

TO: Chief Administrator
FROM: Investigator Mark Mitchell #40
DATE: January 4, 2018
REFERENCE: Log #1087139

INCIDENT

DATE/TIME: July 9, 2017 at approximately 1130 hours
LOCATION: 5055 W. Wolfram Street (Gangway) Chicago, IL

SUMMARY OF INCIDENT

During the investigative walk-through of Log 1085876 (U 17-15) on July 9, 2017, OCIC Williams informed IPRA¹ investigators that Officer O’Kane had a weapons malfunction during the incident. When Officer O’Kane’s weapon was examined at the Area North² police station, the weapon contained 15 rounds in the magazine and none in the firing chamber. The magazine capacity for the weapon is 15 rounds. This investigation has determined that Officer O’Kane’s weapon was not fully loaded in accordance with Departmental Policy.

A review of Body worn camera (BWC) footage from Ofc. Hardt and Ofc. Trakes, who also responded to this incident, was conducted. This investigation has determined that the officers did not activate their BWCs in accordance with Departmental Policy.

ALLEGATIONS

It is alleged that on July 9, 2017, at approximately 11:30 AM, at the location of 5055 N Wolfram, **PO Domnaill O’Kane #12802**

1. Violated the Chicago Police Departments policy on Uniform and Personal Equipment and Rule 3 when he attempted to discharge his weapon and the weapon did not fire.

It is alleged that on July 9, 2017, at approximately 11:30 AM, at the location of 5055 N Wolfram, **PO David Hardt # 14529**

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Thus, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

² 2452 West Belmont Ave. Chicago, IL 60618

1. Violated the Chicago Police Departments policy on Body Worn Cameras and Rule 6 when he failed to activate his body worn camera at the beginning of the incident.

It is alleged that on July 9, 2017, at approximately 11:30 AM, at the location of 5055 N Wolfram, **PO Daniel Trakes #7586**

1. Violated the Chicago Police Departments policy on Body Worn Cameras and Rule 6 when he failed to activate his body worn camera at the beginning of the incident.

Investigation

As part of the investigation of Log 1085876 (U 17-15), the Independent Police Review Authority (IPRA) obtained documentary and video evidence associated with this incident. IPRA interviewed the officers as either involved officers or witness officers in conjunction with Log 1085876 (U 17-15). After allegations were served the officer were interviewed at COPA under log 1087139. The following is a summary of the information gathered.

Body Worn Cameras

- BWC video from PO Hardt started after the shots were fired at 5055 W. Wolfram, was turned off and restarted later to capture the Lieutenant gathering the officers involved in the incident. (Att. 14)
- BWC video from PO Trakes started after the subject was in custody and continued until the Lieutenant was assembling the involved officers. (Att. 15)

Accused Officer Interviews

OFFICER DANIEL TRAKES

On July 28, 2017 **Officer Daniel Trakes #7586** was interviewed at IPRA during the course of the related shooting investigation. During the interview, Officer Trakes said he was equipped with a BWC and was trained on the operation of the camera. Officer Trakes said he did not remember to turn the camera on until after the incident had already occurred.(Att. 8)

On October 25, 2017 **Officer Daniel Trakes #7586** was interviewed at COPA as an accused officer, reference the allegations listed herein. He stated he was equipped with a BWC on July 9, 2017. Officer Trakes stated that he did not activate his BWC prior to or upon his arrival at the scene. (Att. 13)

OFFICER DAVID HARDT

On August 4, 2017 **Officer David Hardt #14529** was interviewed at IPRA. During the interview Officer Hardt stated he was equipped with a BWC; he said he trained on the operation of the camera. Officer Hardt said he did not activate the camera at the right time; he activated it in the middle of the incident. (Att. 9)

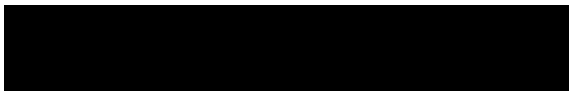
On October 25, 2017 **Officer David Hardt #14529** was interviewed at COPA as an accused officer. He stated he was equipped with a BWC on July 9, 2017. He said he did not activate his BWC prior to his arrival at the incident, though he did activate the BWC roughly halfway through the evolution of the incident. Officer Hardt stated that he did not think about activating his BWC until he was attempting to climb the fence to gain access the where the subject was located. He said he was trained on the BWC spring of 2016. He said he has activated his BWC on previous incidents. (Att. 12)

OFFICER DOMNAILL O’KANE

On August 3, 2017 **Officer Domnaill O’Kane #12802** was interviewed at IPRA. During the interview Officer O’Kane stated that he attempted to fire his weapon during the course of the incident. Officer O’Kane explained that his weapon did not fire. Officer O’Kane stated he conducted a functionality check of the weapon. (Att. 7)

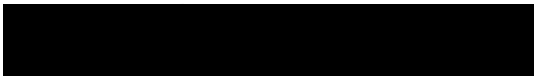
On November 3, 2017, **PO Domnaill O’Kane** was interviewed at COPA as an accused officer. When asked about his attempt to discharge his weapon, he explained that he pulled the trigger and the weapon did not fire. Officer O’Kane said he had no idea why his weapon did not fire. Officer O’Kane indicated he did not know if there was any other reason why his weapon did not fire, other than the fact that there was not a round in the chamber. (Att. 17)

Submitted:



Mark Mitchell #40
Major Case Specialist

Approved:



Mark Javier #17
Supervising Investigator

ANALYSIS AND CONCLUSION

APPLICABLE RULES

The Chicago Police Departments Special Order S03-14 requires the activation of the body worn cameras at the beginning of use of force incidents II, 2, g and allows for deactivation by the highest ranking on-scene Bureau of Patrol supervisor the scene secure in firearms discharge incidents.

The Chicago Police Departments Special Order S03-14 requires the activation of the body worn cameras at the beginning of use of force incidents II, 2, g.

The Chicago Police Department Uniform and Property U04-02-01 Department Approved Semiautomatic Pistols and Ammunition: II., B., 3 requires semiautomatic pistols be carried with a cartridge in the firing chamber and the pistols hammer will be completely de-cocked.

ANALYSIS

Based on the totality of the circumstances, COPA determines that **Officer Hardt** did not activate his body worn camera while he was responding to the incident, as mandated by CPD policy. Officer Hardt admitted he was trained on the use of the camera approximately a year prior to the incident and that he had, on previous occasions, activated the camera at the beginning of an incident.

Based on the totality of the circumstances, COPA determines that **Officer Trakes** did not activate his body worn camera as mandated by CPD policy. Officer Trakes did not activate his body worn camera until after the incident concluded. Officer Trakes admitted that he was trained on the use of the camera approximately a year prior to the incident and said he had, on previous occasions, activated the camera at the beginning of an incident.

Based on the totality of the circumstances, COPA determines that **Officer O’Kane** violated Chicago Police Department Uniform and Property U04-02-01, Department Approved Semiautomatic Pistols and Ammunition: II., B., 3, which requires semiautomatic pistols be carried with a cartridge in the firing chamber. Officer O’Kane attempted to fire his weapon, unsuccessfully. The subsequent examination of the weapon shows that while there were fifteen (15) rounds in the magazine, yet no round loaded in the firing chamber. There were no live 9mm round recovered from the scene. It is more likely than not that the reason his weapon did not discharge is that Office O’Kane failed to properly administratively load his firearm.

CONCLUSION AND FINDINGS

1. The Civilian Office of Police Accountability recommends that Allegation #1 against **Officer David Hardt #14529** be **SUSTAINED**.
2. The Civilian Office of Police Accountability recommends that Allegation #1 against **Officer Daniel Trakes #7856** be **SUSTAINED**.

3. The Civilian Office of Police Accountability recommends that Allegation #1 against **Officer Domnaill O’Kane #12802** be **SUSTAINED**.



Joshua Hunt
Deputy Chief

