

## SUMMARY REPORT OF INVESTIGATION

### I. EXECUTIVE SUMMARY

Date of Incident:	December 21, 2019
Time of Incident:	4:12 pm
Location of Incident:	1633 W. Thome Ave., Apt. 404, Chicago IL 60660
Date of COPA Notification:	December 21, 2019
Time of COPA Notification:	5:20 pm

On December 21, 2019, off-duty Officer Jeffrey Riordan was inside his apartment, practicing defensive drills with his Department-approved rifle. He removed the magazine and chamber-blocking device from the rifle, then aimed the weapon down a long hallway in his apartment. When Officer Riordan pulled the trigger, the rifle discharged one time. The round entered his bathroom wall, exited the bathroom wall of his neighbor's apartment, struck a bookshelf in his neighbor's hallway, and fragmented onto the floor. No one was injured in the incident. Officer Riordan immediately attempted to contact his neighbor, then called 911 and reported the incident as a "negligent discharge."<sup>1</sup>

### II. INVOLVED PARTIES

Involved Officer #1:	RIORDAN, Jeffrey, Star #7712, Employee ID # [REDACTED], Date of Appointment: February 18, 2014, Chicago Police Officer, Unit 024/124, DOB: [REDACTED], 1988, Male, White
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### III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Jeffrey Riordan #7712	1. It is alleged that on or about December 21, 2019, at approximately 4:12 pm, at or near [REDACTED], [REDACTED], Officer Riordan was inattentive to duty in that his weapon discharged unintentionally, in violation of Rule 10.	Sustained / 20-day suspension

### IV. APPLICABLE RULES AND LAWS

Rules
<ol style="list-style-type: none"> <li>1. Rule 10: Inattention to duty.</li> <li>2. Rule 13: Failure adequately to secure and care for Department property.</li> </ol>

<sup>1</sup> Att. 28, at 13 seconds and 32 seconds.

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**Uniform and Property Orders**

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1. U04-02, “Department Approved Weapons and Ammunition” (effective June 2, 2017 – February 28, 2020)
2. U04-02-05, “Police Carbine Operator Program” (effective March 8, 2019 – December 31, 2020)

**V. INVESTIGATION<sup>2</sup>****a. Interviews**

In an **interview with COPA on February 10, 2020, Officer Jeffrey Riordan #7712<sup>3</sup>** stated on the date and time of the incident, he was off duty and at home alone. He decided to practice defensive drills with his Department-approved rifle, as he is qualified as a police carbine operator<sup>4</sup> and wanted to improve his skills with the weapon. Officer Riordan planned to dry fire the weapon using a computer application that tracks movement before and after a trigger pull and provides feedback to improve shooting performance.

Officer Riordan removed the magazine and chamber-blocking device from his rifle and left both items in his bedroom. The magazine had a 30-round capacity, and Officer Riordan believed it was fully loaded with 28 live rounds, per Department specifications. Officer Riordan then positioned himself at the east end of the hallway in his apartment and aimed his rifle toward the bathroom at the west end of the hallway. He pulled the trigger one time and heard a click, as he expected. He then reset the trigger and pulled it a second time. The rifle discharged once, causing the round to enter his west bathroom wall and exit into the adjacent apartment.

Officer Riordan immediately placed his rifle on the hallway floor, left his apartment, and ran to his neighbor’s front door. He banged on the door but no one answered. Officer Riordan tried to call his landlord to obtain his neighbor’s phone number, but his landlord did not answer the phone. At that point, less than a minute after the discharge, Officer Riordan called 911. He identified himself as a police officer and stated he had just unintentionally discharged a rifle round. He then notified his immediate supervisor and the desk sergeant at the 24<sup>th</sup> District. When a responding sergeant arrived at the scene, Officer Riordan relayed his concern for the well-being of his neighbor(s). Responding officers continued to pound on the neighbor’s door, and tenant [REDACTED] eventually answered. She indicated she was unaware of the situation and did not want to respond to the banging on her front door. Officer Riordan briefly entered [REDACTED]’s apartment and observed that the rifle round exited her bathroom wall and struck a bookshelf in the hallway. No one was injured in the incident.

Officer Riordan acknowledged that a live round must have lodged in the chamber of the rifle before he removed the magazine. He stated, “It is 100 percent fair to say that the weapon

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<sup>2</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>3</sup> Atts. 33, 35.

<sup>4</sup> A police carbine operator is a member trained by the Department to be armed with a carbine while assigned to routine field duties.

behaved in a way that I was not expecting, did not think it was possible, but at the end of the day, it is my responsibility to look in the weapon, to take the extra two seconds to ensure there is nothing stuck in there.”<sup>5</sup> Officer Riordan admitted the allegation against him and acknowledged the discharge resulted from his own inattention to duty.

### b. Digital Evidence

COPA obtained and reviewed the **Body Worn Camera (BWC) video of Sgt. Christopher Stachula #1668**<sup>6</sup> relative to this incident. At approximately 4:18:10 pm, the video captures Sgt. Stachula arriving at the scene, where he meets Officer Riordan outside his apartment building. Officer Riordan leads Sgt. Stachula into his apartment and shows him the rifle on the hallway floor and the bullet strike to the bathroom wall. He reports that he banged on his neighbor’s door, but no one answered. Sgt. Stachula walks out of Officer Riordan’s apartment and knocks on the door to adjacent apartment, but there is no response. Additional responding officers arrive in the hallway and Sgt. Stachula explains that Officer Riordan’s rifle discharged into the wall and they need to make sure his neighbor is unharmed.<sup>7</sup> Sgt. Stachula instructs the officers to deactivate their BWCs, then deactivates his own camera at 4:20:58 pm.

The **Office of Emergency Management and Communications (OEMC) Event Queries,<sup>8</sup> 911 Calls,<sup>9</sup> and Radio Transmissions<sup>10</sup>** document the following relevant and material communications. At 4:10:41 pm, Officer Riordan calls 911 and identifies himself as an off duty officer. He reports, “I had a negligent discharge. A rifle round discharged in my building.”<sup>11</sup> Officer Riordan sounds out of breath and has to assure the call taker he is not chasing someone. At 4:13:15 pm, the dispatcher relates Officer Riordan’s information over Zone 11.

### c. Physical Evidence

The **Crime Scene Processing Report<sup>12</sup> and Inventory Sheets<sup>13</sup>** document the recovery of the firearms evidence from Officer Riordan’s apartment. Evidence technicians (ETs) recovered a DSA, Inc., Model ZM4, 5.56mm caliber rifle and one “Winchester 223 Rem” shell casing from the hallway floor, and a 5.56mm caliber magazine from the top of Officer Riordan’s bed. ETs determined the rifle was unloaded and did not contain a magazine. The magazine, which had a 30-round capacity, was found to contain 27 “Winchester 223 Rem” cartridges. ETs also observed one bullet hole in the bathroom wall of Officer Riordan’s apartment, and a second bullet hole in the bathroom wall of the adjacent apartment. A bullet fragment was recovered from the hallway floor of the adjacent apartment.

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<sup>5</sup> Att. 35, pg. 14, line 21 – pg. 15, line 3.

<sup>6</sup> Att. 14.

<sup>7</sup> The BWC videos of Officers Riccardo Esparza #9330 and Aldo Calderon #4849 also capture this exchange. *See* Atts. 15-16.

<sup>8</sup> Att. 7.

<sup>9</sup> Att. 28.

<sup>10</sup> Att. 29.

<sup>11</sup> Att. 28, at 32 seconds.

<sup>12</sup> Att. 10.

<sup>13</sup> Att. 11.

The **ET Photos**<sup>14</sup> document the firearm discharge scene, including the layout of both apartments and the location of the recovered firearms evidence. The photos show the path of Officer Riordan's rifle round, which traveled down his hallway, through his west bathroom wall, through the east bathroom wall of the adjacent apartment, down the hallway of that apartment, and into the bookshelf at the end of that hallway.

A **Breathalyzer Test**<sup>15</sup> taken by Officer Riordan at 7:18 pm on December 21, 2019, revealed his breath alcohol concentration (B.A.C.) was .000. Officer Riordan also submitted to a urine drug test on the same date, which produced negative results.

#### d. Documentary Evidence

The **Initiation Report**,<sup>16</sup> **Tactical Response Report (TRR)**,<sup>17</sup> and **Detectives' Supplementary Report**<sup>18</sup> include summaries of the statements Officer Riordan and ██████████ provided to Sgt. Stachula and detectives. Officer Riordan related essentially the same account of the incident that he provided to COPA, with one material difference. Officer Riordan told detectives he lined up his sights at a toothbrush in his bathroom, pulled the trigger on his rifle, and the weapon discharged. He apparently did not indicate the rifle discharged the second time he pulled the trigger, which is what he reported to COPA.<sup>19</sup>

██████████ told detectives she was sleeping at the time of the incident, and she woke up when she heard a noise that she thought was from construction. She then heard the police knocking on her door, and she observed her neighbor, Officer Riordan, when she answered the door. He explained what happened and told her he wanted to make sure no one was injured. She responded she was fine and no one else was inside the apartment.

The **Firearms Qualification Records**<sup>20</sup> for Officer Riordan reveal he successfully completed the Carbine Operator Course on August 11, 2017. Thereafter, he qualified with his rifle twice a year, including on December 16, 2019, five days prior to the incident.

## VI. LEGAL STANDARD

### a. Accidental Discharge

An allegation of an unintentional firearm discharge is evaluated under Chicago Police Department Rules 10 and 13. Rule 10 prohibits inattention to duty, while Rule 13 prohibits the failure to adequately secure or care for Department property. Both rules are evaluated under the legal standard of negligence, which is "the failure to do something which a reasonably careful

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<sup>14</sup> Att. 34.

<sup>15</sup> Att. 25.

<sup>16</sup> Att. 3.

<sup>17</sup> Att. 6. Sgt. Stachula completed the TRR on behalf of Officer Riordan.

<sup>18</sup> Att. 36.

<sup>19</sup> In fact, none of the Department reports regarding this incident state that Officer Riordan's weapon discharged the second time he pulled the trigger. *See* Atts. 3-4, 6, 36.

<sup>20</sup> Atts. 21, 26; *see also* Att. 20.

person would do, or the doing of something which a reasonably careful person would not, under circumstances similar to those shown by the evidence.”<sup>21</sup>

### **b. Standard of Proof**

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 reviewed complied with Department policy.<sup>22</sup> If the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, 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. 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.”<sup>23</sup>

## **VII. ANALYSIS**

In this case, it is undisputed that Officer Riordan’s rifle discharged, and that the discharge occurred unintentionally. Officer Riordan stated he removed the magazine and the chamber-blocking device from the rifle, and he believed the weapon was unloaded. When he pulled the trigger to dry fire the rifle, however, the weapon discharged.<sup>24</sup> Officer Riordan acknowledged that in order for this to occur, a live round must have lodged in the chamber of the rifle before he

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<sup>21</sup> Illinois Pattern Jury Instructions- Civil (2006), No. 10.01.

<sup>22</sup> 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).

<sup>23</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (2016).

<sup>24</sup> Officer Riordan told COPA the rifle discharged the second time he pulled the trigger. This is not reflected in any Department reports regarding the incident, all of which suggest the discharge occurred the first time Officer Riordan pulled the trigger. Although COPA recognizes this potential discrepancy in Officer Riordan’s statements, whether the discharge occurred the first or second time the officer pulled the trigger does not alter COPA’s analysis of his conduct. Additionally, COPA notes that Officer Riordan’s demeanor was forthcoming and cooperative during his statement to investigators, and his overall account of the incident was credible.

removed the magazine. This is consistent with the physical evidence, as the ETs who processed the magazine found that it was one round short of fully loaded. Moreover, Officer Riordan admitted he failed to fully inspect the rifle to make sure it was unloaded before he attempted to dry fire it. There is no evidence of an equipment malfunction, and Officer Riordan stated the rifle did not misfire or misfeed when he qualified with it just five days prior to this incident.

COPA finds Officer Riordan’s conduct was negligent, and even Officer Riordan described the incident as a “negligent discharge” when he called 911 to report what happened. The preponderance of the evidence establishes the rifle discharge resulted from Officer Riordan’s inattention to duty, as well as his failure to adequately secure and care for the weapon. Therefore, the allegation is **sustained** as a violation of Rules 10 and 13.

**VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**a. Officer Riordan**

**i. Complimentary and Disciplinary History**

Officer Riordan has received one 2019 Crime Reduction Award, two Attendance Recognition Awards, four complimentary letters, four Department Commendations, 82 Honorable Mentions, one Honorable Mention Ribbon Award, two Life Saving Awards, and two Special Commendations. He has no sustained disciplinary history over the past five years.

**ii. Recommended Penalty**

COPA has found that Officer Riordan unintentionally discharged his rifle, and the discharge resulted from the officer’s failure to make sure the chamber did not contain a live round at the time he attempted to dry fire the weapon. Although Officer Riordan’s negligence could have resulted in death or serious injury, particularly to [REDACTED], COPA notes his conduct after the discharge fully complied with Department policy. Officer Riordan immediately attempted to make contact with [REDACTED] then made a series of notifications to 911, his immediate supervisor, and the desk sergeant at the 24<sup>th</sup> District. Additionally, throughout this investigation, Officer Riordan has consistently accepted responsibility for the rifle discharge. Nevertheless, the weapon discharged occurred in a multiunit residential building posing great danger to other. As a result, COPA recommends a **20-day suspension**.

Approved:

[REDACTED]

7/28/2021

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Matthew Haynam  
*Deputy Chief Administrator – Chief Investigator*

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Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	6
<b>Supervising Investigator:</b>	Steffany Hreno <sup>25</sup>
<b>Deputy Chief Administrator:</b>	Matthew Haynam

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<sup>25</sup> At the time of the incident, SI Hreno was a major case specialist at COPA. She investigated the incident under the supervision of SI Sherry Daun, who is now COPA's Director of Investigations.