



INTRODUCTION

Pursuant to § 18-11 of the Charter of the City of Rochester, and in the interest of public accountability, the Police Accountability Board has made the following investigative report public. It has been redacted so as not to disclose the identities of the officers and civilians involved.

Pursuant to *Rochester Police Locust Club, Inc. v. City of Rochester*, 41 N.Y.3d 156 (2023), Rochester Police Officers can only be disciplined by the Rochester Police Department. Accordingly, where a finding of police misconduct has been sustained by the Board, the PAB issues disciplinary recommendations to the Chief based on our Disciplinary Matrix.

The final Board decision as to the PAB determination of misconduct and recommended discipline are followed by the investigatory report prepared by PAB staff.

BOARD DECISION

Public Tracking Number (PTN): 2023-0195

Date of Panel Review: 25-Sep-2024 5:30 PM (EDT)

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

Case Findings:

Allegations 1-3: Sustained

Disciplinary Recommendation:

Officer [REDACTED] [REDACTED] 10-day suspension and training on respectful interactions

Officer [REDACTED] [REDACTED] 10-day suspension and training on respectful interactions

Dissenting Opinion/Comment: Board Member [REDACTED] voted not to sustain Allegation 3 as [REDACTED] felt the force was justified under the circumstances.



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.



Allegation # 1:

Officer [REDACTED] [REDACTED] Rules and Regulations 4.2(a) (Courtesy) Officer [REDACTED] was discourteous in [REDACTED] interaction with [REDACTED] [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**
-

Allegation # 2:

Officer [REDACTED] [REDACTED] Rules and Regulations 4.2(a) (Courtesy) Officer [REDACTED] was discourteous in [REDACTED] interaction with [REDACTED] [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**
-

Allegation # 3:

Officer [REDACTED] [REDACTED] General Order 337 (Use of Force): Officer [REDACTED] used an inappropriate amount of force against [REDACTED] [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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CLOSING REPORT

STATEMENT OF AUTHORITY

Article XVIII of the Rochester City Charter defines the authority and duties of the Police Accountability Board. Pursuant to § 18-1, “The Police Accountability Board shall be the mechanism to investigate such complaints of police misconduct and to review and assess Rochester Police Department patterns, practices, policies, and procedure...The Police Accountability Board shall provide a nonexclusive alternative to civil litigation.”

EXECUTIVE SUMMARY

The following events took place on September 12, 2023, at approximately 12:30 am, at or near Strong Memorial Hospital located at 601 Elmwood Avenue, Rochester, New York, 14642.

On the above mentioned date and time, [REDACTED] was in the process of being discharged as a patient from Strong Memorial Hospital. [REDACTED] was accompanied by [REDACTED] and [REDACTED]. Around the same time that [REDACTED] was leaving the hospital, the Rochester Police Department had been notified that there were two active warrants for [REDACTED].

Officers [REDACTED] and [REDACTED] arrived at Strong Memorial Hospital to execute the warrants on [REDACTED]. Officers [REDACTED] and [REDACTED] met [REDACTED] and [REDACTED] family in the emergency room waiting area of the hospital and informed [REDACTED] that [REDACTED] was under arrest for outstanding warrants. [REDACTED] and [REDACTED] then began to ask the officers questions as to what was happening and why [REDACTED] was being placed in handcuffs. Officers [REDACTED] and [REDACTED] stating that [REDACTED] family members were becoming aggressive, then escorted [REDACTED] out of the hospital waiting area and into the hospital back parking lot.

[REDACTED] and [REDACTED] then made their way to the hospital back parking lot where they watched [REDACTED] being placed in the back of a police vehicle. [REDACTED] yelled out to [REDACTED] and [REDACTED] in Spanish, and [REDACTED] approached [REDACTED] in an effort to retrieve [REDACTED] personal belongings.

Officers [REDACTED] and [REDACTED] then began giving [REDACTED] and [REDACTED] verbal commands to “get back” and “go,” which [REDACTED] initially did not comply with. Officer [REDACTED] then pushed [REDACTED] away from him and continued to tell [REDACTED] to “get back”.



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██████████ and ██████████ left the scene shortly after and go to the police station in an effort to obtain more information regarding ██████████ arrest.

██████████ then reported this interaction to the Police Accountability Board, alleging that ██████████ was pushed by an officer and spoken to in a disrespectful manner.

INVOLVED OFFICERS

Officer Name	Officer Rank	Badge/Employee #	Date of Appointment	Sex	Race/Ethnicity
██████████	██████████	██████████	██████████	██████████	██████████

INVOLVED INDIVIDUALS

Name	Age	Sex	Race/ Ethnicity
██████████	18-21	Female	Hispanic
██████████	45-50	Female	Hispanic
██████████	20-25	Male	Hispanic

ALLEGATIONS

1	Officer ██████████ ██████████	Rules and Regulations 4.2 (a) (Courtesy): Officer ██████████ was discourteous in his interaction with ██████████
2	Officer ██████████ ██████████	Rules and Regulations 4.2 (a) (Courtesy): Officer ██████████ was discourteous in his interaction with ██████████
3	Officer ██████████ ██████████	General Order 337 (Use of Force): Officer ██████████ used an inappropriate amount of force against ██████████



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INVESTIGATION

The Rochester Police Department informed the Police Accountability Board of its Professional Standards Section investigation on October 25, 2023. The Police Accountability Board then subsequently opened its own investigation thereafter.

On October 30, 2023, the Rochester Police Department provided the Police Accountability Board with two advisement forms, one complaint form, one domestic incident report, two computer aided dispatch reports, two prisoner data reports, two statement transcripts, and four body worn camera videos.

The complainant advisement forms were signed by [REDACTED] and [REDACTED] and state that they acknowledge that their statements given to the Professional Standards Section were done so freely. The complaint form contains contact information for [REDACTED]. The domestic incident report details an incident between [REDACTED] and [REDACTED] in which [REDACTED] alleges that [REDACTED] was punched in the face and pushed to the ground. The computer aided dispatch reports state that [REDACTED] was wanted for extradition by [REDACTED]. The prisoner data reports state that there were arrest warrants issued for [REDACTED]. The statement transcripts are of statements given by [REDACTED] and [REDACTED] to the Professional Standards Section. The body worn camera videos show the arrest of [REDACTED] and [REDACTED] transport to the police station.

On November 3, 2023, the Rochester Police Department provided the Police Accountability Board with three photographs, one email, six language line documents, three subject resistance reports, and three recorded phone conversations.

The photographs are of Strong Hospital Security Officers. The email is from [REDACTED] with the Professional Standards Section and requests that the recipient check to see if there is video available of the incident. The language line documents relate to the hiring of a translator for [REDACTED] and [REDACTED] interviews with the Professional Standards Section. The three subject resistance reports detail physical contact that occurred with [REDACTED] and [REDACTED]. Two of the recorded phone conversations are between [REDACTED] of the Professional Standards Section and [REDACTED]. The third recorded phone conversation is between [REDACTED] of the Professional Standards Section and [REDACTED] with the public safety office servicing Strong Hospital.

On November 7, 2023, the Rochester Police Department provided the Police Accountability Board with two computer aided dispatch reports, and three security footage videos.

The computer aided dispatch reports notate the caller's desire to file a complaint against Officer [REDACTED] and Officer [REDACTED]. The security footage videos show the different views of the exterior



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of the hospital as well as the emergency room waiting area. None of the security footage videos captured the physical interaction between [REDACTED] and Officer [REDACTED]

On November 8, 2023, the Rochester Police Department provided the Police Accountability Board with a complete copy of the Rochester Police Department Rules and Regulations, two general orders, four video logs, and a letter addressed to [REDACTED]

The Rochester Police Department Rules and Regulations serve as guidelines directing the conduct of Rochester Police Officers. The general orders outlined the Rochester Police Department policy regarding subject resistance reports and warrants. The video logs list the officers who either viewed or downloaded the body camera footage belonging to Officer [REDACTED] Officer [REDACTED] and Officer [REDACTED]. The letter addressed to [REDACTED] was sent from the Professional Standards Section and provided an update regarding the status of [REDACTED] complaint.

On November 16, 2023, the Rochester Police Department provided the Police Accountability Board with four audio recordings of police dispatch radio traffic.

The police dispatch radio traffic captures the communication that [REDACTED] had a warrant and was being discharged from Strong Hospital.

On January 4, 2024, the Rochester Police Department provided the Police Accountability Board with a letter addressed to [REDACTED] as well a copy of the envelope with a postal sticker stating that the letter was undeliverable.

The letter addressed to [REDACTED] was sent from the Professional Standards Section and provided another update regarding the status of [REDACTED] complaint.

On February 19, 2024, the Rochester Police Department provided the Police Accountability Board with an advisement form, three notifications, and one statement transcript.

The advisement form, signed by Officer [REDACTED] memorializes the officer's consent to tell the truth during [REDACTED] interview with the Professional Standards Section. The notifications are interdepartmental correspondences addressed to Officer [REDACTED] and Officer [REDACTED] that communicate the initiation of an administrative investigation conducted by the Professional Standards Section. The statement transcript is of Officer [REDACTED] interview with the Professional Standards Section in which [REDACTED] admitted to making physical contact with [REDACTED]

On February 27, 2024, the Rochester Police Department provided the Police Accountability Board with one body camera history report, one advisement form, two statement requests, and one statement transcript.



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The body camera history report contains information for Officer [REDACTED] body camera. The advisement form, signed by Officer [REDACTED] memorializes the officer's consent to tell the truth during his interview with the Professional Standards Section. The two statement requests are from Officer [REDACTED] and Officer [REDACTED] and requests that each officer receive a copy of their statement that was made to the Professional Standards Section. The statement transcript is of Officer [REDACTED] interview with the Professional Standards Section in which he alleges he had no physical contact with [REDACTED] [REDACTED]

Calls were placed to [REDACTED] [REDACTED] on April 26, 2024, July 9, 2024 and July 30, 2024 and the number that [REDACTED] provided to the Professional Standards Section was not in service. An email was sent to [REDACTED] [REDACTED] on July 9, 2024. Communication efforts have not been returned and an interview was not conducted. This investigation concluded after a thorough review of [REDACTED] [REDACTED] initial report, as well as all documentation and evidence provided by the Rochester Police Department.

EVIDENCE PROVIDED

Evidence	Description	Provided by	Filename
Intake Report	[REDACTED] initial report	[REDACTED]	i-Sight Case 2023-0195 Details Overview
Notification of Investigation	Notification of Initiation of PSS Investigation	Rochester Police Department	S-SharePoint File Transfer - PAB notification PSS 23-0622 [REDACTED] - [REDACTED].pdf - All Documents
Professional Standards Section Evidence	[REDACTED] Complainant Advisement Form	Rochester Police Department	S-SharePoint File Transfer - Complaint Advisement-[REDACTED] [REDACTED].pdf - All Documents
Professional Standards Section Evidence	[REDACTED] Witness Advisement Form	Rochester Police Department	S-SharePoint File Transfer - Witness Advisement-[REDACTED] [REDACTED] [REDACTED].pdf - All Documents
Professional Standards Section Evidence	[REDACTED] Complaint Form	Rochester Police Department	S-SharePoint File Transfer - Complaint-[REDACTED] [REDACTED].pdf - All Documents
Professional Standards	Domestic Incident Report	Rochester Police Department	S-SharePoint File Transfer - DIR #23-044843.pdf - All Documents



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Evidence	Description	Provided by	Filename
Section Evidence			
Professional Standards Section Evidence	Computer Aided Dispatch Report-Event Unit	Rochester Police Department	S-SharePoint File Transfer - ECD Event Unit.pdf - All Documents
Professional Standards Section Evidence	Computer Aided Dispatch Report-Job Card	Rochester Police Department	S-SharePoint File Transfer - ECD Job Card.pdf - All Documents
Professional Standards Section Evidence	Prisoner Data Report A	Rochester Police Department	S-SharePoint File Transfer - PDR #23-044843.pdf - All Documents
Professional Standards Section Evidence	Prisoner Data Report B	Rochester Police Department	S-SharePoint File Transfer - PDR #23-216976.pdf - All Documents
Professional Standards Section Evidence	██████████ Statement Transcript	Rochester Police Department	S-SharePoint File Transfer - Stenographic Statement-██████████.pdf - All Documents
Professional Standards Section Evidence	██████████ Statement Transcript	Rochester Police Department	S-SharePoint File Transfer - Stenographic Statement-██████████.pdf - All Documents
Professional Standards Section Evidence	Officer ██████████ Body Camera Footage	Rochester Police Department	██████████_81875520230912225523_0006.MP4 (sharepoint.com)
Professional Standards Section Evidence	Officer ██████████ Body Camera Footage A	Rochester Police Department	██████████_81836520230912225446_0017A.MP4 (sharepoint.com)
Professional Standards Section Evidence	Officer ██████████ Body Camera Footage B	Rochester Police Department	██████████_81836520230912230419_0018A.MP4 (sharepoint.com)



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Evidence	Description	Provided by	Filename
Professional Standards Section Evidence	Officer [REDACTED] Body Camera Footage	Rochester Police Department	[REDACTED] 81834920230912232349_0016.MP4 (sharepoint.com)
Professional Standards Section Evidence	Photograph of Security Personnel Inside of the Hospital	Rochester Police Department	S-SharePoint File Transfer - Security Inside.PNG - All Documents
Professional Standards Section Evidence	Photograph of Security Personnel Outside of the Hospital A	Rochester Police Department	S-SharePoint File Transfer - Security outside.png - All Documents
Professional Standards Section Evidence	Photograph of Security Personnel Outside of the Hospital B	Rochester Police Department	S-SharePoint File Transfer - Spanish Speaking Security Outside.png - All Documents
Professional Standards Section Evidence	Email Correspondence Regarding Hospital Security Footage	Rochester Police Department	S-SharePoint File Transfer - Email to Fitz 2Nov23.pdf - All Documents
Professional Standards Section Evidence	Language Line Invoice	Rochester Police Department	S-SharePoint File Transfer - JR Language Translation Services Invoice 11_1_23.pdf - All Documents
Professional Standards Section Evidence	JR Language Translation Services Proposal	Rochester Police Department	S-SharePoint File Transfer - JR Language Translation Services Quote P-91308-01.pdf - All Documents
Professional Standards Section Evidence	Language Line Booking Declination	Rochester Police Department	S-SharePoint File Transfer - Language Line failure to fill translator assignment.pdf - All Documents
Professional Standards Section Evidence	Language Line Quote	Rochester Police Department	S-SharePoint File Transfer - Language Line Quote.pdf - All Documents



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Evidence	Description	Provided by	Filename
Professional Standards Section Evidence	Language Line Estimate and Acceptance	Rochester Police Department	S-SharePoint File Transfer - LanguageLine Solutions - Translation Services.pdf - All Documents
Professional Standards Section Evidence	Subject Resistance Report Regarding [REDACTED]	Rochester Police Department	S-SharePoint File Transfer - [REDACTED] SRR [REDACTED].pdf - All Documents
Professional Standards Section Evidence	Subject Resistance Report Regarding [REDACTED]	Rochester Police Department	S-SharePoint File Transfer - [REDACTED] SRR.pdf - All Documents
Professional Standards Section Evidence	Subject Resistance Report Regarding [REDACTED]	Rochester Police Department	S-SharePoint File Transfer - [REDACTED] SRR.pdf - All Documents
Professional Standards Section Evidence	Recorded Conversation A between [REDACTED] and the Professional Standards Section	Rochester Police Department	[REDACTED] - Language Interpretation Services call transcoded.mp3 (sharepoint.com)
Professional Standards Section Evidence	Recorded Conversation B between [REDACTED] and the Professional Standards Section	Rochester Police Department	[REDACTED] - PSS 23-0622 Language line Appt set up [REDACTED] 10 3 23 transcoded.mp3 (sharepoint.com)
Professional Standards Section Evidence	Recorded Conversation B between Strong Memorial Hospital Security and the Professional Standards Section	Rochester Police Department	Conversation with [REDACTED] 2Nov23 transcoded.mp3 (sharepoint.com)
Professional Standards Section Evidence	Computer Aided Dispatch Report- Job Card B	Rochester Police Department	S-SharePoint File Transfer - QSIA Job Card.pdf - All Documents



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Evidence	Description	Provided by	Filename
Professional Standards Section Evidence	Computer Aided Dispatch Report-Units Card	Rochester Police Department	S-SharePoint File Transfer - QSIA UNITS.pdf - All Documents
Professional Standards Section Evidence	Security Footage of the Hospital Waiting Room	Rochester Police Department	556 - Cam 556 ED Waiting Room - 2023-09-12 22-54-21-338.mp4 (sharepoint.com)
Professional Standards Section Evidence	Security Footage A of the Hospital Exterior	Rochester Police Department	65 - Cam 65 ED Lot East - 2023-09-12 22-57-43-668.mp4 (sharepoint.com)
Professional Standards Section Evidence	Security Footage B of the Hospital Exterior	Rochester Police Department	77 - Cam 77 EMS Entry Exterior - 2023-09-12 22-57-50-330.mp4 (sharepoint.com)
Professional Standards Section Evidence	Rochester Police Department Rules and Regulations	Rochester Police Department	S-SharePoint File Transfer - RPD Rules and Regulations 6.1.pdf - All Documents
Professional Standards Section Evidence	Rochester Police Department General Order-Warrants	Rochester Police Department	S-SharePoint File Transfer - 421, Warrants - Adults and Juveniles.pdf - All Documents
Professional Standards Section Evidence	Rochester Police Department General Order-Subject Resistance Report	Rochester Police Department	S-SharePoint File Transfer - 335, Subject Resistance Report.pdf - All Documents
Professional Standards Section Evidence	Officer [REDACTED] Video Log	Rochester Police Department	S-SharePoint File Transfer - [REDACTED] Video Log .png - All Documents
Professional Standards Section Evidence	Officer [REDACTED] Video Log A	Rochester Police Department	S-SharePoint File Transfer - [REDACTED] Video 1 Log.png - All Documents
Professional Standards Section Evidence	Officer [REDACTED] Video Log B	Rochester Police Department	S-SharePoint File Transfer - [REDACTED] Video 2 Log.png - All Documents



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Evidence	Description	Provided by	Filename
Section Evidence			
Professional Standards Section Evidence	Officer [REDACTED] Video Log	Rochester Police Department	S-SharePoint File Transfer - [REDACTED] Video Log.png - All Documents
Professional Standards Section Evidence	Update Letter Addressed to [REDACTED] dated November 8, 2023	Rochester Police Department	S-SharePoint File Transfer - Update Letter 8Nov23 with tracking.pdf - All Documents
Professional Standards Section Evidence	Police Dispatch Radio Traffic A	Rochester Police Department	23-216976-ROC 01 - Radio RPD East Dispatch 02453.mp3 (sharepoint.com)
Professional Standards Section Evidence	Police Dispatch Radio Traffic B	Rochester Police Department	23-216976-ROC 02 - Radio RPD East Admin Dispatch Timestamped 02453.mp3 (sharepoint.com)
Professional Standards Section Evidence	Police Dispatch Radio Traffic C	Rochester Police Department	23-216976-ROC 02 - Radio RPD East Dispatch Timestamped 02453.mp3 (sharepoint.com)
Professional Standards Section Evidence	Police Dispatch Radio Traffic D	Rochester Police Department	23-216976-ROC 03 - Radio RPD East Admin Dispatch 02453.mp3 (sharepoint.com)
Professional Standards Section Evidence	Update Letter Addressed to [REDACTED] dated January 2, 2024	Rochester Police Department	S-SharePoint File Transfer - PSS Case update 2 23-0622.pdf - All Documents
Professional Standards Section Evidence	Returned Envelope for [REDACTED]	Rochester Police Department	S-SharePoint File Transfer - Returned Caseupdate 1.pdf - All Documents
Professional Standards Section Evidence	Officer [REDACTED] Complaint Advisement Form	Rochester Police Department	S-SharePoint File Transfer - Advisement [REDACTED].pdf - All Documents



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Evidence	Description	Provided by	Filename
Professional Standards Section Evidence	Inter-Departmental Notification A to Officer [REDACTED]	Rochester Police Department	S-SharePoint File Transfer - [REDACTED] Notify 1 issued.pdf - All Documents
Professional Standards Section Evidence	Inter-Departmental Notification B to Officer [REDACTED]	Rochester Police Department	S-SharePoint File Transfer - [REDACTED] Notify 2.pdf - All Documents
Professional Standards Section Evidence	Inter-Departmental Notification to Officer [REDACTED]	Rochester Police Department	S-SharePoint File Transfer - [REDACTED] Notify 1 Issued.pdf - All Documents
Professional Standards Section Evidence	Officer [REDACTED] Statement Transcript	Rochester Police Department	S-SharePoint File Transfer - [REDACTED] Statement.pdf - All Documents
Professional Standards Section Evidence	Officer [REDACTED] Body Camera History Report	Rochester Police Department	S-SharePoint File Transfer - BWC history.pdf - All Documents
Professional Standards Section Evidence	Officer [REDACTED] Complaint Advisement Form	Rochester Police Department	S-SharePoint File Transfer - [REDACTED] Advisement Completed.pdf - All Documents
Professional Standards Section Evidence	Officer [REDACTED] Statement Request	Rochester Police Department	S-SharePoint File Transfer - [REDACTED] Statement Waiver Completed.pdf - All Documents
Professional Standards Section Evidence	Officer [REDACTED] Statement Request	Rochester Police Department	S-SharePoint File Transfer - [REDACTED] Completed Statement and Waiver.pdf - All Documents
Professional Standards Section Evidence	Officer [REDACTED] Statement Transcript	Rochester Police Department	S-SharePoint File Transfer - 23-0622 [REDACTED] [REDACTED].pdf - All Documents



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EVIDENCE DENIED

Evidence	Description	Reason declined
Formal Officer Statement	Request from the Police Accountability Board to the Rochester Police Department	None given

APPLICABLE RULES & LAWS

Rochester Police Department Rules and Regulations

4.2 COURTESY

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

Rochester Police Department General Orders

337 USE OF FORCE¹

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

III. POLICY

¹ 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 \(arcgis.com\)](https://arcgis.com).



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- 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;



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- 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.

STANDARD OF PROOF

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

ANALYSIS

The following findings are made based on the above standards:

Allegation 1: Officer [REDACTED] was discourteous in [REDACTED] interaction with [REDACTED]

The Rochester Police Department’s Rules and Regulations 4.2 states that Officers shall be courteous, civil, and tactful in the performance of their duties.



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On September 12, 2023, [REDACTED] went to Strong Memorial Hospital and received treatment as a patient. At the time, [REDACTED] was accompanied by [REDACTED] and [REDACTED]. Upon discharge, [REDACTED] was approached by Officer [REDACTED] and Officer [REDACTED] and was told that [REDACTED] was being placed under arrest due to two outstanding warrants. [REDACTED] and [REDACTED] then began to ask questions in an attempt to try and figure out what was happening. In an effort to avoid the situation escalating, Officer [REDACTED] and Officer [REDACTED] escorted [REDACTED] to the back parking lot of the hospital. After a brief period of time, [REDACTED] and [REDACTED] also made their way to the back parking lot of the hospital. [REDACTED] then called out to [REDACTED] and [REDACTED] from across the parking lot and [REDACTED] then began to approach [REDACTED]. As [REDACTED] and [REDACTED] got close to [REDACTED] they were halted by Officer [REDACTED] and Officer [REDACTED] and a verbal interaction occurred between the individuals.

The verbal interaction between Officer [REDACTED] and [REDACTED] lasted for approximately one minute. During that one minute interaction, Officer [REDACTED] made comments such as “Go, go!” “Back off!” and “You don’t get to walk up on me!”. Officer [REDACTED] tone was aggressive and demeaning and [REDACTED] never attempted to speak to [REDACTED] with tact or respect, but instead immediately yelled at [REDACTED]. Officer [REDACTED] yelled these directives at [REDACTED] in response to attempting to reach [REDACTED] in an effort to retrieve [REDACTED] personal belongings. In addition, [REDACTED] words were accompanied by a sweeping hand motion as if to shoo [REDACTED] away. See [REDACTED] [81836520230912225446_0017A.MP4 \(sharepoint.com\)](#) at 7:57. Furthermore, it must be noted that [REDACTED] never physically or verbally threatened Officer [REDACTED] and [REDACTED] behavior appeared to be unwarranted.

During [REDACTED] interview with the Professional Standards Section, [REDACTED] alleges that the officers were discourteous towards [REDACTED]. [REDACTED] did not offer any additional details; however, a review of the officer’s body worn camera footage revealed a level of disrespect and rudeness in the way in which Officer [REDACTED] spoke to [REDACTED] - namely by his choice of words and tone of voice. Officer [REDACTED] was discourteous in his interaction with [REDACTED].

Allegation 1 against Officer [REDACTED] is sustained.

Allegation 2: Officer [REDACTED] was discourteous in his interaction with [REDACTED].

The Rochester Police Department’s Rules and Regulations 4.2 states that Officers shall be courteous, civil, and tactful in the performance of their duties.

On September 12, 2023, [REDACTED] went to Strong Memorial Hospital and received treatment as a patient. At the time, [REDACTED] was accompanied by [REDACTED] and [REDACTED]. Upon discharge, [REDACTED] was approached by Officer [REDACTED] and Officer [REDACTED] and was told that [REDACTED] was being placed under arrest due to two outstanding warrants. [REDACTED] and [REDACTED]



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then began to ask questions in an attempt to try and figure out what was happening. In an effort to avoid the situation escalating, Officer [REDACTED] and Officer [REDACTED] escorted [REDACTED] to the back parking lot of the hospital. After a brief period of time, [REDACTED] and [REDACTED] also made their way to the back parking lot of the hospital. [REDACTED] then called out to [REDACTED] and [REDACTED] from across the parking lot and [REDACTED] then began to approach [REDACTED]. As [REDACTED] and [REDACTED] got close to [REDACTED] they were halted by Officer [REDACTED] and Officer [REDACTED] and a verbal interaction occurred between the individuals.

The verbal interaction between Officer [REDACTED] and [REDACTED] also lasted for approximately one minute. During their one minute interaction, Officer [REDACTED] made comments such as “Go, go!” “[REDACTED] has a warrant, get out!” and “Shut up!”. Officer [REDACTED] appeared to be aggravated and his tone, along with being rude and dismissive, exhibited as such. Officer [REDACTED] yelled these directives at [REDACTED] in response to [REDACTED] attempting to reach [REDACTED] in an effort to retrieve [REDACTED] personal belongings. Much like Officer [REDACTED] Officer [REDACTED] also never attempted to speak to [REDACTED] with tact or respect, but instead immediately yelled at [REDACTED]. Also, [REDACTED] did not physically threaten Officer [REDACTED] nor did [REDACTED] verbally threaten Officer [REDACTED].

During [REDACTED] interview with the Professional Standards Section, [REDACTED] alleges that the officers were discourteous towards [REDACTED]. [REDACTED] did not offer any additional details; however, a review of the officer’s body worn camera footage revealed a level of disrespect and rudeness in the way in which Officer [REDACTED] spoke to [REDACTED] - namely by [REDACTED] choice of words and tone of voice. Officer [REDACTED] was discourteous in his interaction with [REDACTED].

Allegation 2 against Officer [REDACTED] is sustained.

Allegation 3: Officer [REDACTED] used an inappropriate amount of force against [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.

When [REDACTED] approached [REDACTED] in an effort to retrieve [REDACTED] personal belongings, Officer [REDACTED] raised [REDACTED] hand and pushed [REDACTED] back. See [REDACTED] [81836520230912225446_0017A.MP4 \(sharepoint.com\)](#) at 7:54. This physical contact is corroborated by body camera footage, as well as Officer [REDACTED] subject resistance report which stated that he “used [REDACTED] right arm to push [REDACTED] away from [REDACTED] and create distance to protect [REDACTED]self”. See [S-SharePoint File Transfer - \[REDACTED\]](#) [SRR](#)



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pdf - All Documents. Officer [REDACTED] pushed [REDACTED] without provocation and without issuing any verbal commands prior to using physical force. Officer [REDACTED] decision to push [REDACTED] was disproportionate to [REDACTED] approaching Officer [REDACTED] with the absence of any physical or verbal threats. Officer [REDACTED] used an inappropriate amount of force against [REDACTED].

Allegation 3 against Officer [REDACTED] is sustained.

RECOMMENDED FINDINGS

#	Officer	Allegation	Finding
1	Officer [REDACTED]	Rules and Regulations 4.2 (a) (Courtesy): Officer [REDACTED] was discourteous in his interaction with [REDACTED]	Sustained
2	Officer [REDACTED]	Rules and Regulations 4.2 (a) (Courtesy): Officer [REDACTED] was discourteous in his interaction with [REDACTED]	Sustained
3	Officer [REDACTED]	General Order 337 (Use of Force): Officer [REDACTED] used an inappropriate amount of force against [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 disciplinary matrix is a non-binding set of guidelines for the Police Accountability Board’s own recommendations regarding officer misconduct.



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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.

Officer [REDACTED] and Officer [REDACTED] do not have any previously sustained findings of misconduct against them.

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

Sustained Allegation 1 against Officer [REDACTED]

Disciplinary Matrix Appendix

Misconduct	Level
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 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**

Sustained Allegation 2 against Officer [REDACTED]

Disciplinary Matrix Appendix

Misconduct	Level
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 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**



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Sustained Allegation 3 against Officer [REDACTED]

Disciplinary Matrix Appendix

Misconduct	Level
General Order 337 § 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.	5

- 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**
- Explanation of deviation from presumptive level: The amount of force exerted by Officer [REDACTED] was minimal.