



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): 2022-0217

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

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

Case Findings:

Allegations 1, 2, 4, 5: Sustained

Allegation 3: Not sustained

Disciplinary Recommendation:

Officer [REDACTED] [REDACTED] Training and counseling on dealing with individuals with mental distress. Also need a written reprimand and training on BWC policy.

Officer [REDACTED] [REDACTED] 30-day suspension. Training and counseling on dealing with individuals with mental distress. Also need a written reprimand and training on BWC policy.

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] [REDACTED] Officer [REDACTED] [REDACTED] violated G.O. 560 § II D & E as well as NYSMHL Chapter 27 title B Article 9 as [REDACTED] failed to assist a mental distressed individual and provide community mental health resources.

- **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] Officer [REDACTED] [REDACTED] violated G.O. 560 § II D & E as well as NYSMHL Chapter 27 title B Article 9 as [REDACTED] failed to assist a mental distressed individual and provide community mental health resources.

- **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:

Unknown officer(s): Unknown officer violated RPD Rules & Regulations 4.2 as they made comments expressing prejudice.

- **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] [REDACTED] Officer [REDACTED] [REDACTED] violated the BWC Manual § IV C and E as [REDACTED] failed to activate [REDACTED] Body Worn Camera.

- **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**

Allegation # 5:

Officer [REDACTED] [REDACTED] Officer [REDACTED] [REDACTED] violated the BWC Manual § IV C and E as [REDACTED] failed to activate [REDACTED] Body Worn Camera.

- **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**

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

██████████ filed a report with the Police Accountability Board (PAB) on November 8, 2022 concerning a November 7, 2022 incident that occurred at approximately 5:00 pm at the Pet Supplies Plus Monroe parking lot; 531 Monroe Ave, Rochester, NY 14607.

On November 7, 2022, ██████████ made an emergency call requesting assistance for an individual that appeared to be experiencing mental distress. ██████████ does not know the subject, but mentions ██████████ wanders that area often. Officer ██████████ and Officer ██████████ responded to the scene and conducted a brief initial assessment of the individual in distress. Per ██████████ and CAD card, it lasted about a minute or two. Officer called into dispatch stating “285C – Out with M (male), behind bldg.(building)” and “No need for AMR”. Officers determined that neither an arrest nor Mental Health detention was needed. (Allegation 1, Allegation 2).

██████████ who lives near the incident location, believes that there is a lack of community aid/assistance in the area, especially for mental health calls. The ██████████ states that an unidentified officer openly said, loud enough for the ██████████ to hear, that the individual in distress was, “drug-induced” and the officer allegedly said, “It is always with the people on Monroe Ave.” (Allegation 3). Officers ██████████ and ██████████ both failed to activate their body worn camera during the encounter. (Allegation 4, Allegation 5).

Officer statement requests were sent on August 5, 2024 and were not responded to. On August 13, 2024, a supplemental source of information request was sent to RPD, to confirm if BWC footage exists or if it was purged. The department responded on August 27, 2024, stating that after an investigation with Office of Business Intelligence (OBI), it concluded that there is no record that BWC footage was purged for the incident in question.



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City of Rochester
Police Accountability Board
Established 2019

245 E. Main Street
Rochester, NY 14604

INVOLVED OFFICERS

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

INVOLVED INDIVIDUALS

| Name | Age | Sex | Race/ Ethnicity |
|------------|---------|--------|-----------------|
| ██████████ | 25-34 | Female | White |
| Subject | Unknown | Male | Black |

ALLEGATIONS

| | | |
|---|--------------------|--|
| 1 | Officer ██████████ | Officer ██████████ violated G.O. 560 § II D & E as well as NYSMHL Chapter 27 title B Article 9 as █████ failed to assist a mental distressed individual and provide community mental health resources. |
| 2 | Officer ██████████ | Officer ██████████ violated G.O. 560 § II D & E as well as NYSMHL Chapter 27 title B Article 9 as █████ failed to assist a mental distressed individual and provide community mental health resources. |
| 3 | Unknown officer(s) | Unknown officer violated RPD Rules & Regulations 4.2 as they made comments expressing prejudice. |
| 4 | Officer ██████████ | Officer ██████████ violated the BWC Manual § IV C and E as █████ failed to activate █████ Body Worn Camera. |
| 5 | Officer ██████████ | Officer ██████████ violated the BWC Manual § IV C and E as █████ failed to activate █████ Body Worn Camera. |

INVESTIGATION

The Rochester Police Department was notified of the Police Accountability Board's investigation on May 3, 2023. RPD responded the same day requesting additional details in order to locate the incident, as there were 13 jobs on Monroe Ave on November 7, 2022.

Over the course of the investigation, there were multiple attempts to contact the [REDACTED] including phone calls and e-mails, but we were unable to reach this person.

On April 25, 2024, a supplemental source of information request was sent to RPD. The same day RPD responded and provided CAD job cards; however, no body worn camera (BWC) or any other report were provided. On August 13, 2024, a supplemental SOI was sent to RPD to confirm if BWC was purged due to retention time or if it was never recorded. RPD responded on August 27, 2024 stating that after an investigation with Office of Business Intelligence (OBI), it concluded that there is no record of any BWC purged under that crime report number.

On August 5, 2024, officer statement request letters for Officers [REDACTED] [REDACTED] and [REDACTED] [REDACTED] were sent to RPD Chief of Police David Smith, as well as the respective officers. The PAB did not receive a response; however, the City of Rochester Deputy Corporation Counsel previously provided a blanket denial of officer statement requests.

EVIDENCE PROVIDED

| Evidence | Description | Provided by | Filename |
|---------------|---|------------------------------------|--|
| Intake report | [REDACTED] initial report | [REDACTED] | CaseIQ Case 2022-0217 Overview |
| CAD card | Computer Aided Dispatch (CAD) document showing call from officers to dispatch | Rochester Police Department | Computer Aided Dispatch (CAD) |
| CAD card | (CAD) document showing call from officers to dispatch, event chronology | Emergency Communication Department | PAB Request - ECD Data |

EVIDENCE DENIED

| Evidence | Description | Reason Declined |
|---|---|--------------------|
| Personnel and Disciplinary Records of the Officers involved | Disciplinary record request for all involved officers | No response given. |



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|--------------------------------|--|---|
| BWC | Videos taken from officers body worn cameras | No records of footage or purged existed. |
| Mental Health Training records | Mental Health Training records of involved officers | No response given. |
| Officer Statements | Statement request from PAB to RPD for Officers [REDACTED] and [REDACTED] | No response given. Cited their collective bargaining agreement. |

APPLICABLE RULES & LAWS

GENERAL ORDER 560: PSYCHIATRIC CRISIS INTERVENTION (Rescinds 4/20/2015)

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.

B. Members of the RPD will use judgment based on training, experience and discretion when exercising their powers to detain under the New York State Mental Hygiene Law (NYSMHL) without compromising member, patient and/or public safety.

C. Members of the RPD making a mental hygiene detention or returning individuals to a mental health facility pursuant to the NYSMHL will share all potentially relevant information surrounding the individual's conduct and/or detention with Emergency Medical Services/ambulance personnel/hospital personnel involved in the evaluation of the person.

D. Members of the RPD will respond to an individual who is or is reported to be in crisis and assess each situation with the safety and health of the member, the individual in crisis and the public, as a priority. Additionally, members will immediately request medical attention, when necessary.

E. Members of the RPD will emphasize providing additional assistance and resources to individuals in crisis, when it is appropriate, safe and feasible to do so.

F. Members of the RPD will understand that a Mental Hygiene Detention is not a criminal arrest and should not be called or described as such. All documentation will use the phrase "Mental Hygiene Detention (MHD)."

III. PROCEDURES

A. 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:

1. Themselves as manifested by threats of or attempts of suicide or serious bodily harm or other conduct demonstrating that they are dangerous to themselves, such as, the person's refusal or inability to meet their essential needs for food, shelter, clothing or health care, provided that such refusal or inability is likely to result in serious harm if there is not immediate hospitalization; or
2. Other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm.
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.

VII. TRAINING

A. All recruit officers will receive mental illness awareness training as part of the Basic Course for Police Officers course curriculum content. All RPD employees will receive mental illness refresher training on an ongoing basis.

RPD RULES & REGULATIONS: GENERAL CONDUCT: SECTION IV

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.

NY STATE MENTAL HYGIENE LAW (NYSMHL) SECTION 9.41 CHAPTER 27, TITLE B, ARTICLE 9

Article 9 (a) Any peace officer, when acting pursuant to his or her special duties, or police officer who is a member of the state police or of an authorized police department or force or of a sheriff's department may take into custody any person who appears to be mentally ill and is conducting himself or herself in a manner which is likely to result in serious harm to the person or others. Such officer may direct the removal of such person or remove him or her to any hospital specified in subdivision(a) of section 9.39 of this article, or any comprehensive psychiatric emergency program specified in subdivision (a) of section 9.40 of this article, or pending his or her examination or admission to any such hospital or program, temporarily detain any such person in another safe and comfortable place, in which event, such officer shall immediately notify the director of community services or, if there be none, the health officer of the city or county of such action.

RPD BWC MANUAL: IV. RECORDING REQUIREMENTS & RESTRICTIONS (revised 05.25.2022)

IV. RECORDING REQUIREMENTS AND RESTRICTIONS

C. Standard BWC Recordings.

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

E. Exceptions to Standard and Optional Recording Requirements.

1. Sensitive Locations.

Members will not record with BWCs in the following locations unless members anticipate or are engaging in an enforcement activity as defined by this Manual:

- a. Victim support or advocacy agencies (e.g., Bivona, Willow/ABW, etc.);
- b. In any courtroom or grand jury room;



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c. Locker rooms, bathrooms, or other locations where persons are expected to be disrobed or in a state of undress.

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%20of%20the%20evidence#:~:text=Preponderance%20of%20the%20evidence%20is,that%20the%20claim%20is%20true)).

ANALYSIS

Allegation 1: Officer [REDACTED] violated G.O. 560 § II D & E as well as NYSMHL Chapter 27 title B Article 9 as he failed to assist a mental distressed individual and provide community mental health resources.

In a complaint to the PAB, [REDACTED] alleges that [REDACTED] made an emergency call for an individual, that often wanders that area, appearing to be experiencing mental distress. Officer I [REDACTED] and Officer [REDACTED] arrived at the scene and conducted a brief initial assessment, which lasted about a minute or two. The officers then determined that neither an arrest nor mental health detention was needed, based on Officer [REDACTED] dispatch comment.

Computer Aided Dispatch (CAD) card shows this incident started as a customer trouble complaint call, called in by another source. As this call was in process, [REDACTED] initiated a duplicate complaint regarding the same individual, stating [REDACTED] was a mental health distressed person in need of assistance. This call was dispatched as a routine response type and psychiatric problems subtype by the Emergency Communications Department (ECD). Officer [REDACTED] conducted a brief initial assessment; the records indicate [REDACTED] was first dispatched on 11/7/2022 at 4:57:06 PM, first

arrived at 4:57:51 PM, and by 4:59:07 PM, Officer [REDACTED] called into dispatch stating “285C – Out with M (male), behind bldg. (building)” and “No need for AMR”.

General Order 560 § II D states that “Members of the RPD will respond to an individual who is or is reported to be in crisis and assess each situation with the safety and health of the member, the individual in crisis and the public, as a priority. Additionally, members will immediately request medical attention, when necessary”.

According to [REDACTED] Officer [REDACTED] failed to assist and provide community mental health resources. There were no indications that the individual was informed of the available resources nor rejected assistance. Additionally, Officer [REDACTED] failed to request medical attention, despite stating on the CAD card that the individual was “conscious, experiencing abnormal behavior, had suicide attempt problems, and appear to be having a psych issue – couldn’t complete sentences”. These stipulations, in addition to the situation being safe and feasible were reason to take an individual into custody for evaluation.

Additionally, Section 9.41 of the New York State Mental Hygiene Law (NYSMHL) chapter 27, title B, article 9, allows “police officers 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 the result in serious harm to themselves or others when... 3) There is reasonable suspicion that an individual’s behavior, whether or not criminal in nature, is secondary to a mental health issue”. The individual’s abnormal behavior, reported suicide attempt and the appearance of having a psych issue were indications to take this individual into custody for evaluation.

Per G.O. 560, if Officer [REDACTED] had determined that a Mental Health Detention (MHD) was not needed, [REDACTED] should have requested additional assistance from a mental health clinician to complete an evaluation, such as City of Rochester Person in Crisis Team (PIC) or 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. However, there is no evidence that any of the above teams were called to make that determination.

Lastly, G.O 560 §VII A states, “All RPD employees will receive mental illness refresher training on an ongoing basis” substantiating that officers receive training to conduct an initial assessment. The PAB requested mental health training records of involved officers; however, no response was given.

The allegation that Officer [REDACTED] [REDACTED] failed to assist a mental distressed individual and provide community mental health resources is recommended as Sustained.

Allegation 2: Officer [REDACTED] [REDACTED] violated G.O. 560 § II D & E as well as NYSMHL Chapter 27 title B Article 9 as [REDACTED] failed to assist a mental distressed individual and provide community mental health resources.

Based on the same analysis of [REDACTED] partner, Officer [REDACTED] (Allegation 1), Officer [REDACTED] failed to meaningfully engage with an individual who was experiencing apparent mental health distress. [REDACTED] did not offer the individual any resources or provide any apparent assistance.

The allegation that Officer [REDACTED] [REDACTED] failed to assist a mental distressed individual and provide community mental health resources is recommended as Sustained.

Allegation 3: Unknown officer violated RPD Rules & Regulations 4.2 as they made comments expressing prejudice.

RPD Rules & regulations general conduct, section 4.2 states, “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.”

In [REDACTED] intake, [REDACTED] stated that [REDACTED] lives near the incident location and mentions [REDACTED] believes community aid/assistance often lacks in the area - especially for mental health distress calls. [REDACTED] states that an unidentified officer said it was, “drug-induced” and the other officer allegedly said, “It is always with the people on Monroe Ave.”, addressing the individual. The Officer’s generalization, with no consideration to individual differences, announcing that department would rather not deal with these type of incident and/or individuals.

While the officers’ alleged comments are discourteous and unprofessional, our investigation was unable to verify which, if any officer, made such comment.

The allegation that an unknown officer made comments expressing prejudice is recommended as Not Sustained.

Allegation 4: Officer [REDACTED] [REDACTED] violated the BWC Manual § IV C and E as [REDACTED] failed to activate [REDACTED] Body Worn Camera.

The Rochester Police Department’s Body Worn Camera Manual states that, “unless a specific exception exists, members assigned a BWC will activate it and record all activities, and contact with persons, in the course of performing police duties. This includes all calls for service and self-initiated police activity. Some exceptions which may overrule the necessity of a standard BWC recording are at sensitive locations, such as: advocacy agencies, in any court room, or where a person are expected to be in a state of undress.” The entirety of the interactions between the individual and the officers occurred outside, in an open parking lot.

After a search of the Rochester Police Department’s database, there is no record of Officer [REDACTED] body worn camera footage capturing this incident. Due to the location of the interaction, no RPD exception applies and the interaction between Officer [REDACTED] and the individual should have been captured on [REDACTED] body worn camera.

The allegation that Officer [REDACTED] [REDACTED] failed to activate [REDACTED] BWC during the interaction with the individual is recommended as Sustained.

Allegation 5: Officer [REDACTED] [REDACTED] violated the BWC Manual § IV C and E as [REDACTED] failed to activate [REDACTED] Body Worn Camera.

The Rochester Police Department's Body Worn Camera manual states that, "unless a specific exception exists, members assigned a BWC will activate it and record all activities, and contact with persons, in the course of performing police duties. This includes all calls for service and self-initiated police activity. Some exceptions which may overrule the necessity of a standard BWC recording are at sensitive locations, such as: advocacy agencies, in any court room, or where a person are expected to be in a state of undress." The entirety of the interactions between the individual and the officers occurred outside, in an open parking lot.

After a search of the Rochester Police Department's database, there is no record of Officer [REDACTED] body worn camera footage capturing this incident. Due to the location of the interaction, no RPD exception applies and the interaction between Officer [REDACTED] and the individual should have been captured on [REDACTED] body worn camera.

The allegation that Officer [REDACTED] [REDACTED] failed to active [REDACTED] BWC during the interaction with the individual is recommended as Sustained.

RECOMMENDED FINDINGS

| # | Officer | Allegation | Finding/Recommendation |
|---|-----------------|--|------------------------|
| 1 | ██████████ | Officer ██████████ violated G.O. 560 § II D & E as well as NYSMHL Chapter 27 title B Article 9 as █████ failed to assist a mental distressed individual and provide community mental health resources. | Sustained |
| 2 | ██████████ | Allegation 2: Officer ██████████ violated G.O. 560 § II D & E as well as NYSMHL Chapter 27 title B Article 9 as █████ failed to assist a mental distressed individual and provide community mental health resources. | Sustained |
| 3 | Unknown officer | Allegation 3: Unknown officer violated RPD Rules & Regulations 4.2 as they made comments expressing prejudice. | Not sustained |
| 4 | ██████████ | Allegation 4: Officer ██████████ violated the BWC Manual § IV C and E as █████ failed to active █████ Body Worn Camera. | Sustained |
| 5 | ██████████ | Allegation 5: Officer ██████████ violated the BWC Manual § IV C and E as █████ failed to active █████ Body Worn Camera. | 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.

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 subject of an investigation closed by the PAB.

A review of the Rochester Police Department Discipline Database located on the City of Rochester’s website suggests that Officer [REDACTED] has not been the subject of a previous investigation by the RPD Professional Standards Section (PSS). However, the PAB understands that the database is incomplete.

RPD did not respond to requests to provide disciplinary records for Officer [REDACTED]

Sustained Allegation 1: Officer [REDACTED] violated G.O. 560 § II D & E as well as NYSMHL Chapter 27 title B Article 9 as [REDACTED] failed to assist a mental distressed individual and provide community mental health resources.

DISCIPLINARY MATRIX APPENDIX

| Misconduct | Level |
|--|----------|
| G.O. 560 § II D states that “Members of the RPD will respond to an individual who is or is reported to be in crisis and assess each situation with the safety and health of the member, the individual in crisis and the public, as a priority. Additionally, members will immediately request medical attention, when necessary.” | 3 |

| | |
|--|--|
| <p>G.O. 560 § II E states that “Members of the RPD will emphasize providing additional assistance and resources to individuals in crisis, when it is appropriate, safe and feasible to do so.”</p> <p>NYSMHL Chapter 27 title B Article 9 states that “(a) Any peace officer, when acting pursuant to [REDACTED] or her special duties, or police officer who is a member of the state police or of an authorized police department or force or of a sheriff’s department may take into custody any person who appears to be mentally ill and is conducting himself or herself in a manner which is likely to result in serious harm to the person or others. Such officer may direct the removal of such person or remove him or her to any hospital specified in subdivision(a) of section 9.39 of this article, or any comprehensive psychiatric emergency program specified in subdivision (a) of section 9.40 of this article, or pending his or her examination or admission to any such hospital or program, temporarily detain any such person in another safe and comfortable place, in which event, such officer shall immediately notify the director of community services or, if there be none, the health officer of the city or county of such action.”</p> | |
|--|--|

- **Recommended Level: 1** (Minimal negative impact on the community or department image or operations, or relationships with other officers, or agencies.)
- **Recommended Discipline:** Training and counseling on dealing with individuals with mental distress.
- **Explanation for Deviation of level:** This is Officer [REDACTED] first sustained PAB finding.

Sustained Allegation 4: Officer [REDACTED] [REDACTED] violated the BWC Manual § IV C and E as [REDACTED] failed to activate [REDACTED] Body Worn Camera.

DISCIPLINARY MATRIX APPENDIX

| Misconduct | Level |
|---|-------|
| <p>The Body Worn Camera Manual § IV C states, “Unless a specific exception exists (see Section IV.E below), members assigned a BWC will activate it and record all activities, and contact with persons, in the course of performing police duties. This includes all calls for service and self-initiated police activity unless listed”</p> <p>The Body Worn Camera Manual § IV E states, “Exceptions to Standard and Optional Recording Requirements.</p> <p>(1) Sensitive Locations: Members will not record with BWCs in the following locations unless members anticipate or are engaging in an enforcement activity as defined by this Manual:</p> | 3 |



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| | |
|---|--|
| <p>a. Victim support or advocacy agencies (e.g., Bivona, Willow/ABW, etc.);</p> <p>b. In any courtroom or grand jury room;</p> <p>c. Locker rooms, bathrooms, or other locations where persons are expected to be disrobed or in a state of undress.”</p> | |
|---|--|

- **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 third time Officer [REDACTED] has been subject of an investigation closed by the PAB. PAB sustained a violation of RPD’s Body Worn Camera policy relating to an incident on September 16, 2022 (PTN #2022-0025). PAB sustained a violation of Rules and Regulations 4.2(c) for use of harsh or insulting language relating to an incident on October 28, 2023 (PTN# 2023-0201).

A review of the Rochester Police Department Discipline Database located on the City of Rochester’s website suggests that Officer [REDACTED] has not been the subject of a previous investigation by the RPD Professional Standards Section (PSS). However, the PAB understands that the database is incomplete.

RPD did not respond to requests to provide disciplinary records for Officer [REDACTED]

Sustained Allegation #2 Officer [REDACTED] violated G.O. 560 § II D & E as well as NYSMHL Chapter 27 title B Article 9 as [REDACTED] failed to assist a mental distressed individual and provide community mental health resources.

DISCIPLINARY MATRIX APPENDIX

| Misconduct | Level |
|---|-------|
| G.O. 560 § II D. states that “Members of the RPD will respond to an individual who is or is reported to be in crisis and assess each situation with the safety and health of the member, the individual in crisis and the public, as a priority. Additionally, members will immediately request medical attention, when necessary.” | 3 |

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| <p>G.O. 560 § II E. states that “Members of the RPD will emphasize providing additional assistance and resources to individuals in crisis, when it is appropriate, safe and feasible to do so.”</p> <p>NYSMHL Chapter 27 title B Article 9 states that “(a) Any peace officer, when acting pursuant to his or her special duties, or police officer who is a member of the state police or of an authorized police department or force or of a sheriff’s department may take into custody any person who appears to be mentally ill and is conducting himself or herself in a manner which is likely to result in serious harm to the person or others. Such officer may direct the removal of such person or remove him or her to any hospital specified in subdivision(a) of section 9.39 of this article, or any comprehensive psychiatric emergency program specified in subdivision (a) of section 9.40 of this article, or pending his or her examination or admission to any such hospital or program, temporarily detain any such person in another safe and comfortable place, in which event, such officer shall immediately notify the director of community services or, if there be none, the health officer of the city or county of such action.”</p> | |
|--|--|

- **Recommended Level: # 3** (Pronounced negative impact on the community or department image or operations, or relationships with other officers, or agencies.)
- **Recommended Discipline: 30-day suspension.** This is Officer [REDACTED] third incident of sustained misconduct.

Sustained Allegation # 5 Officer [REDACTED] [REDACTED] violated the BWC Manual § IV C and E as [REDACTED] failed to activate [REDACTED] Body Worn Camera.

DISCIPLINARY MATRIX APPENDIX

| Misconduct | Level |
|--|-------|
| <p>The Body Worn Camera Manual § IV. C states, “Unless a specific exception exists (see Section IV.E below), members assigned a BWC will activate it and record all activities, and contact with persons, in the course of performing police duties. This includes all calls for service and self-initiated police activity unless listed”</p> <p>The Body Worn Camera Manual § IV. E states, “Exceptions to Standard and Optional Recording Requirements. (1) Sensitive Locations: Members will not record with BWCs in the following locations unless members anticipate or are engaging in an enforcement activity as defined by this Manual:</p> | 3 |

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|---|--|
| <p>a. Victim support or advocacy agencies (e.g., Bivona, Willow/ABW, etc.);</p> <p>b. In any courtroom or grand jury room;</p> <p>c. Locker rooms, bathrooms, or other locations where persons are expected to be disrobed or in a state of undress.”</p> | |
|---|--|

- **Recommended Level: #3** (Pronounced negative impact on the community or department image or operations, or relationships with other officers, or agencies.)
- **Recommended Discipline: 30-day suspension.** This is Officer [REDACTED] third incident of sustained misconduct. PAB notes that Officer [REDACTED] has been in violation of the Body Worn Camera policy at least one other time prior to this. We also recommend a training memorandum on the BWC policy.