

SUMMARY REPORT OF INVESTIGATION<sup>1</sup>

## I. EXECUTIVE SUMMARY

Date of Incident:	September 18, 2014
Time of Incident:	9:20 PM
Location of Incident:	[REDACTED]
Date of COPA Notification:	September 18, 2014
Time of COPA Notification:	10:16 PM

On September 18, 2014, shortly before 9:20 PM, Officer [REDACTED] and Officer [REDACTED] responded to a flash message<sup>2</sup> which provided information on two suspects, riding bicycles, wanted in connection to a recent shooting.<sup>3</sup> The officers gave chase after they saw the suspects pass their vehicle. The suspects, two black males, turned onto [REDACTED], dismounted their bicycles, and continued to evade police on foot. Officer [REDACTED], who was in the passenger seat of the police vehicle, stated in his interview with IPRA that he saw one of the suspects in front of the vehicle with a gun. He attempted to leave the police vehicle to chase the suspect on foot, however, Officer [REDACTED] had difficulty opening the passenger side door. He originally had his duty firearm in his right hand but had to place it in his left hand so that his right hand would be free to open the door. Officer [REDACTED] stated that he ducked so the suspect would not kill him; and that when he grabbed the door with his right hand his gun went off in his left hand. The bullet hit him in his right foot.

Officer [REDACTED] stated in his interview with IPRA that when the suspects dismounted their bicycles and began to run he stopped, exited his vehicle, and chased one of the suspects on foot. After less than a block, Officer [REDACTED] heard what he thought to be a gunshot. He turned around and went back to the police vehicle where he learned that Officer [REDACTED] accidentally discharged his firearm and injured his right foot.

<sup>1</sup> 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. Therefore, 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.

<sup>2</sup> A flash message (Quick Flash) is a brief message transmitted via radio providing descriptions or other pertinent information on wanted persons, motor vehicles, or property taken in a specific crime. (G03-01-01)

<sup>3</sup> RD # [REDACTED] is the case number related to the shooting of Mr. [REDACTED] on September 18, 2014 at approximately 8:55 PM.

**II. INVOLVED PARTIES**

Accused Officer #1:	[REDACTED], star # [REDACTED], employee ID# [REDACTED] Date of Appointment [REDACTED], 1995, Police Officer, Unit of Assignment [REDACTED], DOB [REDACTED], 1969, Male, White.
Witness Officer #2:	[REDACTED], star # [REDACTED], employee ID # [REDACTED], Date of Appointment [REDACTED], 1998, Police Officer, Unit of Assignment [REDACTED], DOB [REDACTED], 1974, Male, White.

**III. ALLEGATIONS**

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	1. It is alleged that on 18 September 2014, in the vicinity of [REDACTED], Officer [REDACTED] was inattentive to duty, in that he was careless in the handling of his firearm, which resulted in the discharge of his firearm in violation of Rule 10.	SUSTAINED / Violation Noted

**IV. APPLICABLE RULES AND LAWS**

Rules	1. Rule 10 prohibits: Inattention to duty.
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## V. INVESTIGATION<sup>4</sup>

### a. Interviews

Officer ██████████<sup>5</sup>

On November 28, 2016 at 10:25 AM, Officer ██████████ gave a recorded statement to IPRA investigators regarding the incident that occurred on September 18, 2014 at 9:20 PM in the vicinity of ██████████. Officer ██████████ and Officer ██████████ responded to a call of a person shot. The officers received a message that provided a description of the suspects and indicated that they were both on bicycles. The suspects passed the officers' vehicle and the officers gave chase. The suspects abandoned their bicycles and continued to evade police on foot. The officers stopped their police vehicle. Officer ██████████, the passenger in the police vehicle, noticed that one of the suspects was standing in front of the vehicle holding a gun. Officer ██████████ ducked down to avoid being killed.

Officer ██████████ unholstered his firearm with his right hand and attempted to open the vehicle door with the same hand.<sup>6</sup> The door would not open. The officer then transferred his firearm to his left hand and attempted to open the vehicle door again with his right hand, and the firearm discharged one bullet into Officer ██████████'s right foot. Officer ██████████ reasoned that the firearm discharge was the result of a sympathetic response, which occurs in high tension situations. He stated that under this condition, when he squeezed his right hand he also squeezed his left hand.

Officer ██████████ exited the police vehicle after his firearm discharged and chased the suspect on foot for a short distance, but the 22-year-old suspect was too fast. Officer ██████████ went back to his vehicle and someone arranged for an ambulance. The suspect escaped. The bullet was never recovered; however, the expended shell was. Officer ██████████ denied the allegation that he was inattentive to duty in that he was careless in the handling of his firearm which resulted in the firearm discharge. Officer ██████████ also denied that he purposefully discharged his weapon during this incident.

Officer ██████████<sup>7</sup>

On December 12, 2016 at 2:18 PM Officer ██████████ gave a recorded statement to IPRA investigators regarding the incident that occurred on September 18, 2014 at 9:20 PM in the vicinity of ██████████. Officer ██████████, the driver, was with his partner Officer ██████████ in a police vehicle when they received a flash message that described two people wanted for a shooting.

Officer ██████████ saw two individuals that fit the description of the wanted suspects riding bicycles, but he did not remember what street he was on. Officer ██████████ sped up in an attempt

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<sup>4</sup> IPRA/COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>5</sup> Attachments 43 and 46

<sup>6</sup> Attachment 46 pages 5:29-6:14

<sup>7</sup> Attachments 57 and 58

to apprehend the suspects and the suspects turned down [REDACTED]. The officers continued their pursuit. The two suspects abandoned their bicycles and continued on foot. Officer [REDACTED] stopped the police vehicle, got out, and ran after one of the two suspects. Officer [REDACTED] traveled less than a block and heard a loud bang which he believed to be a gunshot. He turned to see what had happened and saw Officer [REDACTED] outside the police vehicle. Officer [REDACTED] walked back toward the police vehicle and learned that Officer [REDACTED] had discharged his firearm and was injured. The suspect he was chasing escaped.

### b. Digital Evidence

#### OEMC Transmission<sup>8</sup>

Multiple individuals called 911 to report gunfire and/or the need for an ambulance at [REDACTED] and [REDACTED]. It was further reported that a man was shot and that the gunmen fled on bicycles.

Over OEMC dispatch, Unit [REDACTED] also reported hearing possible gunshot reports that they would investigate. Unit [REDACTED] then reported that security had confirmed that shots had been fired with a “man down” and that the offenders fled on bicycles and were travelling through the row houses. A unit reported the need for an ambulance at [REDACTED] and [REDACTED] because an officer shot himself in the foot.

#### Photos<sup>9</sup>

Photo of the recovered shell casing

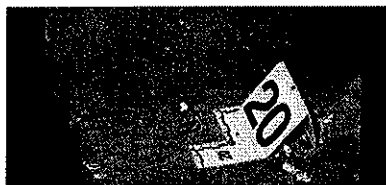


Photo of inside of police vehicle



### c. Documentary Evidence

#### Initiation Report<sup>10</sup>

Sergeant [REDACTED] documented the incident in her September 18, 2014 Initiation Report to Commander [REDACTED]. Accordingly, Officer [REDACTED] observed two offenders wanted for an Aggravated Battery with a Firearm; his firearm accidentally discharged when he

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<sup>8</sup> Attachments 69-88

<sup>9</sup> Attachment 33

<sup>10</sup> Attachment 4

attempted to exit the vehicle. The officer suffered lacerations to his second, third and fourth toes and a fracture to the fourth toe.<sup>11</sup>

### **IAD Synoptic Report<sup>12</sup>**

Stated that the "Triage" blood draw reflected that there was no alcohol in Officer [REDACTED]'s system.

### **Chicago Police Department Event Query<sup>13</sup>**

Report of shots fired at [REDACTED] Ave at [REDACTED] on September 18, 2014, at 8:53 PM. It was initially reported that loud noise was possibly fireworks. Then it was confirmed as a bonafide shooting. The report stated that there was one person down and two black males on bikes, one in a maroon hoodie and one in a green hoodie. Semi-automatic pistols were involved in the incident and seven to eight shots were fired. It also reported that there was an officer shot in the foot.

### **Original Case Incident Report ([REDACTED])<sup>14</sup>**

This report is related to the two individuals sought for the fatal shooting of [REDACTED]. It reported that two offenders both pulled semi-automatic firearms, fired upon Mr. [REDACTED], and fled on BMX type bicycles.

### **Detective Supplementary Report ([REDACTED])<sup>15</sup>**

Stated that officers responded to the location for assistance. PO [REDACTED] applied a tourniquet to PO [REDACTED]'s right leg. Officers recovered a black semi-automatic pistol from under a parked 2000 Ford Expedition, IL plate # [REDACTED].

### **Crime Scene Processing Report<sup>16</sup>**

Forensic Investigators were called to the scene of an accidental discharge of a firearm by Officer [REDACTED] at [REDACTED]. They inventoried one expended shell and took photos of the police vehicle. The attempt to recover dash cam video led to a negative result. Investigators had no contact with the firearm that was discharged or with the injured officer.

### **Tactical Response Report<sup>17</sup>**

Officer [REDACTED] documented the accidental discharge of his firearm. The narrative is consistent with the Initiation Report and the statements given by Officer [REDACTED] and Officer [REDACTED].

### **Chicago Police Department Firearms Lesson Plan: Fundamentals/Holster Draw, Cover Down, and Re-Holster.<sup>18</sup>**

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<sup>11</sup> Medical records document that the fracture was to his third toe.

<sup>12</sup> Attachment 41

<sup>13</sup> Attachment 14

<sup>14</sup> Attachment 11

<sup>15</sup> Attachment 10

<sup>16</sup> Attachment 29

<sup>17</sup> Attachment 5

<sup>18</sup> Attachment 68

Instructed that an officer should place his finger on the trigger of a firearm only when the conscious decision to shoot has been made.

#### Medical Records for Officer [REDACTED]<sup>19</sup>

Assessment: Accidental self-inflicted gunshot wound to the right foot; injured second, third and fourth toes. X-ray showed an open fracture to the third toe. Blood was collected from Officer [REDACTED] at 09:43 PM with a negative result for Alcohol.

### 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 "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.

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<sup>19</sup> Attachment 40

## VII. ANALYSIS

COPA finds that **Allegation 1** for Officer ██████████ is **Sustained**. The allegation is supported by a preponderance of the evidence. There is no dispute as to whether Officer ██████████ shot himself in the foot. The issue is whether he was inattentive to duty when he failed to follow prescribed safety measures as he handled his firearm. Officer ██████████ stated that the unintentional discharge of his firearm was a sympathetic response brought on by a high-tension situation. Assuming this was true, it is still highly unlikely Officer ██████████ would have unintentionally discharged his firearm had he handled the firearm in a safe manner.

Training materials provided by the Chicago Police Department clearly stated that an officer's finger is placed on the trigger of a firearm only when a conscious decision to shoot has been made. Had his finger been off the trigger, no matter whether the firearm was in his strong hand<sup>20</sup> or in his other hand, he would not have pulled the trigger as he attempted to open the vehicle door. Officer ██████████ was inattentive to duty when he did not follow the prescribed safety measure.

## VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. Officer ██████████

#### i. Complimentary and Disciplinary History

##### Complimentary History

Democratic National Convention Award, 1  
Problem Solving Award, 1  
Attendance Recognition Award, 1  
Presidential Election Deployment Award 2008, 1  
2004 Crime Reduction Ribbon, 1  
Honorable Mention, 63  
Department Commendation, 3  
Complimentary Letter, 11  
NATO Summit Service Award, 1  
Life Saving Award, 1  
2009 Crime Reduction Award, 1

##### Disciplinary History

Indebtedness to the City, No Disciplinary Action Taken, 2019

#### ii. Recommended Penalty, by Allegation

##### 1. Allegation No.1

Officer ██████████ was inattentive to duty, in that he was careless in the handling of his firearm, which resulted in the discharge of his firearm. COPA finds a Violation Noted appropriate.

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<sup>20</sup> Refers to the hand usually used to discharge a firearm.

IX. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	1. It is alleged that on 18 September 2014, in the vicinity of [REDACTED], Officer [REDACTED] was inattentive to duty, in that he was careless in the handling of his firearm, which resulted in the discharge of his firearm in violation of Rule 10.	SUSTAINED / Violation Noted.

Approved:   


Angela Hearts-Glass  
 Deputy Chief Administrator – Chief Investigator

Date 8-19-19

Appendix A

Assigned Investigative Staff

Squad#:	[REDACTED]
Investigator:	[REDACTED]
Supervising Investigator:	[REDACTED]
Deputy Chief Administrator:	[REDACTED]