



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): 2022-0068

Date of Panel Review: 21-Nov-2024 1:00 PM (EST)

Board Members Present: [REDACTED]

Case Findings:

Allegations 1,2,3 and 4: Exonerated

Disciplinary Recommendation: N/A.

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.

Allegation # 1:

Officer [REDACTED]: Officer [REDACTED] violated RPD General Order 415 (Searches/Seizures) as [REDACTED] effected the removal of the complainant from their home against their consent.

- **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**
-

Allegation # 2:

Officer [REDACTED]: Officer [REDACTED] violated RPD Rules and Regulations 4.2 (Courtesy) as [REDACTED] was disrespectful in [REDACTED] interactions with the complainant and did not allow the complainant to retrieve their belongings prior to being transported to the hospital.

- **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**
-

Allegation # 3:

Officer [REDACTED]: Officer [REDACTED] violated RPD General Order 415 (Searches/Seizures) as [REDACTED] effected the removal of the complainant from their home against their consent.

- **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**
-

Allegation # 4:

Officer [REDACTED] Officer [REDACTED] violated RPD Rules and Regulations 4.2 (Courtesy) as [REDACTED] was disrespectful in [REDACTED] interactions with the complainant and did not allow the complainant to retrieve their belongings prior to being transported to the hospital.

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



CLOSING REPORT

STATEMENT OF AUTHORITY

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

EXECUTIVE SUMMARY

The complaint received by the Police Accountability Board (PAB) on July 18, 2022, alleges that on April 26, 2022 officers responded to the home of Complainant 1 at [REDACTED], Rochester, NY 14611, in response to the complainant calling 411 and then 911. In the report submitted to the PAB, the complainant states that their mailbox had been tampered with and their cell phone was not working. Therefore, the complainant called 411 requesting legal services, and when they were told that this is not a service that 411 will provide, the complainant dialed 911. According to the report, the complainant told the operator that they were calling in regards to a non-emergency incident. The report further alleges that upon the arrival of two officers, the complainant was treated without respect as officers demanded to enter their home, detain them, and did not allow them to retrieve their belongings. The complainant states that for the next 10 days they were held against their will at a local hospital. The complainant states that none of these events should have unfolded in this manner as they were simply seeking an attorney in a non-emergency matter.

The PAB investigation determined that RPD did respond to the complainant’s address on April 26, 2022. RPD received notification from the Emergency Communications Department (ECD) that the complainant stated during a 911 call that their mail and phone are being tampered with and they are being blocked from speaking to a politician about the matter. During the call, an ECD employee notified the complainant that the City of Rochester’s Person in Crisis (PIC) team would be sent to their address. The complainant informed the operator that they are not comfortable with the PIC team, and the operator referred a member of the Monroe County Forensic Intervention Team (FIT) instead. While at the complainant’s address, evidence obtained by the PAB indicates that the FIT employee notified Officers 1 and 2 that the complainant is diagnosed with schizophrenia. During the interaction, the FIT employee explained to the complainant that they wanted to address concerns regarding the complainant’s wellbeing, as the complainant was making little sense during the interaction, and because the FIT employee had obtained evidence that the complainant had not received mental health treatment for the past two months. Officers then proceeded to explain to the complainant that they were going to perform a Mental Health Detention and take the complainant to the hospital for additional evaluation. Officer 1 also explained that if the complainant would like to go back into their house for their belongings before being Mental Health Transported to the hospital, that [REDACTED] would need to accompany them. The complainant and both officers then entered the residence, the complainant gathered some belongings including their glasses and medication, and called their son. Officers assisted the complainant in dialing [REDACTED] number as the complainant reiterated that their calls were being tampered with. Officers explained the situation to the complainant’s son over the phone before accompanying the complainant out of their house and to the ambulance.



INVOLVED OFFICERS

Officer #	Officer Name	Officer Rank	IBM/Employee #	Date of Appointment	Sex	Race/Ethnicity
Officer 1	██████████	██████	████	██████	████	████
Officer 2	██████████	██████	████	██████	████	████

INVOLVED INDIVIDUALS

Designation	Name	Age	Sex	Race/ Ethnicity
Complainant 1	██████████	Unknown	Female	White
Witness 1	██████████	Unknown	Female	White

ALLEGATIONS

1	Officer 1	Officer 1 violated RPD General Order 415 (Searches/Seizures) as █████ effected the removal of the complainant from their home against their consent.
2	Officer 1	Officer 1 violated RPD Rules and Regulations 4.2 (Courtesy) as █████ was disrespectful in █████ interactions with the complainant and did not allow the complainant to retrieve their belongings prior to being transported to the hospital.
3	Officer 2	Officer 2 violated RPD General Order 415 (Searches/Seizures) as █████ effected the removal of the complainant from their home against their consent.
4	Officer 2	Officer 2 violated RPD Rules and Regulations 4.2 (Courtesy) as █████ was disrespectful in █████ interactions with the complainant and did not allow the complainant to retrieve their belongings prior to being transported to the hospital.



INVESTIGATION

On July 18, 2022, the incident was reported to the PAB on its website. Two subsequent reports detailing the same incident were submitted on September 14, 2022, and labeled as duplicates.

On September 16, 2022, the PAB sent the Notification of Investigation to the RPD.

On December 1, 2022, the PAB sent a Source of Information Request to the RPD. RPD acknowledged receipt the same day.

On December 22, 2022, RPD provided the requested documents and evidence.

On March 30, 2022, a new investigator was assigned to this case.

On December 14, 2023, a new investigator was assigned to this case.

On April 15, 2024, a new investigator was assigned to this case.

On June 10, 2024, RPD provided download access to the documents in this case. All files were downloaded.

On October 30, 2024, the investigator attempted to contact the complainant to schedule an interview and left a voicemail.

On October 31, 2024, Officer Interview/Statement requests were sent to both officers named in this report.

On October 31, 2024, the investigator attempted to contact the complainant to schedule an interview and left a second voicemail.

On November 1, 2024, a third and final attempt was made to contact the complainant to schedule an interview. The complainant did not respond. No voicemail was left.

As of the writing of this report, neither officer has responded to the Interview/Statement requests.

As of the writing of this report, the complainant has not responded to attempts to schedule an interview.



EVIDENCE REVIEWED

Evidence	Description	Filename
Mental Health Transport Report	Police report completed by Officer 2 detailing the interaction between the officers and the complainant	MHD – [REDACTED].pdf
CAD Event Information	Document containing remarks entered by ECD employee during 911 call with complainant	I_NetViewer_Event_Information.pdf
CAD Event Unit	Document that shows which officers/FIT staff were dispatched to the complainant’s residence	I_NetViewer_Event_Unit.pdf
PSS Phone Calls	Recorded telephone conversations between the complainant and the Professional Standards Section (PSS)	Transcoded
BWC Footage	Body Worn Camera (BWC) footage captured by Officer 2 during the incident	00604_81734420220426190753_0002.mp4
BWC Footage	Body Worn Camera (BWC) footage captured by Officer 1 during the incident	00999_GF243920220426190433_0003.mp4



APPLICABLE RULES & LAWS

Rochester Police Department General Orders

415: Searches/Seizures: By Dynamic Entries, Search Warrant, Arrest Warrant, Without Warrant

II. Background:

“...The complexities surrounding searches for objects, either with a warrant or without, necessitate well-defined procedures. The Fourth Amendment to the U.S. Constitution and New York Constitution, prohibit “unreasonable searches and seizures.” A search or seizure may be found unreasonable by a court and lead to the exclusion of evidence obtained. A warrant may protect against the exclusion of evidence in a criminal court and provide some civil liability protection.”

III. Policy:

- A. It is the policy of the Rochester Police Department (RPD) to comply with the spirit and letter of the law. All searches will be conducted in a manner that protects the rights of all persons and the integrity of the Department and its members.

560: Psychiatric Crisis Intervention

I. Definitions:

Involuntary Admission: A person suffering from a mental illness and/or is experiencing an apparent psychiatric crisis that requires immediate observation, care and treatment and appears likely to result in serious harm to himself or others if left untreated; usually brought in for evaluation against their will.

II. Policy:

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

III. Procedures:

- A. **Evaluation by Police:** Evaluation by Police Section 9.41 of the NYSMHL allows a police officer to take into custody any individual for evaluation if the person appears to be mentally ill and is conducting themselves in a manner which is likely to result in serious harm to themselves or others when there is substantial risk of physical harm to:
 - 3. There is reasonable suspicion that an individual’s behavior, whether or not criminal in nature, is secondary to a mental health issue.
 - 4. Members should assess the need for additional assistance from a mental health clinician to complete an evaluation. If additional resources are needed for an evaluation, the following options should be considered:



- a) City of Rochester Person in Crisis Team (PIC)
- b) Monroe County Forensic Intervention Team (FIT)
- These resources can assist with de-escalating behavioral crisis situations and provide appropriate referrals, especially when a MHD is not required. Members can request PIC or FIT via the Emergency Communications Department on the east/west administrative channels. If PIC/FIT are dispatched, members will assess the situation in regards to safety. If the situation is determined to be safe, members will stand by and assist PIC/FIT, while they complete their evaluation/assessment, as necessary. If a transport is required, members and PIC/FIT will coordinate the transport of the individual to the appropriate facility.

Rochester Police Department Rules and Regulations

4.2: Courtesy

- A. Employees shall be courteous, civil and tactful in the performance of their duties.



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, “[t]he 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.” This is understood to be a greater than 50% chance that the claim is true. *Wex Dictionary. Legal Information Institute, Cornell Law School*, https://www.law.cornell.edu/wex/preponderance_of_the_evidence.

ANALYSIS

Allegation 1: Officer 1 violated RPD General Order 415 (Searches/Seizures) as [REDACTED] effected the removal of the complainant from their home against their consent.

In the report made to the PAB on July 18, 2022, and in an audio recording of a telephone conversation between the complainant and Officer [REDACTED] of the RPD’s Professional Standards Section (PSS) obtained by the PAB, the complainant states that the reason they initially dialed 411 and later 911 was to obtain an attorney to address the matter of their mail and phone being tampered with. For this reason, the complainant states that the decision to take them to the hospital against their will was unjust and unnecessary.

The document labeled “CAD Event Information” shows that Monroe County FIT was dispatched to the complainant’s residence after the complainant dialed 911 as the ECD employee perceived the complainant to be “delusional.” The document labeled “CAD Event Unit” shows that Officers 1 and 2 were dispatched to the residence, as was Witness 1.

Body Worn Camera (BWC) footage captured by Officer 1 shows FIT employee Witness 1 explaining to the complainant that she is concerned for the complainant’s wellbeing as they have been out of treatment for three months and are not making sense. Officers later explain to the complainant that the decision to take the complainant to the hospital was made by the FIT employee and that the officer’s actions are bound by this decision. Additionally, BWC footage captured by both officers shows both officers explaining to the complainant’s son over the phone why they are detaining the complainant and why the complainant does not have a choice in the matter.



After a review of the relevant evidence obtained by the PAB, both officers followed the procedures laid out in RPD General Order 560 (Psychiatric Crisis Intervention) during the interaction with the complainant and the subsequent Mental Health Transport. The actions taken by the officers during the interaction did not violate the rights of the complainant as defined in the Fourth Amendment to the US Constitution and as referenced in RPD General Order 415.

The allegation that Officer 1 violated RPD General Order 415 is recommended as *Exonerated*.

Allegation 2: Officer 1 violated RPD Rules and Regulations 4.2 (Courtesy) as [REDACTED] was disrespectful in [REDACTED] interactions with the complainant and did not allow the complainant to retrieve their belongings prior to being transported to the hospital.

In the BWC footage captured by both officers, both officers can be seen explaining the process of a Mental Health Transport to the complainant. Despite repeating themselves multiple times, both officers speak to the complainant in a calm and respectful manner. Upon entering the complainant's residence, the complainant is permitted to retrieve their belongings, as well as make a phone call to their son. As the complainant is attempting to call their son, they state that the call is not going through and that this is evidence of their phone being tampered with. Both officers attempt to help the complainant dial the number and eventually the complainant's son does answer. At this point, both officers explain to the complainant's son over the phone why they are detaining the complainant and why the complainant does not have a choice in the matter.

The allegation that Officer 1 violated RPD Rules and Regulations 4.2 is recommended as *Exonerated*.

Allegation 3: Officer 2 violated RPD General Order 415 (Searches/Seizures) as [REDACTED] effected the removal of the complainant from their home against their consent.

In the report made to the PAB on July 18, 2022, and in an audio recording of a telephone conversation between the complainant and Officer [REDACTED] of the RPD's Professional Standards Section (PSS) obtained by the PAB, the complainant states that the reason they initially dialed 411 and later 911 was to obtain an attorney to address the matter of their mail and phone being tampered with. For this reason, the complainant states that the decision to take them to the hospital against their will was unjust and unnecessary.

The document labeled "CAD Event Information" shows that Monroe County FIT was dispatched to the complainant's residence after the complainant dialed 911 as the ECD employee perceived the complainant to be "delusional." The document labeled "CAD Event Unit" shows that Officers 1 and 2 were dispatched to the residence, as was Witness 1.

The document labeled "Mental Health Transport Report", completed by Officer 2 after the incident, identifies Witness 1 as a FIT employee, and states that the decision to transport the complainant to the hospital against their will was made by the FIT employee due to the complainant's "delusional" behavior and known diagnosis of schizophrenia.



Body Worn Camera (BWC) footage captured by Officer 1 shows FIT employee Witness 1 explaining to the complainant that she is concerned for the complainant's wellbeing as they have been out of treatment for three months and are not making sense. Officers later explain to the complainant that the decision to take the complainant to the hospital was made by the FIT employee and that the officer's actions are bound by this decision. Additionally, BWC footage captured by both officers shows both officers explaining to the complainant's son over the phone why they are detaining the complainant and why the complainant does not have a choice in the matter.

After a review of the relevant evidence obtained by the PAB, both officers followed the procedures laid out in RPD General Order 560 (Psychiatric Crisis Intervention) during the interaction with the complainant and the subsequent Mental Health Transport. The actions taken by the officers during the interaction did not violate the rights of the complainant as defined in the Fourth Amendment to the US Constitution and as referenced in RPD General Order 415.

The allegation that Officer 2 violated RPD General Order 415 is recommended as *Exonerated*.

Allegation 4: Officer 2 violated RPD Rules and Regulations 4.2 (Courtesy) as [REDACTED] was disrespectful in [REDACTED] interactions with the complainant and did not allow the complainant to retrieve their belongings prior to being transported to the hospital.

In the BWC footage captured by both officers, both officers can be seen explaining the process of a Mental Health Transport to the complainant. Despite repeating themselves multiple times, both officers speak to the complainant in a calm and respectful manner. Upon entering the complainant's residence, the complainant is permitted to retrieve their belongings, as well as make a phone call to their son. As the complainant is attempting to call their son, they state that the call is not going through and that this is evidence of their phone being tampered with. Both officers attempt to help the complainant dial the number and eventually the complainant's son does answer. At this point, both officers explain to the complainant's son over the phone why they are detaining the complainant and why the complainant does not have a choice in the matter.

The allegation that Officer 2 violated RPD Rules and Regulations 4.2 is recommended as *Exonerated*.



RECOMMENDED FINDINGS

Allegation #	Officer	Allegation	Finding/Recommendation
1	1	Officer 1 violated RPD General Order 415 (Searches/Seizures) as [REDACTED] effected the removal of the complainant from their home against their consent.	Exonerated
2	1	Officer 1 violated RPD Rules and Regulations 4.2 (Courtesy) as [REDACTED] was disrespectful in [REDACTED] interactions with the complainant and did not allow the complainant to retrieve their belongings prior to being transported to the hospital.	Exonerated
3	2	Officer 2 violated RPD General Order 415 (Searches/Seizures) as [REDACTED] effected the removal of the complainant from their home against their consent.	Exonerated
4	2	Officer 2 violated RPD Rules and Regulations 4.2 (Courtesy) as [REDACTED] was disrespectful in [REDACTED] interactions with the complainant and did not allow the complainant to retrieve their belongings prior to being transported to the hospital.	Exonerated