

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	October 30, 2018
Time of Incident:	1:34 p.m.
Location of Incident:	██████ W. Argyle
Date of COPA Notification:	October 30, 2018
Time of COPA Notification:	2:45 p.m.

Captain ██████ was off-duty, in his take-home vehicle, when he accidentally shot himself in the right thigh. Captain ██████ drove himself to Swedish Covenant Hospital to seek medical attention and was subsequently transferred to Illinois Masonic Hospital. Captain ██████ sustained a through-and-through gunshot wound to his upper right leg. Additional investigation revealed that Captain ██████ firearm was loaded with more than one manufacturer of ammunition, in violation of Department policy.

II. INVOLVED PARTIES

Involved Officer #1:	██████ star# ██████ employee ID# ██████ Date of Appointment: ██████, 1994; Captain; ██████ District; Date of Birth: ██████, 1970; male; white.
----------------------	--

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Captain ██████	1. It is alleged that Captain ██████ unintentionally discharged his firearm, in violation of Rule 10. 2. It is alleged that Captain ██████ failed to follow the provisions of U04-02: Department Approved Weapons and Ammunition by carrying a firearm that was loaded with more than one manufacturer of ammunition, in violation of Rule 6.	Sustained / 3 Days Sustained / Reprimand

IV. APPLICABLE RULES AND LAWS

Rules
1. Rule 6: Disobedience of an order or directive, whether written or oral.

2. Rule 10: Inattention to duty

General Orders

1. General Order G03-02-03: Firearms Discharge Incidents Involving Sworn Members (effective October 16, 2017 – present)
2. General Order U04-02: Department Approved Weapons and Ammunition (effective June 2, 2017 – present)

V. INVESTIGATION¹

a. Interviews

In an interview with COPA on January 25, 2019, **Captain [REDACTED]** stated that on the date of the incident, he requested to take two hours leave at the end of his shift.² Captain [REDACTED] left the [REDACTED] District and drove to the service garage at Belmont and Western Avenues to get gas and change a flat tire that was in the trunk of his vehicle. Upon arriving at the garage, Captain [REDACTED] realized he was tired and decided to only fuel up his vehicle. Captain [REDACTED] related that he suffers from sleep apnea, and in the two weeks prior to the incident he worked a significant amount of secondary employment. Captain [REDACTED] left the garage and proceeded toward [REDACTED] located at [REDACTED] and [REDACTED] Avenues, where he planned to have lunch. According to Captain [REDACTED] as he traveled northbound on Kedzie Avenue near Lawrence Avenue, he heard a metallic or rattling noise. Captain [REDACTED] wondered if his gun's magazine was loose, or whether his magazine was short on rounds.³ Captain [REDACTED] removed his gun from the holster to inspect it, and the gun subsequently discharged. Captain [REDACTED] stated that he does not know how the discharge occurred. Captain [REDACTED] related that he does not remember pulling the trigger and he does not know where his finger was when the weapon discharged.

According to Captain [REDACTED] he does not remember whether he was parked or completely pulled to the curb when the weapon discharged—or whether his car was in the park or drive gear—but he asserts that the vehicle was stopped. Captain [REDACTED] related, “I may have both been stopped at a light and, you know, pulled over, if that makes any sense.”⁴ “I honestly don’t remember exactly where the car was or how I was parked, but I know I was stopped.”⁵

Captain [REDACTED] sustained a gunshot wound to his right thigh, which entered near the center of his thigh and exited the bottom of his thigh. Captain [REDACTED] drove himself to Swedish Covenant Hospital and notified the Office of Emergency Management and Communications (OEMC) of the weapon’s discharge.

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² Attachments 51-52

³ Captain [REDACTED] mentioned that he has children and unloads his weapon every day when he arrives home.

⁴ Transcribed statement of Captain [REDACTED] Attachment 52, page 24, lines 15-17.

⁵ *Id.*, page 25, lines 12-14.

In a **second interview with COPA** on April 30, 2019, Captain ██████ stated that he was unaware that his firearm was loaded with more than one manufacturer of ammunition.⁶ Captain ██████ was unable to provide any explanation for how or why this happened. Additionally, Captain ██████ said that he was not aware of this requirement until he looked at U04-02 upon receiving the allegation that he failed to comply with the order.

b. Digital Evidence

Surveillance footage obtained from ██████ Hair Salon, located at ██████ N. Kedzie, produced no additional information.⁷

Surveillance footage obtained from Swedish Covenant Hospital depicts Captain ██████ arriving at the hospital in his unmarked squad car.⁸

Evidence technician photographs depict Captain ██████ duty belt, holster, firearm, and the interior and exterior of Captain ██████ vehicle.⁹

The **OEMC transmissions and Event Query** document that on October 30, 2018 at 1:34 p.m., Captain ██████ notified OEMC that he was in his car, on his way home, when he accidentally discharged his firearm. Captain ██████ stated that he shot himself in the right thigh and was driving himself to Swedish Covenant Hospital.¹⁰

c. Physical Evidence

The **Chicago Police Department Forensic Firearms Lab** conducted testing of Captain ██████ firearm.¹¹ Examination and testing of the firearm revealed that the gun functioned as designed with no malfunctions. During test firing, both fired cartridge cases ejected as designed. The firearm's trigger pull brake is 5 ½ pounds, which is the recommended range for this firearm per Glock specifications. The Glock "Safe Action" Safety System is assembled as designed and has not been modified. It was determined that the firearm will not discharge if dropped. The firearm can only be discharged by the trigger and trigger safety simultaneously moving rearward. The firearm contained one 15-round magazine; 13 live cartridges with headstamp markings "WIN 40 S&W;" and 1 live cartridge with headstamp markings "Federal S&W." The inventory also included 1 fired cartridge case with headstamp markings "Winchester 40 S&W."

Medical records from Swedish Covenant Hospital document that Captain ██████ told hospital staff that he accidentally shot himself. Captain ██████ sustained a gunshot wound to his right thigh, specifically his mid anterior thigh and distal medial thigh. Medical personnel noted small bullet fragments in the medial soft tissues of the right thigh.¹²

⁶ Attachments 60-61

⁷ Attachments 29-30

⁸ Attachment 37

⁹ Attachment 43

¹⁰ Attachments 23, 45-46

¹¹ Attachment 33

¹² Attachment 38

d. Documentary Evidence

The Bureau of Internal Affairs (BIA) **Synoptic Report** documents that on October 30, 2018 at 1:54 p.m., the Crime Prevention and Information Center (CPIC) notified BIA of an accidental firearms discharge at ██████ W. Argyle involving Captain ██████ BIA Sergeants ██████ # ██████ and ██████ # ██████ went to Illinois Masonic Hospital, where they administered alcohol testing. The breath test returned with a breath alcohol concentration (BrAC) of .000. Deputy Chief ██████ waived the urine specimen collection for drug testing, because Captain ██████ had taken various medication and could not stand up.¹³

COPA's **preliminary investigation report** documents that Deputy Chief ██████ responded to the scene and learned that Captain ██████ had ended his shift and was on his way home, driving his take-home, unmarked, Ford SUV.¹⁴ Captain ██████ stopped for gas at the fueling site located at Belmont and Western Avenues, and then drove toward ██████ restaurant, located at ██████ W. Foster Avenue. Deputy Chief ██████ stated that according to Captain ██████ he has children and often unloads his duty weapon while at home; therefore, Captain ██████ wanted to ensure that his weapon was loaded before he arrived at the restaurant. Captain ██████ informed Deputy Chief ██████ that as he was facing northbound on Kedzie Avenue, he drew his weapon from his holster and the gun inadvertently discharged once, striking himself in the right leg.¹⁵ Captain ██████ told Deputy Chief ██████ he was unsure if his vehicle was stopped or moving when the discharge occurred. Captain ██████ notified CPIC via his Department-issued radio of the weapon discharge and related that he was driving to Swedish Covenant Hospital. Deputy Chief ██████ added that Captain ██████ vehicle was not equipped with an in-car camera and Captain ██████ was not wearing a body-worn camera. Captain ██████ pistol was found on the passenger seat of his vehicle.

Inventory Records document that Captain ██████ weapon, a semi-automatic Glock 22, .40 caliber, three-inch, black handgun was recovered from the front passenger seat of his vehicle; a Glock magazine containing an unknown number of bullets was recovered from the handgun; and a fired cartridge casing head stamped "Winchester 40 S&W" was recovered from the chamber of the handgun.¹⁶

A **Tactical Response Report** documents that Captain ██████ unintentionally discharged his firearm, resulting in a self-inflicted injury.¹⁷

The **Case Supplementary Report** documents that Captain ██████ told detectives the same account of the incident that he provided in his interview with COPA.¹⁸

Officer ██████ # ██████ told detectives that he heard a police radio call that Beat ██████ (Captain ██████ was headed to Swedish Covenant Hospital. Officer ██████ and Lieutenant

¹³ Attachment 5

¹⁴ Attachment 8

¹⁵ Captain ██████ related that he did not know why or how the weapon discharged.

¹⁶ Attachment 32

¹⁷ Attachment 22

¹⁸ Attachments 54-55

██████████ # ██████ drove to Swedish Covenant and observed Captain ██████ inside his squad car, which was parked in the hospital's driveway. Officer ██████ signaled for hospital staff to bring Captain ██████ a wheelchair. Once in a treatment room, Officer ██████ applied a tourniquet to Captain ██████ leg. Lieutenant ██████ provided detectives an account consistent with Officer ██████ account of the incident.

The Case Supplementary Report documents that shortly after Captain ██████ arrived at Swedish Covenant Hospital, he was transported by a Chicago Fire Department Ambulance to Illinois Masonic Hospital. The report further documents that detectives conducted a canvass in the area where the discharge occurred. The canvass did not reveal a true crime scene as Captain ██████ was injured inside his police vehicle. The canvass did not reveal any witnesses to the incident; and the detectives did not secure any video footage from the area of the incident.

e. Additional Evidence

A **canvass** of the vicinity of the incident produced no additional information.¹⁹

There was no **GPS data** found for Captain ██████ vehicle.²⁰

VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. See *e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a

¹⁹ Attachment 14

²⁰ Attachments 15-18

“degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.” *Id.* at ¶ 28.

VII. ANALYSIS

COPA recommends a finding of **Sustained** for **Allegations #1-2** against **Captain [REDACTED]** that he unintentionally discharged his firearm and that he failed to follow the provisions of General Order U04-02 by carrying a firearm that was loaded with more than one manufacturer of ammunition. This investigation revealed that Captain [REDACTED] was inattentive to duty when he unintentionally discharged his firearm. Captain [REDACTED] provided conflicting information regarding why he inspected his weapon. Captain [REDACTED] told COPA and detectives that he examined his gun because he heard a rattling noise. Conversely, Captain [REDACTED] reportedly told Deputy Chief [REDACTED] that he often unloads his duty weapon while at home because he has children; therefore, Captain [REDACTED] wanted to ensure that his weapon was loaded before he arrived at the restaurant. Neither of those explanations provide an imminent reason for Captain [REDACTED] to examine his firearm while he was in traffic. Captain [REDACTED] inability to recall how the discharge occurred, whether his finger was on the trigger, or whether he was parked or pulled over when he unholstered his weapon speaks to his level of inattentiveness. Additionally, Captain [REDACTED] admitted that he was tired at the time of the incident, as he had worked a significant amount of secondary employment in the previous two weeks.

Regarding Allegation #2, Chicago Police Department General Order U04-02, section II(N) dictates that “firearms will be fully loaded with only one manufacturer and style of prescribed ammunition (same bullet type and grain weight).”²¹ Examination of Captain [REDACTED] firearm by CPD’s forensic firearms lab revealed that Captain [REDACTED] magazine contained (13) live cartridges with headstamp markings “WIN 40 S&W” and (1) live cartridge with headstamp markings “Federal S&W,” in violation of the Department’s order regarding mixed ammunition. Captain [REDACTED] was unable to provide any explanation for why his gun had mixed ammunition and reported to be completely unaware of it.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Captain [REDACTED]

i. Complimentary and Disciplinary History

Captain [REDACTED] has been a CPD member since May 2, 1994. In that time, he has received 267 Honorable Mentions, 24 Department Commendations, 15 Complimentary Letters, 2 Life Saving Awards, 1 Special Commendation, 1 Honorable Mention Ribbon Award, and 1 Superintendents Award of Valor. In the last seven years, he has not received any discipline.

ii. Recommended Penalty, by Allegation

²¹ Attachment 56

1. Allegation No. 1

COPA recommends a suspension of 3 days and retraining on firearm safety. Based on Captain [REDACTED] lengthy service time with CPD and his high supervisory rank, he should have known that checking his gun in the manner he did was unsafe. His reckless actions resulted in him shooting himself in the leg, which highlights the need for safe handling of firearms.

2. Allegation No. 2

COPA recommends a Reprimand and retraining on U04-02. Captain [REDACTED] appeared to be unaware of the requirement that firearms be loaded with ammunition of one manufacturer and could not provide any explanation for why his firearm had mixed ammunition.

IX. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding / Recommendation
Captain [REDACTED]	1. It is alleged that Captain [REDACTED] unintentionally discharged his firearm, in violation of Rules 10 and 38. 2. It is alleged that Captain [REDACTED] failed to follow the provisions of U04-02: Department Approved Weapons and Ammunition by carrying a firearm that was loaded with more than one manufacturer of ammunition, in violation of Rule 6.	Sustained / 3 Days Sustained / Reprimand

Approved:

[REDACTED SIGNATURE]

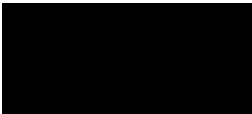
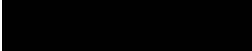
October 27, 2019

 Andrea Kersten
 Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	1
Major Case Specialist:	
Supervising Investigator:	
Deputy Chief Administrator:	Andrea Kersten