Advisement Form (signed).pdf</a>
Word document of Officer [REDACTED] Advisement Form	Unsigned form notifying Officer [REDACTED] of the PSS investigation into the incident	Capt. [REDACTED]	N/A	[REDACTED] <a href="#">Advisement Form.doc</a>
PDF of Officer [REDACTED] notification of PSS investigation	Inter Departmental Correspondence ordering Officer [REDACTED] to appear for a PSS interview on 3/1/2022 at 1:30 PM	Capt. [REDACTED]	N/A	[REDACTED] <a href="#">Notify served.PDF</a>
Word document of Officer [REDACTED] notification of PSS investigation	Inter Departmental Correspondence ordering Officer [REDACTED] to appear for a PSS interview on 3/1/2022 at 1:30 PM	Capt. [REDACTED]	N/A	[REDACTED] <a href="#">Notify.doc</a>
Officer [REDACTED] Statement to PSS	Stenographic transcript of PSS interview of Officer [REDACTED]	Capt. [REDACTED]	N/A	[REDACTED] <a href="#">Statement.pdf</a>
PDF of Officer [REDACTED] notification of	Inter Departmental Correspondence	Capt. [REDACTED]	N/A	<a href="#">Notify 2.pdf</a>



**EVIDENCE REVIEWED**

Evidence	Description	Provided by	Reason declined	Filename
a follow-up interview	ordering Officer ██████ to appear for a PSS interview on 7/11/2022 at 1:30 PM			
PDF of Officer ██████ Advisement Form	Signed form notifying Officer ██████ of the PSS investigation into the incident	Capt. ██████	N/A	██████ <a href="#">Advisment Form (signed).pdf</a>
Word document of Officer ██████ Advisement Form	Unsigned form notifying Officer ██████ of the PSS investigation into the incident	Capt. ██████	N/A	██████ <a href="#">Advisment Form.doc</a>
PDF of Officer ██████ notification of PSS investigation	Inter Departmental Correspondence ordering Officer ██████ to appear for a PSS interview on 3/1/2022 at 2:00 PM	Capt. ██████	N/A	██████ <a href="#">Notify Served.pdf</a>
Word document of Officer ██████ notification of PSS investigation	Inter Departmental Correspondence ordering Officer ██████ to appear for a PSS interview on 3/1/2022 at 2:00 PM	Capt. ██████	N/A	██████ <a href="#">Notify.doc</a>



**EVIDENCE REVIEWED**

Evidence	Description	Provided by	Reason declined	Filename
Officer ██████ statement to PSS	Stenographic transcript of PSS Interview of Officer ██████	Capt. ██████	N/A	██████ <a href="#">Statement.pdf</a>
Neighborhood Check	Word document describing steps taken to canvass the neighborhood by PSS investigators	Capt. ██████	N/A	<a href="#">Neighborhood Check 22-0055.doc</a>
Mail Receipt	Scanned PDF of mail receipt presumably verifying that witness statement request was mailed to ██████	Capt. ██████	N/A	██████ <a href="#">certified mail label.pdf</a>
Witness interview letter	Interview request sent to ██████ as part of the PSS investigation	Capt. ██████	N/A	<a href="#">Witness certified letter (██████).doc</a>
BWC Folder	Sharepoint folder containing BWC footage recorded by Officer ██████	Capt. ██████	N/A	091 ██████ <a href="#">Video</a>



**EVIDENCE REVIEWED**

Evidence	Description	Provided by	Reason declined	Filename
Picture of door	BWC captured image of side door damaged by [REDACTED]	Capt. [REDACTED]	N/A	<a href="#">01186_81285220220128000804_0005.JPG</a>
Picture of handcuffs	Image of non-department issued handcuffs used to detain [REDACTED]	Capt. [REDACTED]	N/A	<a href="#">Hinged Handcuff.PNG</a>
BWC Folder	Sharepoint folder containing BWC footage recorded by Officer [REDACTED]	Capt. [REDACTED]	N/A	<a href="#">092 [REDACTED] Video</a>
Complainant Letter	Word document of letter sent to [REDACTED] advising him to complete a Personnel Complaint Form	Capt. [REDACTED]	N/A	<a href="#">Complainant letter 2-9-22.doc</a>
Mail Receipt	Scanned PDF of mail receipt presumably verifying that complainant letter was mailed to [REDACTED]	Capt. [REDACTED]	N/A	<a href="#">[REDACTED].certified mail receipts.pdf</a>
Inter-departmental email	Copy of email sent by Sgt. [REDACTED] to Capt. [REDACTED]	Capt. [REDACTED]	N/A	<a href="#">Central Section email.pdf</a>





**EVIDENCE REVIEWED**

Evidence	Description	Provided by	Reason declined	Filename
	<p>██████████                      requesting verification that the hinged handcuffs used by Officer ██████████                      ██████████                      are department issued</p>			
Recording of Telephone call	<p>Brief conversation between PSS Sgt. ██████████ and ██████████ in ██████████ in which ██████████ states ██████████ intends to hire a lawyer prior to any further interaction with RPD</p>	Capt. ██████████	N/A	<a href="#">Complainant callback lawyer.mp3</a>
Recording of Voicemail message	<p>Voicemail left by ██████████ reporting incident to PSS</p>	Capt. ██████████	N/A	<a href="#">Complainant voicemail to PSS.mp3</a>
RPD Performance Support Form	<p>Form summarizing conversation between Officer ██████████ and Lieutenant ██████████ addressing Officer ██████████ improper use of non-</p>	Capt. ██████████	N/A	██████████ <a href="#">Performance Support.pdf</a>



# PAB

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## EVIDENCE REVIEWED

Evidence	Description	Provided by	Reason declined	Filename
	department issued handcuffs			
PDF of correspondence between Sargeant ██████ and Lieutenant ██████	Intra-Departmental Correspondence dated 7/4/2022 summarizing statements made by Officers ██████ and ██████ and other facts discovered during the PSS investigation	Capt. ██████	N/A	<a href="#">IDC Follow up ██████.pdf</a>
RPD Response to third SOI	Third SOI with response explaining that an Inter-Departmental Correspondence was issued in lieu of a follow up interview with Officer ██████ on 7/11/2022	Capt. ██████	N/A	<a href="#">SOI 2022-0162-03 rec 5-15-24 RPD response 5-15-24.pdf</a>
Initial Report	Statement given to the PAB by ██████ as early as 2/1/2022 and as late as 3/17/2022.	N/A	N/A	<a href="#">Reporter statement.docx</a>
Case Notes	Original Case Notes	N/A	N/A	<a href="#">Case Notes.docx</a>



**EVIDENCE REVIEWED**

Evidence	Description	Provided by	Reason declined	Filename
	Document used prior to adoption of PAB’s Case Management System			

**APPLICABLE RULES & LAWS**

**Rochester Police Department General Orders**

**335: Subject Resistance Report**

**I. DEFINITIONS**

A. Appropriate Force - The reasonable force, based upon the totality of the circumstances known by the member, to affect an arrest, overcome resistance, control an individual or situation, defend oneself or others, or prevent a subject’s escape.

B. Force - Any intentional physical strength or energy exerted or brought to bear upon or against a person for the purpose of compulsion, constraint or restraint.

**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.

B. Only issued or approved equipment will be carried on duty and used when using force, except in emergency situations when members may use any resources at their disposal.

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:

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

### **336: Duty to Intervene**

#### **I. PURPOSE**

It is the policy of the Rochester Police Department that all Members shall intervene and prevent or stop other Members from using unreasonable force or otherwise acting contrary to law or RPD policy.

#### **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.

#### **III. PROCEDURES**

A. Interventions may be verbal and/or physical depending on the situation and the level of misconduct. Any use of physical force to intervene must be objectively reasonable, necessary, and proportional under the totality of the circumstances.

B. A Member must as soon as practical, report the offending Member's unreasonable use of force or other misconduct to a supervisor.

### **350: Uniform, Equipment, and Personal Appearance**

#### **IV. EQUIPMENT TO BE CARRIED**

A. Members, on duty and assigned to a uniformed function, will carry or wear the following equipment unless specifically exempted by their Commanding Officer:

13. Issued handcuffs and key; members are issued one pair of handcuffs. The member may purchase and carry additional handcuffs only if the additional pairs of handcuffs are the current brand, make and model of the issued pair.

B. Weapons/equipment that are not issued or approved by the Department will not be carried while on duty without written permission of the Chief of Police. (This does not preclude the carrying of a small pen type knife in the member's pocket.)

### **575: De-escalation**



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 Rules and Regulations**

#### **2.14: Medical Attention for Ill Persons**

Employees shall ensure that any injured or ill person is given the opportunity for medical attention

##### **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.

c) Employees shall not use harsh, profane, insolent, or intentionally insulting language toward any other employee or other person.

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## **ANALYSIS**

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### **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](https://www.law.cornell.edu/wex/preponderance_of_the_evidence#:~:text=Preponderance%20of%20the%20evidence%20is,that%20the%20claim%20is%20true)).

**Allegation 1: Officer █████ violated General Order 335 § II A as he used a level of physical force beyond what was necessary to detain █████**

RPD General Order 335 § 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.” A review of the [Body Worn Camera footage](#) captured by Officer █████ between 23:45:03 and 23:45:21 shows that Officer █████ orders █████ to put █████ hands behind his back. █████ is reluctant to follow the order, and asks “For what?”. At 23:45:07 Officer █████ grabs █████ arm, turns █████ around, and begins applying handcuffs. Officer █████ tells █████ “I didn’t say you have an option right now” █████ begins saying “Ow, ow, ow” and then screams “It hurts, let go of my hand”. █████ then says “I broke my hand” twice, followed by “I didn’t mean to do that, but look, I broke my fucking hand”. At 23:45:21, Officer █████ has finished placing handcuffs on █████.

While Officer █████ did use physical force to detain █████ the application of handcuffs was within his discretion and the level of force used was necessary to effect the detention. Additionally, █████ begins complaining of pain prior to the use of force that could have resulted in breaking bones in his hand, and exclaims “I broke my hand” at least three times, suggesting that the injury occurred at some point prior to the application of handcuffs.

The allegation that Officer █████ violated General Order 335 § A is recommended as *Exonerated*.

**Allegation 2: Officer █████ violated General Order 335 § II B and General Order 350 § IV A 13 and General Order 350 § IV B as he carried equipment that was not issued or approved by the Department and did not have written permission of the Chief of Police.**



RPD General Order 335 § II B states that “Only issued or approved equipment will be carried on duty and used when using force, except in emergency situations when members may use any resources at their disposal.”

RPD General Order 350 § A 13 and B states that “Members, on duty and assigned to a uniformed function, will carry or wear the following equipment unless specifically exempted by their Commanding Officer: Issued handcuffs and key; members are issued one pair of handcuffs. The member may purchase and carry additional handcuffs only if the additional pairs of handcuffs are the current brand, make and model of the issued pair.” And “Weapons/equipment that are not issued or approved by the Department will not be carried while on duty without written permission of the Chief of Police. (This does not preclude the carrying of a small pen type knife in the member's pocket.)”

A review of the [Body Worn Camera footage](#) captured by Officer [REDACTED] at 00:05:59 shows the handcuffs are not connected by a chain as department issued handcuffs are, but rather by a hinge.

A review of the [document](#) titled “[REDACTED] Performance Support.pdf” confirms that on February 2, 2022, Officer [REDACTED] received a Performance Support Form ordering him to remove the unauthorized handcuffs from his utility belt and discontinue their use while on duty as they are not Peerless Brand Model 700 with swivel and chain link paired connection.

The allegation that Officer [REDACTED] violated General Order 335 § II B and General Order 350 § IV A 13 and B is recommended as *Sustained*.

**Allegation 3: Officer [REDACTED] violated General Order 335 § II C as he failed to complete a Subject Resistance Report following the incident which involved force beyond mere handcuffing.**

RPD General Order 335 § II C states that “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).”

The [response](#) to the Notification of Initiation of Investigation sent to the PAB by RPD Capt. [REDACTED] on December 15, 2022, states that the PAB has been provided the entire PSS case package aside from internal reviews and the investigative summary. It is understood that a Subject Resistance Report, if one was completed, would exist among the provided materials.

General Order 335 defines force as “Any intentional physical strength or energy exerted or brought to bear upon or against a person for the purpose of compulsion, constraint or restraint.”





General Order 335 does not define “mere handcuffing” and does not define the conditions that would cause handcuffing to not be understood as “mere handcuffing”.

A review of the [Body Worn Camera footage](#) captured by Officer [REDACTED] between 23:45:03 and 23:45:21 shows that force was used for the purpose of compelling the handcuffing of [REDACTED]. Accordingly, the force used in the compulsion of the handcuffing, rather than the handcuffing itself, goes beyond “mere handcuffing”.

The allegation that Officer [REDACTED] violated General Order 335 § II C is recommended as *Sustained*.

**Allegation 4: Officer [REDACTED] violated General Order 335 § III A 4(b) and RPD Rules and Regulations 2.14 as he failed to immediately evaluate the need for medical attention or treatment of [REDACTED] as he complained of injury.**

General Order 335 § III A 4(b) 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”.

RPD Rules and Regulations 2.14 states that “Employees shall ensure that any injured or ill person is given the opportunity for medical attention.”

A review of the Body Worn Camera footage captured by both [Officers \[REDACTED\]](#) and [REDACTED] beginning at 23:45:06, when [REDACTED] first complains of pain in his hand, shows that neither officer evaluated [REDACTED] need for medical treatment or attention throughout the remainder of the evening.

On page three (page ten of the stenographic transcript) of the [document](#) titled “[REDACTED] Statement.pdf”, Officer [REDACTED] confirms that [REDACTED] did not receive any medical evaluation during the encounter.

The allegation that Officer [REDACTED] violated General Order 335 § III A 4(b) and RPD Rules and Regulations 2.14 is recommended as *Sustained*.

**Allegation 5: Officer [REDACTED] violated General Order 575 § III B as he did not use de-escalation techniques and tactics, when it was safe and feasible to do so, to prevent and minimize the need to use force in response to resistance.**

General Order 575 § II 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 [Body Worn Camera footage](#) captured by Officer [REDACTED] beginning at 23:43:00 shows multiple instances of Officer [REDACTED] yelling at [REDACTED]. When [REDACTED] tells Officer [REDACTED] that [REDACTED] obtained permission from the police to break the door of the building, Officer [REDACTED] yells "I was here earlier, I didn't say that, no cop would say you can break in, so stop lying, shut your mouth." [REDACTED] then attempts to explain further, and the conversation continues in a similar manner until 23:44:07, when Officer [REDACTED] interrupts [REDACTED] and yells "I don't care what you have to say". He then blames [REDACTED] for locking [REDACTED] self out of the building, tells [REDACTED] to "Shut up" at 23:44:24, and tells [REDACTED] he will gladly arrest [REDACTED] and will talk [REDACTED] into getting [REDACTED] arrested. [REDACTED] then asks Officer [REDACTED] for his badge number and name, which Officer [REDACTED] provides, at which point Officer [REDACTED] can be heard informing Officer [REDACTED] that [REDACTED] wants [REDACTED] arrested. At 23:45:03, Officer [REDACTED] tells [REDACTED] to put his hands behind [REDACTED] back, to which [REDACTED] asks "For what?". Officer [REDACTED] then states "I didn't say that you have an option right now" and places [REDACTED] in handcuffs by grabbing [REDACTED] arm and turning [REDACTED] around while [REDACTED] screams that [REDACTED] is in pain and has broken his hand.

The allegation that Officer [REDACTED] violated General Order 575 § II B is recommended as *Sustained*.

**Allegation 6: Officer [REDACTED] violated RPD Rules and Regulations 4.1 (a) as he did not conduct himself so as to avoid bringing discredit upon 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."

A review of the [Body Worn Camera footage](#) captured by Officer [REDACTED] shows multiple instances of Officer [REDACTED] telling [REDACTED] to "shut up" or "shut your mouth" (23:43:23, 23:45:31, 23:48:22), telling [REDACTED] "I don't care what you have to say." (23:44:09), blaming [REDACTED] for locking himself out (23:44:27, 23:45:42), telling [REDACTED] he will gladly arrest him and will convince [REDACTED] to have [REDACTED] arrested, and saying to [REDACTED] "Will you stop with the excuses, [REDACTED]?" (23:46:51) as [REDACTED] is attempting to explain that [REDACTED] is diabetic and is asking officers to get his insulin.

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

**Allegation 7: Officer [REDACTED] violated RPD Rules and Regulations 4.1 (b) as he did engage in conduct on-duty which has a tendency to impair public respect for an employee and/or 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 [Body Worn Camera footage](#) captured by Officer [REDACTED] shows multiple instances of Officer [REDACTED] telling [REDACTED] to “shut up” or “shut your mouth” (23:43:23, 23:45:31, 23:48:22), telling [REDACTED] “I don’t care what you have to say.” (23:44:09), blaming [REDACTED] for locking [REDACTED] self out (23:44:27, 23:45:42), telling [REDACTED] he will gladly arrest [REDACTED] and will convince [REDACTED] to have [REDACTED] arrested, and saying to [REDACTED] “Will you stop with the excuses, [REDACTED]?” (23:46:51) as [REDACTED] is attempting to explain that [REDACTED] is diabetic and is asking officers to get [REDACTED] insulin.

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

**Allegation 8: Officer [REDACTED] violated RPD Rules and Regulations 4.2 (a) as he was not courteous, civil, or 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 [Body Worn Camera footage](#) captured by Officer [REDACTED] shows multiple instances of Officer [REDACTED] telling [REDACTED] to “shut up” or “shut your mouth” (23:43:23, 23:45:31, 23:48:22), telling [REDACTED] “I don’t care what you have to say.” (23:44:09), blaming [REDACTED] for locking [REDACTED] self out (23:44:27, 23:45:42), telling [REDACTED] he will gladly arrest [REDACTED] and will convince [REDACTED] to have [REDACTED] arrested, and saying to [REDACTED] “Will you stop with the excuses, [REDACTED]?” (23:46:51) as [REDACTED] is attempting to explain that [REDACTED] is diabetic and is asking officers to get [REDACTED] insulin.

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

**Allegation 9: Officer [REDACTED] violated RPD Rules and Regulations 4.2 (c) as he used harsh, profane, insolent, and intentionally insulting language toward another person.**

RPD Rules and Regulations 4.2 (c) states that “Employees shall not use harsh, profane, insolent, or intentionally insulting language toward any other employee or other person.”



A review of the [Body Worn Camera footage](#) captured by Officer [REDACTED] shows multiple instances of Officer [REDACTED] telling [REDACTED] to “shut up” or “shut your mouth” (23:43:23, 23:45:31, 23:48:22), telling [REDACTED] “I don’t care what you have to say.” (23:44:09), blaming [REDACTED] for locking [REDACTED] self out (23:44:27, 23:45:42), telling [REDACTED] he will gladly arrest [REDACTED] and will convince [REDACTED] to have [REDACTED] arrested, and saying to [REDACTED] “Will you stop with the excuses, [REDACTED]?” (23:46:51) as [REDACTED] is attempting to explain that [REDACTED] is diabetic and is asking officers to [REDACTED] insulin.

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

**Allegation 10: 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.**

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 [Body Worn Camera footage](#) captured by Officer [REDACTED] beginning at 23:45:06 shows [REDACTED] hands and wrists in clear view of Officer [REDACTED] as Officer [REDACTED] is detaining [REDACTED] using non-department issued handcuffs. Officer [REDACTED] then guides [REDACTED] towards his squad car while walking behind [REDACTED], and the hinge-style handcuffs are captured in Officer [REDACTED] Body Worn Camera footage. The footage shows that at no point during the encounter did Officer [REDACTED] attempt to stop Officer [REDACTED] from applying non-department issued handcuffs, and at no point during the encounter did he attempt to remedy the situation by removing the handcuffs and applying department issued non-hinge style handcuffs. The [footage](#) also captures audio of the interactions between Officer [REDACTED] and [REDACTED] indicating that Officer [REDACTED] was within earshot of Officer [REDACTED] throughout the entire interaction until [REDACTED] was placed in the back of Officer [REDACTED] vehicle and thus witnessed the sustained violations of RPD policy as described in Allegations 5, 6, 7, 8, and 9.

The allegation that Officer [REDACTED] violated General Order 336 § II A is recommended as *Sustained*.

**Allegation 11: Officer [REDACTED] violated General Order 335 § III A 4(b) and RPD Rules and Regulations 2.14 as he failed to immediately evaluate the need for medical attention or treatment of [REDACTED] as [REDACTED] complained of injury.**

General Order 335 § III A 4(b) 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”.

RPD Rules and Regulations 2.14: Medical Attention for Ill Persons states that “Employees shall ensure that any injured or ill person is given the opportunity for medical attention.”

A review of the Body Worn Camera footage captured by both [Officers](#) [REDACTED] and [REDACTED] beginning at 23:45:06, when [REDACTED] first complains of pain in [REDACTED] hand, shows that neither officer evaluated [REDACTED] need for medical treatment or attention throughout the remainder of the evening.

On page three (page ten of the stenographic transcript) of the [document](#) titled “[REDACTED] Statement.pdf”, Officer [REDACTED] confirms that [REDACTED] did not receive any medical evaluation during the encounter.

The allegation that Officer [REDACTED] violated General Order 335 § III A 4(b) and RPD Rules and Regulations 2.14 is recommended as *Sustained*.

**RECOMMENDED FINDINGS**

#	Officer	Allegation	Finding/Recommendation
1	Officer [REDACTED]	Officer [REDACTED] violated General Order 335 § II A as he used a level of physical force beyond what was necessary to detain [REDACTED]	Exonerated
2	Officer [REDACTED]	Officer [REDACTED] violated General Order 335 § II B and General Order 350 § IV A 13 and General Order 350 § IV B as he carried equipment that was not issued or approved by the Department and did not have written permission of the chief of police.	Sustained
3	Officer [REDACTED]	Officer [REDACTED] violated General Order 335 § II C as he failed to complete a Subject Resistance Report following the incident which involved force beyond mere handcuffing.	Sustained



#	Officer	Allegation	Finding/Recommendation
4	Officer [REDACTED]	Officer [REDACTED] violated General Order 335 § III A 4(b) and RPD Rules and Regulations 2.14 as he failed to immediately evaluate the need for medical attention or treatment of [REDACTED] as [REDACTED] complained of injury.	Sustained
5	Officer [REDACTED]	Officer [REDACTED] violated General Order 575 § III B as he did not use de-escalation techniques and tactics, when it was safe and feasible to do so, to prevent and minimize the need to use force in response to resistance.	Sustained
6	Officer [REDACTED]	Officer [REDACTED] violated RPD Rules and Regulations 4.1 (a) as he did not conduct himself so as to avoid bringing discredit upon the Department.	Sustained
7	Officer [REDACTED]	Officer [REDACTED] violated RPD Rules and Regulations 4.1 (b) as he did engage in conduct on-duty which has a tendency to impair public respect for an employee and/or the Department.	Sustained
8	Officer [REDACTED]	Officer [REDACTED] violated RPD Rules and Regulations 4.2 (a) as he was not courteous, civil, or tactful in the performance of his duties.	Sustained
9	Officer [REDACTED]	Officer [REDACTED] violated RPD Rules and Regulations 4.2 (c) as he used harsh, profane, insolent, and intentionally insulting language toward another person.	Sustained
10	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.	Sustained



City of Rochester  
**Police Accountability Board**  
Established 2019

245 E. Main Street  
Rochester, NY 14604

#	Officer	Allegation	Finding/Recommendation
11	Officer [REDACTED]	Officer [REDACTED] violated General Order 335 § III A 4(b) and RPD Rules and Regulations 2.14 as he failed to immediately evaluate the need for medical attention or treatment of [REDACTED] as [REDACTED] complained of injury.	Sustained



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## RECOMMENDED DISCIPLINARY ACTION

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### AUTHORITY

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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** [REDACTED]

This is the first time Officer [REDACTED] 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 [REDACTED] has had no prior sustained violations. However, the PAB understands that the database is incomplete.

A review of the [disciplinary records of Officer](#) [REDACTED] provided by the RPD suggests that Officer [REDACTED] has had no prior sustained violations.



**Allegation 2: Officer [REDACTED] violated General Order 335 § II B and General Order 350 § IV A 13 and General Order 350 § IV B as he carried equipment that was not issued or approved by the Department and did not have written permission of the chief of police.**

**DISCIPLINARY MATRIX APPENDIX**

Misconduct	Level
<p>General Order 335 § II B: Only issued or approved equipment will be carried on duty and used when using force, except in emergency situations when members may use any resources at their disposal.</p> <p>General Order 350 § IV A 13: Members, on duty and assigned to a uniformed function, will carry or wear the following equipment unless specifically exempted by their Commanding Officer:</p> <p>Issued handcuffs and key; members are issued one pair of handcuffs. The member may purchase and carry additional handcuffs only if the additional pairs of handcuffs are the current brand, make and model of the issued pair.</p> <p>General Order 350 § IV B: Weapons/equipment that are not issued or approved by the Department will not be carried while on duty without written permission of the Chief of Police. (This does not preclude the carrying of a small pen type knife in the member's pocket.)</p>	<p>1</p>

- **Recommended Level: 1** (“Minimal negative impact on the community or department image or operations, or relationships with other officers, or agencies.”)
- **Recommended Discipline: Written Reprimand**

**Allegation 3: Officer [REDACTED] violated General Order 335 § II C as he failed to complete a Subject Resistance Report following the incident which involved force beyond mere handcuffing.**

**DISCIPLINARY MATRIX APPENDIX**

Misconduct	Level
<p>General Order 335 §II 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).</p>	<p>2</p>





- **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.**

**Allegation 4: Officer [REDACTED] violated General Order 335 § III A 4(b) and RPD Rules and Regulations 2.14 as he failed to immediately evaluate the need for medical attention or treatment of [REDACTED] as [REDACTED] complained of injury.**

**DISCIPLINARY MATRIX APPENDIX**

Misconduct	Level
<p>General Order 335 § III A 4(b): 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>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:</p> <p>The Subject complains of injury or requests medical attention.</p> <p>RPD Rules and Regulations 2.14: Employees shall ensure that any injured or ill person is given the opportunity for medical attention</p>	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.**

**Allegation 5: Officer [REDACTED] violated General Order 575 § III B as he did not use de-escalation techniques and tactics, when it was safe and feasible to do so, to prevent and minimize the need to use force in response to resistance.**

**DISCIPLINARY MATRIX APPENDIX**

Misconduct	Level
<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</p>	3



use force in response to resistance and to increase the likelihood of securing a subject’s voluntary compliance with police instructions.	
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- **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**

**Allegation 6: Officer █████ violated RPD Rules and Regulations 4.1 (a) as he did not conduct himself so as to avoid bringing discredit upon the Department.**

**DISCIPLINARY MATRIX APPENDIX**

<b>Misconduct</b>	<b>Level</b>
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.	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.**

**Allegation 7: Officer █████ violated RPD Rules and Regulations 4.1 (b) as he did engage in conduct on-duty which has a tendency to impair public respect for an employee and/or the Department.**

**DISCIPLINARY MATRIX APPENDIX**

<b>Misconduct</b>	<b>Level</b>
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.**

**Allegation 8: Officer [REDACTED] violated RPD Rules and Regulations 4.2 (a) as he was not courteous, civil, or tactful in the performance of his duties.**

**DISCIPLINARY MATRIX APPENDIX**

<b>Misconduct</b>	<b>Level</b>
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.**

**Allegation 9: Officer [REDACTED] violated RPD Rules and Regulations 4.2 (c) as he used harsh, profane, insolent, and intentionally insulting language toward another person.**

**DISCIPLINARY MATRIX APPENDIX**

<b>Misconduct</b>	<b>Level</b>
RPD Rules and Regulations 4.2 (c): Employees shall not use harsh, profane, insolent, or intentionally insulting language toward any other employee or other person.	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.**

**Officer [REDACTED]**

This is the first time Officer [REDACTED] 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 [REDACTED] has had no prior sustained violations. However, the PAB understands that the database is incomplete.

A review of the [disciplinary records of Officer \[REDACTED\]](#) provided by the RPD suggests that Officer [REDACTED] has had no prior sustained violations.

**Allegation 10: 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.**

**DISCIPLINARY MATRIX APPENDIX**

Misconduct	Level
General Order 336 § 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.	5

- **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**
- **Explanation of deviation from presumptive penalty:**

The RPD Policies which Officer [REDACTED] observed Officer [REDACTED] in violation of were not contrary to law and did not constitute unreasonable force. Accordingly, it is recommended that Officer [REDACTED] discipline for failing to intervene should be proportionate to the discipline recommended for Officer [REDACTED] for the violation of the policies in question.

**Allegation 11: Officer [REDACTED] violated General Order 335 § III A 4(b) and RPD Rules and Regulations 2.14 as he failed to immediately evaluate the need for medical attention or treatment of [REDACTED] as [REDACTED] complained of injury**

**DISCIPLINARY MATRIX APPENDIX**

Misconduct	Level
General Order 335 § III A 4(b): 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:	4



City of Rochester  
**Police Accountability Board**  
Established 2019

245 E. Main Street  
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<p>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:</p> <p>The Subject complains of injury or requests medical attention.</p> <p>RPD Rules and Regulations 2.14: Employees shall ensure that any injured or ill person is given the opportunity for medical attention</p>	
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- **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.**