

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	April 20, 2019.
Time of Incident:	At about 8:22 pm.
Location of Incident:	6938 S. Paulina St.
Date of COPA Notification:	April 22, 2019
Time of COPA Notification:	7:43 am

On April 20, 2019, Officer Eljin Loeza was involved in an accidental discharge of a recovered weapon that he was trying to make safe. The entire incident was captured on the Body Worn Camera (BWC)<sup>1</sup> of Officer Loeza. The video showed Officer Loeza finding a white plastic bag and a McDonald’s paper bag underneath a staircase. Officer Loeza discovered a weapon inside the McDonald’s bag. Officer Loeza placed a rubber glove on his right hand and proceeded to pull the weapon out of the bag. At this same time, Officer Loeza is heard stating, “fuck” and is observed pointing the weapon to the ground and the weapon discharges once.

**II. INVOLVED PARTIES**

Involved Officer #1:	Eljin Loeza, Star #3660, Employee # [REDACTED] Date of Appointment: June 3, 2013, Police Officer. Unit of Assignment: 007, Date of Birth: [REDACTED], 1980, Male, White Hispanic.
Involved Individual #1:	Sgt. Juan Candelaria #1194

**III. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Officer Eljin Loeza	1. It is alleged that on or about April 20, 2019, Officer Eljin Loeza discharged a firearm without lawful justification, in violation of Rules 6 and 10.	Unfounded

<sup>1</sup> Attachment #7, Body Worn Camera (BWC) of Officer Eljin Loeza.

#### IV. APPLICABLE RULES AND LAWS

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##### Rules

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1. Rule 10: Inattention to duty.

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##### General Orders

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1. General Order 03-02-03, Section III, B

#### V. INVESTIGATION

##### a. Interviews

In an **interview with COPA<sup>2</sup>** on April 20, 2019, **Officer Eljin Loeza** related that he and Officer Jose Munoz were on patrol near the vicinity of 6900 S. Paulina Street. Officer Loeza described the area as having an ongoing conflict among rival gangs. Officer Loeza observed several individuals loitering and pulled over to investigate. After exiting their squad car, Officer Loeza related that the individuals began to disperse the area. Officer Loeza began to search the area for contraband and observed a bag underneath the stairs at 6938 S. Paulina Street. Officer Loeza approached the bag and noticed that it was covering another bag and observed the butt of a weapon protruding from the bag. Officer Loeza then radioed dispatch and reported that he had recovered a weapon. Officer Loeza put on a safety rubber glove before taking hold of the gun. Officer Loeza inspected the gun and was looking for the magazine release in order to clear the gun and make it safe. Officer Loeza felt the gun slipping out of his hand and while attempting to regain control of the gun, he accidentally pressed the trigger. Officer Loeza related that he was able to point the gun toward the ground and no one was injured. However, Officer Loeza related that he felt “shock”<sup>3</sup> because he felt the concussion and fragments of either the cement or the bullet striking his face. Officer Loeza related that he has handled and recovered many types of weapons, but was not familiar with this particular gun. Officer Loeza related that the gun had a lighter trigger pull of about three pounds of pressure which is lighter than his own service weapon. Officer Loeza related that his actions were not unlawful or intentional and was only trying to make the gun safe. As a result of this experience, Officer Loeza related that he will no longer handle a gun that he is not familiar with, and will instead request assistance from an officer with more experience.

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<sup>2</sup> Attachments #14-15, Audio interview of Officer Eljin Loeza.

<sup>3</sup> Attachment #27, Transcription interview of Officer Eljin Loeza.

### **b. Digital Evidence**

**Body Worn Camera (BWC)**<sup>4</sup> video of **Officer Eljin Loeza** showed him exiting the squad car and using his flashlight to search the area. Officer Loeza is observed approaching a single-family brick home and pointing the flashlight at a white plastic bag and a McDonald's paper bag that was underneath the stairs. Officer Loeza looked inside the McDonald's bag and then radioed to police dispatch that he had recovered a weapon at 6938 S. Paulina St. Officer Loeza placed a rubber glove on his right hand and proceeded to pull the weapon out of the McDonald's bag. Officer Loeza is heard stating "fuck" before placing his finger on the trigger. Officer Loeza then pointed the weapon toward the ground and the weapon discharged once.

**CPD Evidence Technician photographs**<sup>5</sup> were taken of the location of incident, 6938 S. Paulina Street where Officer Eljin Loeza recovered the weapon. The photographs taken showed the outside of a single-family brick home and white a plastic bag that was covering a McDonald's paper bag which contained the recovered weapon inside.

### **c. Documentary Evidence**

The **Synoptic Reports**<sup>6</sup> of **Sergeant James Fiedler**, indicated that he was notified that Officer Eljin Loeza was involved in an accidental discharge. Sgt. Fiedler conducted an observation on Officer Loeza, and presented him with the Notice of Alcohol and Drug Testing forms. Officer Loeza was given a Breathalyzer test and the results were .000. A urine specimen taken from Officer Loeza revealed that the laboratory results were negative.

The **Original Case Incident Report**<sup>7</sup> for **JC232056**, authored by Officer Jose Munoz indicated that on April 20, 2019, he and Officer Eljin Loeza were assigned to beat 761E and were wearing civilian attire. While on patrol, the officers observed a large group of individuals loitering in the area of 70<sup>th</sup> and Paulina Street. The area is a known gang hotspot that has gang conflicts between the "Woods and Beyond new breeds" against the "Glizzy gang." The officers pulled over and exited their vehicle and attempted to speak with some individuals who began to disperse the area. While searching the area, Officer Loeza observed a white plastic bag on top of a McDonalds paper bag that was located underneath the front stairs at 6938 S. Paulina Street. Officer Loeza looked inside the McDonalds bag and observed a firearm (Smith & Wesson, model 422, 6" barrel, black in color, 22 caliber, semi-automatic handgun). Officer Loeza placed protective gloves on his hand in order to retrieve the weapon from underneath the front stairs. Officer Loeza looked inside the McDonald's bag and attempted to make the weapon safe. Officer Loeza felt the weapon slipping from his grip and while attempting to secure the weapon, the weapon unintentionally discharged into the direction of the ground. There were no individuals within close proximity of the discharge, Officer Munoz did observe a muzzle flash. Officer Munoz approached Officer Loeza and observed no injury and no property damage. Officer Howard cleared the weapon by

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<sup>4</sup> Attachment #24, Body Worn Camera (BWC) video of Officer Eljin Loeza.

<sup>5</sup> Attachments #18, Evidence Technician photographs taken of 6938 S. Paulina Street.

<sup>6</sup> Attachment #1, Synoptic Report from Sergeant James Fiedler.

<sup>7</sup> Attachment #4, Original Case Incident Report, JC232056.

cycling all rounds out of the magazine because the magazine was not initially coming out well. Sgt. Candelaria responded to the scene and made the appropriate notifications that included CPIC. The weapon including nine live rounds, magazine, one spent casing was recovered and inventoried under #14428125. Evidence Technician was notified and photographs of the scene were taken.

**Chicago Police Department Forensic Firearms Report<sup>8</sup>** indicated that a Smith and Wesson, Model 422 that was recovered and inventoried under #14428125 was put through a battery of tests. The firearm was put through a Trigger Pull Test, Action Function Test, Magazine Safety Test, Recoil Spring Test, two Magazine Spring Tests, Thumb Safety Test, two Shock Tests, Drop Test and a Firing Test. The firearm was found to have no issues and was working properly as designed.

**Property Inventory<sup>9</sup>** authored by Officer Eljin Loeza, indicated that a black colored Smith & Wesson model 422 with a 6-inch barrel, an unloaded magazine, nine 22 caliber round and one expended spent shell casing was inventoried.

**Property Inventory #14428207<sup>10</sup>** authored by Officer Eljin Loeza, indicated that a McDonald's paper bag where the weapon was discovered was inventoried.

**Property Inventory #14428222<sup>11</sup>** authored by ET Kevin Gardner, indicated that a white plastic bag garbage bag recovered from underneath the staircase where the weapon was discovered.

**OEMC Event Query Report #1911014618<sup>12</sup>** indicated that on April 20, 2019, at about 8:21 pm, Beat 761E, Officers Eljin Loeza and Jose Munoz reported an accidental discharge while at the vicinity of 6938 S. Paulina Street.

## 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;

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<sup>8</sup> Attachment #17, CPD Forensic Firearms Report under inventory #14428125.

<sup>9</sup> Attachments #10, Property Inventory #14428125.

<sup>10</sup> Attachments #11, Property Inventory #14428207.

<sup>11</sup> Attachments #12, Property Inventory #14428222.

<sup>12</sup> Attachment #3, OEMC Event Query #1911014618.

- 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.

**VI. ANALYSIS**

This incident was captured entirely on the Body Worn Camera (BWC) of Officer Loeza. On April 20, 2019, while conducting a search for contraband, Officer Loeza observed a white plastic bag along with a McDonald’s paper bag underneath the staircase at 6938 S. Paulina Street. As policy indicates, Officer Loeza immediately radioed dispatch that he had recovered a gun and then placed a rubber glove on. While inspecting the gun and attempting to make safe and clear the weapon, Officer Loeza lost his grip of the gun and caused it to discharged. This incident occurred at night and under a staircase. Officer Loeza followed all protocol and was attempting to make a recovered gun safe. The BWC clearly shows that Officer Loeza’s actions were proper and within policy leading to the accidental discharge. Therefore, **Allegation #1, against Officer Loeza, must be Unfounded**

**VII. CONCLUSION**

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

Officer	Allegation	Finding / Recommendation
Officer Eljin Loeza	1. It is alleged that on or about April 20, 2019, Officer Eljin Loeza discharged a firearm without lawful justification.	Unfounded

Approved:



9-18-2020

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Angela Hearts-Glass  
*Deputy Chief Administrator*

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Date

Appendix A  
Assigned Investigative Staff

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<b>Squad#:</b>	12
<b>Investigator</b>	██████████
<b>Supervising Investigator</b>	██████████
<b>Deputy Chief</b>	<b>Angela Hearts-Glass</b>