

ALLEGATIONS:

On 06 June 2016, at approximately 1954 hours, The Chicago Police Information Center (CPIC), notified the Independent Police Review Authority, of a weapons discharge incident involving on-duty Officer A, #XXXX, Unit XXX. It is alleged that on 06 June 2016, at approximately 1859 hours, at XXXX W. Potomac (alley), Officer A, #XXXX, Unit XXX:

- 1) Was inattentive to duty in that he accidentally discharged his firearm.

APPLICABLE RULE:

Rule 10: Inattention to Duty.

INTRODUCTION:

The Accused Officer, Officer A, assisted in a foot chase involving several other officers as they pursued Subject 1, who was reported to be in possession of firearm. After a short foot pursuit, Subject 1 surrendered and was taken into custody in the alley of XXXX W. Potomac. After Officer A realized Subject 1 was compliant and not an immediate threat, he attempted to holster his firearm and handcuff Subject 1. As he was moving to place his weapon in his holster, Officer A accidentally discharged his firearm. The fired round struck the pavement and Officer A was injured from the shrapnel.

INVESTIGATION:

In a statement to IPRA on 15 February 2017, **Officer A** stated that on the day of this incident he left the XXXth District Station and was driving to CPD Headquarters. Officer A stated that he was driving a marked squad car and he was alone. Officer A stated that he was in the vicinity of Grand Avenue when he monitored via police radio that officers were involved in a foot pursuit nearby, chasing a subject with a gun. Officer A recognized one of the officers in the pursuit to be Officer I, as they are both assigned to the same tactical team.

Officer A continued to monitor the pursuit via the radio as he drove to the alley between Potomac Avenue and Kamerling Avenue. Officer A exited his police vehicle and heard officers yelling out Subject 1' direction of flight. Officer A believed Subject 1 was running west through the backyards, so he ran west through the alley in an attempt to parallel Subject 1 and the other officers. Officer A stated that he did not see Subject 1

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until Subject 1 began to scale an alley fence. Officer A drew his firearm from its holster and repeatedly ordered Subject 1 to show his hands and to get on the ground. Subject 1 was compliant and after scaling the fence he lay prone on the pavement in the alley. Officer A stated that several other officers were also in the alley at this time.

Officer A, seeing that Subject 1 was compliant, attempted to holster his weapon with the intention of handcuffing Subject 1. Officer A stated that he "slammed" his firearm into its holster at which time he heard a muffled "pop." Officer A stated that Subject 1 said words to the effect, "The bitch shot me." Officer A stated that it appeared that Subject 1 was looking at one of the uniformed female officers who also had her firearm drawn. Officer A explained that at that time, he looked down and saw an expended cartridge casing stuck in the ejector port of his firearm, which was still holstered on his right side. Officer A explained that he then realized that he had accidentally discharged his firearm when he was attempting to holster it.

Officer A stated that then walked several feet away from Subject 1 and the other officers, in order to ready his firearm safe. Officer A stated that he drew the firearm from its holster, and cleared the expired cartridge from the ejector port. Officer A stated that when the expended casing "stove-piped" in the ejector port, his pistol double fed a live round into the firing chamber. When Officer A cleared the expended cartridge, a live cartridge also ejected from the firearm.

Officer A stated that he was standing upright when his firearm accidentally discharged, and assumed the fired bullet struck the pavement near his feet. Officer A stated that bullet fragments struck both of his lower legs, his left wrist, left forearm, and left thumb. Officer A did not know if his finger was on the trigger of his firearm at the time of the accidental discharge. Officer A believed he was standing approximately seven or eight feet from Subject 1 at the time of the accidental discharge. (Att. 32)

In statements to IPRA, witness police officers Officer B, Officer C, Officer D, Officer E, Officer F, Officer G, Officer H all provided their accounts of this incident. The officers' accounts are not inconsistent with the statement provided by Officer A.

1 Officer A falsely believed his firearm was not fully loaded at the time of the accidental discharge. Investigation revealed that his firearm has a 17 round capacity. 15 live rounds were recovered from the magazine; one fired cartridge and one live cartridge were recovered from the alley at XXXX W. Kamerling Avenue. (Att. 39)

Video Recording

In-Car Camera recordings from Beat 2542² depict both interior and exterior images and audio. At 1:24 minutes into the recording the police vehicle enters the east end of the alley and travels west a short distance. A uniformed female officer is immediately observed in the alley and appears to be looking south toward the backyards of the residences on Potomac Avenue.

At 1:34 minutes into the recording, the police vehicle stops and Officers A and B exit and walk west in the alley.

At 1:52 minutes into the recording, Officer A runs west past the parked police vehicle and joins Officers A and B. A female voice can be heard yelling words to the effect of, "in the yard!"

At 2:04 minutes into the recording, the officers' attention appeared to focus on one particular backyard several houses to the west of the parked police vehicle. Officers G and E run west past the parked police vehicle and join Officers F, B, and A. The officers are heard yelling orders to an unseen person(s) to "get down" and "hands up."

At 2:10 minutes into the recording, Subject 1 appears to scale a fence on the south side of the alley. Subject 1 immediately goes prone on the pavement in the alley. The view of Subject 1 and several of the officers is obstructed from the in-car camera by garbage cans, a telephone pole, and other officers.

At 2:14 minutes into the recording, a gunshot is heard. Because of the in-car camera's obstructed view, it is unclear where the gunshot came from. A person can be heard yelling words to effect of, "Why you shootin'?"

At 2:24 minutes into the recording, Officer A walks to the north side of the alley as a female voice asks, "Are you ok?" Officer A replied, "Yeah." A female is then heard asking if an ambulance is needed. Officer A appeared to examine his lower extremities and his ankle.

At 2:56 minutes into the recording, yelling can be heard as several male subjects approach the officers in the alley. Numerous citizens walk into, and remain, in the alley near the officers and Subject 1.

At 3:54 minutes into the recording, Officers A and Officer B walk Subject 1 to their vehicle and place him into the backseat. Subject 1 is handcuffed and appears to be uninjured. Once in the backseat of the police vehicle Subject 1 states that his pants and ID were in the

² The CPD Police Vehicle assigned to Officers F and Officer B.

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backpack, but he is not the owner of the backpack, nor does the firearm that was recovered in it belong to him. (Att. 35)

CPD Reports

The **Officer of Emergency Management and Communications PCAD Event Query #XXXXXXX** stated that on 06 June 2016, at 1846 hours, a citizen telephoned 911 and reported two 7'0" tall male black subjects with guns in book bags. At 1856 hours it was reported that responding officers were involved in a foot chase with one of the two male black subjects, during which multiple locations and direction of flight were dispatched. At 1858 hours it was reported that the subject was in custody and EMS was requested because Officer A discharged his firearm, striking his hand and possibly grazing his leg. (Att. 9)

Officer A's **Tactical Response Report (TRR)** indicates that his firearm accidentally discharged once as he attempted to holster it. (Att. 6)

The **Detective's Supplemental Report (RD# XXXX-XXX)**, authored by Detectives A and Detective B, documents the detective's investigation into the incident. The detectives also interviewed Subject 1 who stated that he was visiting the home of his girlfriend's grandmother before he went to play basketball at the park across from a school near Potomac Avenue. Subject 1 stated that he had a gun in his backpack for protection because he was not from the area. Subject 1 stated that while he was playing basketball several police officers entered the park and began questioning him and his friend.³ Subject 1 noticed a police officer walking towards his backpack and he decided to walk away. Subject 1 related he then noticed the officer looking in his backpack. Subject 1 immediately ran away. Subject 1 stated the officers chased him as he ran and scaled several fences in an attempt to escape. Subject 1 related he ran because he was currently on parole for a prior conviction for Unlawful Use of a Weapon. Subject 1 further explained that he did not want to violate his parole status.

Subject 1 related that while attempting to escape the police he ran into a backyard and jumped onto a wooden fence. While on top of the wooden fence he saw several police officers waiting for him in the alley on the other side of the fence. Subject 1 heard the officers ordering him to put his hands up. Subject 1 complied and climbed down from the fence and into the alley. As the officers placed Subject 1 into custody he saw one of the officers had his gun near his holster and it accidentally went off. Subject 1 was not shot or injured. Subject 1 added that the officer was not shooting at him.

³ Subject 1 refused to identify his friend.

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The **Chicago Police Department's Crime Laboratory Firearms Receipt & Worksheet** indicates that Officer A's firearm, a Glock 9mm semi-automatic pistol with a seventeen-round magazine, was examined. Officer A's firearm was recovered loaded with fifteen live cartridges. Officer A's firearm was examined and found to be in proper firing condition. (Att. 41)

The **Chicago Police Department's Crime Scene Processing Report** indicates that one expended casing and one live round were covered from the weeds in the alley at XXXX W. Kamerling Avenue. (Att. 39)

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CONCLUSION:

Officer A, #XXXX

The IPRA recommends **Allegation #1**, that Officer A was inattentive to duty in that he accidentally discharged his firearm, be **Sustained**. Officer A explained that he had drawn his firearm because it was reported that Subject 1 had a handgun. Officer A stated that when he realized that Subject 1 did not have a firearm in his hands, he (Officer A) holstered his firearm at which time he accidentally discharged his weapon.

The fired bullet struck the pavement in the alley and bullet fragments struck Officer A on his legs, his left forearm, left wrist, and left thumb. No one else, including Subject 1, was injured as a result of the accidental discharge.

It should be noted that, while no allegation regarding a violation of Subject 1' Fourth Amendment rights was made, the potential issue was made part of the analysis of this event. However, without further information, it cannot be determined whether Subject 1' Fourth Amendment rights were violated by the search of his backpack. Subject 1 did not make any allegations regarding this and, in fact, Subject 1 refused to cooperate at all with this investigation. The interviewed officers all state that the backpack was on the ground against or near the pole of the basketball hoop, 5 to 15 feet away from Subject 1. Officer I asked, "whose backpack is this?" and received no response — at which time he elected to search the backpack.

Given the fact that no one present, including Subject 1, asserted ownership of the bag, it is reasonable to believe that Officer I believed that the backpack may have been abandoned property. Additionally, the public safety exception to the warrant requirement is widely accepted, and in this case may have allowed the officers to search the backpack, since Subject 1 did not claim ownership and the backpack could ostensibly have been abandoned. The incident took place in a public park on a summer evening, where numerous families and children were in the park. Given the specific information provided by the 911 caller, that the backpack contained a weapon, the officer may have been justified by the public safety exception to search the backpack. Pursuant to *Cady v. Dombrowski*, 413 U.S. 433, 93 S. Ct. 2523, 37 L. Ed. 2d 706 (1973), once the officers deemed to use the public safety exception, they were permitted to search the backpack, rather than posting a guard on it, for example, in an effort to safeguard the public.

Without additional information, it simply cannot be determined whether the officers violated any CPD policy, and/or Subject 1's Fourth Amendment rights. There is no specific allegation as to either matter, and the review of this case does not produce any glaring violations that would warrant further investigation.

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FINDINGS:

Allegation #1: **SUSTAINED** — Violation of Rule 10: "Inattention do Duty;" in that on 06 June 2016, at approximately 1859 hours, at XXXX W. Potomac (alley), Officer A accidentally discharged his firearm.