

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	October 20, 2021
Time of Incident:	9:44 pm
Location of Incident:	8050 Ogden Avenue, Lyons, Illinois
Date of COPA Notification:	October 20, 2021
Time of COPA Notification	10:14 pm

On the evening of October 20, 2021, in the lot of a Lyons, Illinois service station and convenience store, Chicago Police Department (CPD) Officer Sean K. Borisy discharged a firearm once, striking fellow CPD Officers Crane Julamoke and Zachary C. Carmen and causing each to sustain an upper extremity gunshot wound. At the moment of that discharge, the officers were struggling to arrest [REDACTED] whom the officers had followed from Chicago. [REDACTED] vehicle had been reported as having been involved in a homicide.

After investigating this matter, the Civilian Office of Police Accountability (COPA) finds that the firearms discharge under investigation was unintentional. COPA further finds that the discharge would not have occurred but for Officer Borisy’s failure to adhere to fundamental firearms safety practices, and that Officer Borisy committed misconduct by breaching his duty to adhere to those practices.

**II. INVOLVED PARTIES**

Involved Member #1:	Officer Sean K. Borisy / Star #11207 / Employee ID # [REDACTED] / DOA: June 16, 2017 / Unit: 001 / Male / White
Involved Member #2:	Officer Crane Julamoke / Star #13038 / Employee ID # [REDACTED] / DOA: February 16, 2017 / Unit: 018 / Male / Asian or Pacific Islander
Involved Member #3:	Officer Zachary C. Carmen / Star #10643 / Employee ID# [REDACTED] / DOA: May 16, 2017 / Unit: 018 / Male / White
Involved Individual #1	[REDACTED] Male / White Hispanic

### III. ALLEGATIONS

Pursuant to section 2-78-120(c) of the Municipal Code of Chicago, the Civilian Office of Police Accountability (COPA) has the duty to investigate incidents, including those in which no allegation of misconduct is made, where a person is seriously injured as a result of a CPD member discharging their firearm. As a result of its investigation, COPA made the following allegations and findings:

Officer	Allegation	Finding / Recommendation
Officer Borisy	<p>On or about October 20, 2021, at approximately 9:44 p.m., at or near Lyons, Illinois, Officer Sean K. Borisy, Star #11207, committed misconduct through the following acts and/or omissions:</p> <ol style="list-style-type: none"> <li>1. While in the rear seat of a moving CPD vehicle that was occupied by other CPD officers, Officer Borisy pointed a loaded firearm in the direction of a CPD officer or officers;</li> <li>2. While attempting to assist other CPD officers in effecting an arrest, Officer Borisy pointed a loaded firearm in the direction of other persons;</li> <li>3. While attempting to assist other CPD officers in effecting an arrest, Officer Borisy discharged that firearm;</li> <li>4. After having discharged that firearm, and while that firearm was still loaded, Officer Borisy failed to properly secure that firearm; and/or</li> <li>5. After having discharged that firearm, Officer Borisy failed to immediately notify the Office of Emergency Management and Communications, the local law enforcement agency having jurisdiction, and/or and the CPD's Crime Prevention and Information Center, as required by CPD General Order G03-06, Section V.A.</li> </ol>	<p><b>Sustained / Minimum 90-Day Suspension</b></p> <p><b>Sustained / Minimum 90-Day Suspension</b></p> <p><b>Sustained / Minimum 90-Day Suspension</b></p> <p><b>Sustained / Minimum 90-Day Suspension</b></p> <p><b>Exonerated</b></p>

#### IV. APPLICABLE RULES AND LAWS

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##### Rules

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1. Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
2. Rule 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
5. Rule 10: Inattention to duty.
6. Rule 11: Incompetency or inefficiency in the performance of duty.

##### General Orders

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1. G03-02: De-Escalation, Response to Resistance, and Use of Force (effective April 15, 2021, to June 28, 2023).<sup>1</sup>
2. G03-06 Firearms Discharge and Officer-Involved Death Incident Response and Investigation (effective April 15, 2021, to June 28, 2023).<sup>2</sup>

#### V. INVESTIGATION<sup>3</sup>

##### a. Digital Evidence

COPA accessed and reviewed **surveillance video recordings** recovered from the service station and convenience store.<sup>4</sup> Video recorded by the station's southwest-facing camera depicts the arrival of a vehicle occupied by two persons now known by COPA to be ██████████ and ██████████.<sup>5</sup> The recording then depicts ██████████ exit that vehicle, enter the store, and then exit the store approximately ten seconds after entering it as the first of many CPD vehicles arrives at the scene.<sup>6</sup> The recording then shows ██████████ begin to drive the civilians' vehicle away, without ██████████ followed by ██████████ attempting to enter the vehicle's rear driver-side door while the vehicle is moving.<sup>7</sup> The recording then shows Officer Crane Julamoke grabbing ██████████ preventing ██████████ from entering the moving vehicle and causing ██████████ to fall to the ground, followed by the civilians' vehicle coming to a stop.<sup>8</sup> CPD officers then removed ██████████ from the vehicle and subdued her as the civilians' vehicle (now unoccupied) began to roll away.<sup>9</sup> As ██████████ was subdued, the recording shows Officers Julamoke, Zachary Carmen,

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<sup>1</sup> Att. 121.

<sup>2</sup> Att. 122.

<sup>3</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>4</sup> Atts. 2 and 3.

<sup>5</sup> See Att. 3 at 21:43:40.

<sup>6</sup> Att. 3 at 21:43:40 to 21:44:04.

<sup>7</sup> Att. 3 at 21:44:04 to 21:44:07.

<sup>8</sup> Att. 3 at 21:44:07 to 21:44:11.

<sup>9</sup> Att. 3 at 21:44:11 to 21:44:21.

and Veronica Islas struggling with [REDACTED]<sup>10</sup> Officer Borisy then approached, with arms extended and pointing a firearm in direction of [REDACTED] and the officers.



**Figure 1:** A screenshot from Att. 3, Citgo Surveillance Video at 21:44:22. The blue arrow indicates Officer Borisy; the yellow arrow indicates Officers Julamoke, Carmen, and Islas struggling with [REDACTED] and the green arrow indicates other CPD officers subduing [REDACTED]

Officer Borisy then joined in the struggle while holding a firearm in his right hand, pointing in the direction of Officer Islas’ midsection.



**Figure 2:** A screenshot from Att. 3, Citgo Surveillance Video at 21:44:25, showing Officer Borisy pointing his firearm towards Officer Islas.

<sup>10</sup> Att. 3 at 21:44:21 to 21:44:22.

Officer Julamoke then moved back suddenly – apparently at the moment of Officer Borisy’s firearm discharge.<sup>11</sup> Officer Borisy then placed his firearm on the ground.



Figure 3: A screenshot from Att. 3, Citgo Surveillance Video at 21:44:25, showing Officer Borisy’s firearm on the ground after he discharged the firearm.

The recording then shows Officers Julamoke and Carmen entering a CPD vehicle to be removed from the scene (both officers are ambulatory) as other CPD officers, including Officer Borisy, subdue [REDACTED].<sup>12</sup> Officer Borisy then retrieved his firearm from the ground, where it had been unsecured for approximately twenty-nine seconds.<sup>13</sup>

COPA reviewed sixty pieces of **body-worn camera (BWC) video footage** recorded by forty different CPD officers.<sup>14</sup> Footage recorded by Officer Borisy is of particular significance.<sup>15</sup> Among other things, that footage shows Officer Borisy preparing to exit a CPD vehicle immediately upon arrival at the incident scene; he is shown to be pointing a firearm in the direction of Officer Islas, who is seated directly in front of him.<sup>16</sup> At one point, Officer Borisy’s firearm is shown to be pointed at the front passenger seat headrest while Officer Islas is seated there, depicted in Figure 4 below.

<sup>11</sup> Att. 3 at 21:44:25.

<sup>12</sup> See Att. 3 at 21:44:25 and immediately following.

<sup>13</sup> See Att. 3 at 21:44:54.

<sup>14</sup> Atts. 4 to 63 comprise that footage. COPA also accessed and reviewed video footage recorded by a CPD helicopter (Att. 64) and twenty-three pieces of dashcam footage recorded by six different vehicular cameras. Atts. 97 to 113 comprise that footage.

<sup>15</sup> Att. 13.

<sup>16</sup> See Att. 13 at 21:44:09 and immediately following.



**Figure 4:** A screenshot from Att. 13, BWC footage of Officer Borisy at 21:44:10, showing Officer Borisy pointing his firearm towards the headrest of the seat occupied by Officer Islas. Though Officer Islas' head is not depicted in this screenshot, footage that immediately follows shows that she was, in fact, seated in the front passenger seat at that moment.



**Figure 5:** A screenshot from Att. 13, BWC footage of Officer Borisy at 21:44:24, showing Officer Borisy approaching [REDACTED] and CPD members with his firearm pointed towards the group.

As Officer Borisy approached [REDACTED] Officer Borisy's arms were extended and his firearm was pointed, as shown in Figure 5 above. The footage then shows his firearm pointing in

the direction of one or more officers as he approached closer and became engaged in the physical struggle with ██████<sup>17</sup>

Officer Borisy's footage does not depict his firearm at the precise moment of its discharge. However, the footage does depict Officer Borisy's firearm and its position instantly after the shot was fired, as shown in Figure 6 below.



**Figure 6:** A screenshot from Att. 13, BWC footage of Officer Borisy at 21:44:27, with the blue arrow pointing at Officer Borisy's firearm immediately after he fired one shot.

The footage then shows Officers Borisy and Islas continue their struggle to subdue ██████ Officer Islas shouted, "Pick that up!," apparently referring to Officer Borisy's firearm, which was on the ground.<sup>18</sup> Officer Borisy retrieved his firearm as other officers continued to struggle with ██████<sup>19</sup> Officer Borisy then re-joined the struggle, and ██████ was restrained.<sup>20</sup> Officer Borisy then informed CPD Sergeant (Sgt.) Daniel Cravens that it was his firearm that had discharged, and Sgt. Cravens responded by telling Officer Borisy not to say anything further.<sup>21</sup> A few minutes later, Sgt. Cravens directed Officer Borisy to turn off his BWC and to "cooperate with the investigation."<sup>22</sup>

BWC footage recorded by Officer Islas shows Officer Borisy's right hand immediately prior to the discharge; it is grasping at ██████ while simultaneously holding the firearm, as shown in Figure 7 below.

<sup>17</sup> Att. 13 at 21:44:25 to 21:44:27.

<sup>18</sup> See Att. 13 at 21:44:27 to 21:44:53.

<sup>19</sup> Att. 13 at 21:44:55.

<sup>20</sup> Att. 13 at 21:44:55 and immediately following.

<sup>21</sup> Att. 13 at 21:46:29 and immediately following. See also Att. 5 (footage recorded by Sgt. Cravens) at 21:46:29 and immediately following.

<sup>22</sup> See Att. 13 at 21:48:54 and immediately following. Sgt. Cravens' BWC footage then shows Sgt. Cravens directing Officer Borisy to sit in an otherwise unoccupied squad car. See Att. 5 at 21:48:54 and immediately following.



**Figure 7:** A screenshot from Att. 17, BWC footage of Officer Islas at 21:44:26, showing Officer Borisy's hand simultaneously gripping his firearm and [REDACTED] arm.

Officer Islas' BWC footage then shows Officer Borisy's firearm pointing toward Officer Islas' midsection while Officer Borisy's finger appears to be in the firearm's trigger area, as shown in Figure 8 below.



**Figure 8:** A screenshot from Att. 17, BWC footage of Officer Islas at 21:44:26, showing Officer Borisy pointing his firearm towards Officer Islas.

Less than a second later, Officer Islas' footage depicts Officer Borisy's firearm at the moment of its discharge, as shown in Figure 9 below.





**Figure 9:** A screenshot from Att. 17, BWC footage of Officer Islas at 21:44:26, showing Officer Borisy's firearm at the moment of discharge.

BWC Footage recorded by Officer Julamoke shows CPD officers applying a tourniquet to Officer Carmen's upper left arm, both at the scene and in a squad car en route to MacNeal Hospital.<sup>23</sup>

Audio recordings of **police radio transmissions** were obtained and reviewed.<sup>24</sup> The audio recording for Zone 4, covering the 1<sup>st</sup> and 18<sup>th</sup> police districts, captured the transmissions related to this incident between 9:27 pm and 10:27 pm on October 20, 2021.<sup>25</sup> At 9:27 pm, information was broadcast to police patrol units regarding an automated license plate reader that had detected a vehicle wanted in a homicide traveling south on DuSable Lake Shore Drive. Approximately four minutes later, a sergeant assigned to the 1<sup>st</sup> District (Sergeant Benny Pambuku, Star #2400) located the wanted vehicle exiting Lake Shore Drive onto Interstate 55 South. The sergeant followed the wanted vehicle, without activating his emergency equipment, as other police vehicles and a police helicopter moved into position. Once the police helicopter was overhead, the police vehicles backed away from the wanted vehicle and followed from a greater distance, at the direction of an officer in the helicopter. At approximately 9:40 pm, the wanted vehicle exited Interstate 55 onto Harlem Avenue and then proceeded to drive on various surface streets before stopping at the service station and convenience store at 8050 Ogden Ave. in Lyons, IL, at approximately 9:43 pm.<sup>26</sup> About thirty seconds later, CPD vehicles began pulling into the parking lot at 8050 Ogden,<sup>27</sup> and approximately 30 seconds after officers arrived, at 9:44 pm, an officer broadcast that a police officer had been shot. For the next three minutes, there were nearly continuous radio broadcasts as

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<sup>23</sup> See Att. 10 at 21:44:39 and immediately following. Officer Carmen's BWC became dislodged from the officer's vest and fell to the ground at the incident scene; the footage it recorded does not well-depict the discharge or its aftermath. See Att. 6 at 21:44:23 and immediately following.

<sup>24</sup> Atts. 113 to 120.

<sup>25</sup> Att. 113.

<sup>26</sup> See also Att. 64, CPD Police Helicopter Video Recording.

<sup>27</sup> Att. 64, CPD Police Helicopter Video Recording, at 3:28.

OEMC sought additional information and as officers attempted to locate the nearest hospital and to assess whether or not the nearest hospital was a trauma center.

### b. Documentary Evidence

A **Case Report** prepared by the Lyons Police Department (LPD) explains that the events under review originated in Chicago when the CPD began following the vehicle occupied by ██████████ and ██████████ which was believed by CPD to have been involved in a double homicide.<sup>28</sup> The same report contains a summary of the LPD's interview of Officer Borisy, during which Officer Borisy reportedly stated, among other things, that his weapon discharged one round as he was attempting to assist other officers in subduing the person now known to be ██████████<sup>29</sup> The LPD also prepared Arrest Reports, which provide identifying information respecting ██████████ and ██████████<sup>30</sup>

CPD's **Original Case Incident Report** identifies Officer Borisy's firearm as a 9mm-caliber Glock Model 17 semi-automatic pistol, serial number ██████████. Four separate **Tactical Response Reports** document CPD members' use of force at the incident scene; those reports likewise make reference to the LPD case report.<sup>32</sup> The **Tactical Response Report** documenting Officer Carmen's use of force and the **Tactical Response Report** documenting Officer Julamoke's use of force confirm that each officer sustained a gunshot wound.<sup>33</sup>

A **Synoptic Report** documents that a breath test was administered to Officer Borisy by a sergeant from CPD's Bureau of Internal Affairs at approximately 1:07 am on October 21, 2022, with a breath alcohol concentration result of .000.<sup>34</sup> The same report documents that a urine sample was collected from Officer Borisy at 12:59 am on October 21, 2021, and that the results were negative for all tested substances.<sup>35</sup>

### c. Interview<sup>36</sup>

COPA interviewed **Officer Borisy** on November 10, 2021.<sup>37</sup> Prior to commencing the interview, COPA permitted Officer Borisy to view the BWC footage that he had recorded in connection with the incident under review, as well as a segment of the BWC footage recorded by

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<sup>28</sup> See Att. 65, p. 3.

<sup>29</sup> See Att. 65, p. 9.

<sup>30</sup> See Atts. 66 and 67.

<sup>31</sup> See Att. 68, p. 2. CPD Annual Prescribed Weapon Qualification records document that Officer Borisy successfully qualified with this firearm on August 30, 2021. See Att. 70, p. 4.

<sup>32</sup> See Atts. 87 to 90.

<sup>33</sup> See Atts. 88 and 90, respectively.

<sup>34</sup> See Att. 69, pgs. 1 and 14.

<sup>35</sup> See Att. 69, pgs. 1 and 16.

<sup>36</sup> Based on the available evidence, along with Officer Borisy's admissions, COPA determined that findings could be reached in this investigation without compelling the injured officers to provide witness statements. Both injured officers were given the opportunity to provide voluntary statements as the victims of a shooting, but both declined COPA's invitation. See Att. 80.

<sup>37</sup> Att. 76 is an audio recording of that interview; Att. 77 is a transcription of that recording.

Officer Islas at the incident scene, and video footage recovered from the gas station and convenience store.<sup>38</sup>

Officer Borisy said that prior to viewing the video segment recorded by Officer Islas, he had been under the mistaken impression that his firearm had malfunctioned at the incident scene.<sup>39</sup> Officer Borisy said that having reviewed Officer Islas' footage, he now realized that he had inadvertently discharged his firearm when he was attempting to grab [REDACTED] with his gun hand.<sup>40</sup> When asked why he placed his firearm on the ground after it fired, Officer Borisy explained that because he believed the firearm had malfunctioned, he thought that placing it on the ground would have been safer than "trying to fumble around with my holster."<sup>41</sup>

Officer Borisy acknowledged that he had become familiar, through the course of his CPD training and through reading CPD directives, with three rules of firearm safety: the muzzle of a firearm should never be pointed at anything that an officer is unwilling to destroy; an officer's fingers should be kept free from a firearm's trigger area until the officer is ready to shoot; and an officer should keep their firearm secured and away from others so that it's not available to unauthorized users.<sup>42</sup>

COPA presented Officer Borisy with the screenshot that is reproduced here as Figure 4 above.<sup>43</sup> Officer Borisy acknowledged that, assuming a person was sitting in the seat in front of him, the screenshot would show that he had been holding his firearm unsafely.<sup>44</sup> COPA then asked Officer Borisy if he had an explanation for why he had been holding his firearm as depicted in that screenshot.<sup>45</sup> Officer Borisy responded that he had unholstered his firearm quickly, and he was trying to open the car door at the same time. He then realized that the door was locked, but he had already begun turning his body because he thought he was going to open the door, but he then turned back straight, placing his firearm as shown in the screenshot.<sup>46</sup> Later in the interview, Officer Borisy viewed the portion of his BWC recording that includes the screenshot captured in Figure 4.<sup>47</sup> Officer Borisy then acknowledged that the footage depicted him pointing his gun at Officer Islas:

I mean, that did happen. But it happened because . . . I had in my mind that I would pull my firearm and immediately get out of the car. And that was defeated by the child locks being on the car and being thrown off by that. . . . I go from trying to open the door to then . . . turning and . . . my gun flagged my partner at that point

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<sup>38</sup> Att. 77, p. 7, ln. 15, through p. 10, ln. 4.

<sup>39</sup> Att. 77, p. 45, ln. 8, through p. 46, ln. 2; p. 47, ln. 21, through p. 48, ln. 5.

<sup>40</sup> Att. 77, p. 40, ln. 6, through p. 43, ln. 3; p. 45, ln. 8, through p. 47, ln. 20.

<sup>41</sup> Att. 77, p. 58, ln. 23, through p. 61, ln. 2.

<sup>42</sup> Att. 77, p. 29, ln. 3, through p. 31, ln. 5.

<sup>43</sup> Att. 77, p. 31, ln. 9, through p. 32, ln. 15.

<sup>44</sup> Att. 77, p. 32, lns. 4 to 16. *See also* Att. 75 (screenshots presented to the officer during his interview), p. 1.

<sup>45</sup> Att. 77, p. 32, lns. 17 to 19.

<sup>46</sup> Att. 77, p. 32, ln. 20, to p. 33, ln. 9.

<sup>47</sup> Att. 77, p. 90, ln. 10, to p. 91, ln. 17.

and second, but . . . I had no intent in doing that, I thought [I] was going to get out of the car.<sup>48</sup>

COPA also presented Officer Borisy with the screenshot that is reproduced here as Figure 5 above.<sup>49</sup> Officer Borisy acknowledged that the image showed him pointing his firearm at ██████████ while Officer Carmen was standing immediately behind ██████████ with his arms around ██████████.<sup>50</sup> COPA then asked Officer Borisy if the what the image depicted was dangerous and unsafe.<sup>51</sup> Officer Borisy answered that no one knew if ██████████ was armed, so he provided cover for the other officers in case ██████████ produced a weapon.<sup>52</sup> COPA asked Officer Borisy if it had occurred to him that he should have instead provided cover by pointing his firearm above the group, rather than directly at ██████████<sup>53</sup> or at the “low ready” position.<sup>54</sup> Officer Borisy answered by explaining that he kept his finger on the slide, rather than on the trigger, and that just because he was pointing the firearm did not mean he intended to shoot.<sup>55</sup> Officer Borisy did acknowledge, at least in hindsight, that it would have been preferable to approach at the “low ready.”<sup>56</sup>

COPA showed Officer Borisy additional screenshots that depicted him pointing his firearm towards other CPD members and asked Officer Borisy to acknowledge that they depicted him holding a firearm in an unsafe manner.<sup>57</sup> In response, Officer Borisy acknowledged that the screenshots did so.<sup>58</sup> However, Officer Borisy contended that the images also showed his trigger finger on the gun’s slide, and that that they showed, “I’m still practicing, *for the most part*, safe discipline.”<sup>59</sup>

In response to further inquiry from COPA, Officer Borisy stated that he thought he had made all of the notifications required of him when he notified a sergeant at the scene that his firearm had discharged.<sup>60</sup>

Officer Borisy said that he felt “awful” about the incident.<sup>61</sup> He elaborated, “I for no reason want to provide any excuse for what I did. . . . I acted too quickly, . . . and I agree with you 100 percent that the position that my firearm is in is 100 percent not safe and that no matter where anything is at, that’s not an excuse.”<sup>62</sup> COPA asked Officer Borisy to disclose what, if anything, he would have done differently.<sup>63</sup> Officer Borisy’s response included, “I certainly would not have

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<sup>48</sup> Att. 77, p. 91, ln.23, to p. 92, ln. 8.

<sup>49</sup> Att. 77, p. 34, lns. 16 to 21.

<sup>50</sup> Att. 77, p. 34, lns. 22 to 24; p. 33, lns. 10 to 15.

<sup>51</sup> Att. 77, p. 35, lns. 10 to 17.

<sup>52</sup> Att. 77, p. 36, lns. 17 to 24.

<sup>53</sup> Att. 77, p. 38, lns. 4 to 7.

<sup>54</sup> Att. 77, p. 88, lns. 8 to 18.

<sup>55</sup> Att. 77, p. 38, lns. 8 to 19.

<sup>56</sup> Att. 77, p. 89, ln. 23, to p. 90, ln. 8.

<sup>57</sup> Att. 77, p. 51, lns. 5 to 13; p. 58, lns. 19 to 21.

<sup>58</sup> Att. 77, p. 51, ln. 9; p. 58, ln. 22.

<sup>59</sup> Att. 77, p. 51, lns. 15 to 20 (emphasis added).

<sup>60</sup> Att. 77, p. 71, ln. 6, through p. 75, ln. 20.

<sup>61</sup> Att. 77, p. 52, lns. 15 to 16.

<sup>62</sup> Att. 77, p. 54, ln. 15, through p. 55, ln. 11.

<sup>63</sup> Att. 77, p. 85, lns. 3 to 4.

gone in to go hand-on with a weapon in my hand ever again. . . . [I]t's not effective, and it's dangerous, and I hurt two of my co-workers."<sup>64</sup>

Near the conclusion of the interview, Officer Borisy said:

What I did was a mistake and I own that completely and I . . . feel awful about it, embarrassed, in fact, about it. . . . I had no intent in going out and hurting anybody that night . . . I just wanted to help . . . those that were involved. . . . I've been on the job for four-and-a-half years now. I've never been in trouble. I've never fired or been in a situation where . . . I was going to, you know? . . . [I]t's just a horrible mistake and . . . I'm going to feel bad about . . . probably the rest of my life. . . . [I]t's something I wake up every day thinking about . . . ."<sup>65</sup>

## 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 a proposition is proved.<sup>66</sup> For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD 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>67</sup>

<sup>64</sup> Att. 77, p. 86, ln. 12, through p. 88, ln. 7.

<sup>65</sup> Att. 77, p. 94, ln. 22, through p. 95, ln. 21.

<sup>66</sup> See *Avery v. State Farm Mut. Auto. Ins. Co.*, 216 Ill. 2d 100, 191 (2005) (“A proposition proved by a preponderance of the evidence is one that has been found to be more probably true than not true.”).

<sup>67</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4<sup>th</sup> ed. 2000)).

## VII. ANALYSIS

An allegation of an unintentional firearm discharge is evaluated under rule 10, which prohibits inattention to duty, and violations are evaluated under the legal standard of negligence, which is “the failure to do something which a reasonably careful person would do, or the doing of something which a reasonably careful person would not do, under circumstances similar to those shown by the evidence.”<sup>68</sup> COPA finds, based primarily on the available video recordings of the events under investigation, and based on Officer Borisy’s own statement to COPA, that Officer Borisy was negligent when he unintentionally discharged his firearm, striking two fellow CPD members and causing each to require hospital treatment for their wounds. Officer Borisy failed, on more than one occasion, to adhere to basic rules of firearm safety, and Officer Borisy committed misconduct by breaching his duty to handle his firearm in a safe manner.

While Officer Borisy offered some excuses for his conduct, he admitted that it was unsafe for him to point his firearm in the direction of Officer Islas while he was sitting in the seat behind her in a CPD patrol vehicle. Based on the BWC video recording of Officer Borisy’s conduct, and Officer Borisy’s admissions as summarized above, COPA finds that it is more likely than not that Officer Borisy, while seated in the rear seat of a moving CPD vehicle that was occupied by other CPD officers, pointed a loaded firearm in the direction of a CPD officer. Therefore, COPA finds that **Allegation 1** against Officer Borisy is **Sustained**. COPA also finds that Officer Borisy violated Rule 10, exhibiting inattention to duty, Rule 11, exhibiting incompetency or inefficiency in the performance of duty, as well as Rules 2 and 3.

Based on the available BWC and 3<sup>rd</sup>-party video recordings, as well as Officer Borisy’s admissions, as summarized above, COPA finds that it is more likely than not that Officer Borisy, while attempting to assist other CPD officers in effecting an arrest, pointed a loaded firearm in the direction of other persons. When Officer Borisy exited the patrol vehicle and went to assist other officers in placing ██████ into custody, Officer Borisy pointed his firearm towards ██████ and his fellow officers. Officer Borisy admitted that this was unsafe, as he did not intend to shoot any of those individuals, and that he should have kept his firearm at the low-ready position while providing cover for the officers who were struggling with ██████. Therefore, COPA finds that **Allegation 2** against Officer Borisy is **Sustained**. COPA also finds that Officer Borisy violated Rule 10, exhibiting inattention to duty, Rule 11, exhibiting incompetency or inefficiency in the performance of duty, as well as Rules 2 and 3.

There is no dispute that Officer Borisy discharged his firearm while attempting to assist other CPD officers in effecting the arrest of ██████ and there is also no dispute that Officer Borisy’s shot struck both Officer Carmen and Officer Julamoke. Based on the evidence summarized above, COPA finds that Officer Borisy negligently discharged his firearm when he simultaneously held the firearm in his hand while grabbing ██████ with the same hand, causing Officer Borisy’s finger to enter the trigger area of the firearm and accidentally pull the trigger. Here, there was no need for Officer Borisy to grab ██████ before holstering his firearm. Several other CPD members were already subduing ██████ and Officer Borisy could have either remained at a short distance while providing cover, or he could have holstered his firearm before joining the fray. Therefore, COPA finds that **Allegation 3** against Officer Borisy is **Sustained**.

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<sup>68</sup> Illinois Pattern Jury Instructions-Civil (2006), No. 10.01.

COPA also finds that Officer Borisy violated Rule 10, exhibiting inattention to duty, Rule 11, exhibiting incompetency or inefficiency in the performance of duty, as well as Rules 2 and 3.

There is also no dispute that Officer Borisy, after discharging his firearm and while the firearm was still loaded, placed the unsecured firearm on the ground. When Officer Borisy did so, the scene was not yet secure, as officers were still attempting to handcuff ██████████. Another officer shouted at Borisy, telling him to pick up his firearm, while they were still struggling to handcuff ██████████ who was within arm's reach of the firearm. While Officer Borisy explained that he placed the firearm on the ground, rather than in his holster, because he believed the firearm had malfunctioned, this was not a reasonable response to the firearm discharge, and Officer Borisy's failure to secure his firearm placed himself and other CPD members in potential danger. Therefore, COPA finds that **Allegation 4** against Officer Borisy is **Sustained**. COPA also finds that Officer Borisy violated Rule 10, exhibiting inattention to duty, Rule 11, exhibiting incompetency or inefficiency in the performance of duty, as well as Rules 2 and 3.

Officer Borisy did not notify OEMC immediately after discharging his firearm, nor did he notify the local law enforcement agency having jurisdiction, and nor did he notify CPD's Crime Prevention and Information Center. Officer Borisy admits that he did not make these notifications, and Officer Borisy explained that a sergeant was already present when he accidentally discharged his firearm, and he notified the sergeant of the discharge. General Order G03-06 requires a CPD member involved in a firearm discharge incident to make these immediate notifications.<sup>69</sup> Under the specific circumstances of this case, COPA finds that it was reasonable for Officer Borisy to allow another CPD member to make the required notifications. The incident happened after a prolonged vehicular pursuit involving multiple CPD patrol vehicles, a CPD helicopter, and multiple CPD members. OEMC was already monitoring the pursuit and notifying neighboring law enforcement agencies of its progress. After Officer Borisy accidentally shot two other CPD members, there were an extraordinary amount of radio transmissions, made by various CPD members, notifying OEMC what had occurred and attempting to coordinate transportation of the injured officers to a nearby hospital. It would have been redundant for Officer Borisy to make these notifications personally, and doing so may have delayed other essential radio communications. Therefore, COPA finds that **Allegation 5** against Officer Borisy is **Exonerated**.

## VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. Officer Sean Borisy

#### i. Complimentary and Disciplinary History<sup>70</sup>

Officer Borisy has received one Department Commendation, two Life Saving Awards, twenty-three Honorable Mentions, and the 2019 Crime Reduction Award. Officer Borisy has no

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<sup>69</sup> See Att. 122, G03-06(V)(A).

<sup>70</sup> Att. 126.

sustained complaint registers within the past five years. Officer Borisy has one sustained SPAR,<sup>71</sup> with no disciplinary action taken, for misuse of equipment or supplies in October 2022.

**ii. Recommended Penalty**

Here, COPA has found that Officer Borisy violated Rules 2, 3, 10, and 11 by pointing a loaded firearm in the direction of another CPD member, again pointing a loaded firearm in the direction of other persons, accidentally discharging that firearm, and then failing to secure his loaded firearm. Ultimately, Officer Borisy’s failure to handle his firearm safely led to his accidentally shooting two other CPD members. Officer Borisy’s accidental discharge was not simply a momentary lapse but was instead the culmination of a series of unsafe firearm handling practices, as documented and discussed above. Given the serious nature of Officer Borisy’s misconduct, the serious consequences that resulted from his misconduct, and considering Officer Borisy’s complimentary and disciplinary history, COPA finds that a minimum 90-day suspension is appropriate. COPA would also support any penalty in excess of a 90-day suspension, up to and including separation from CPD, at the discretion of the Superintendent.

**IX. CONCLUSION**

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

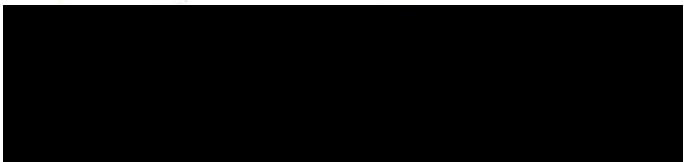
<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Officer Borisy	<p>On or about October 20, 2021, at approximately 9:44 p.m., at or near Lyons, Illinois, Officer Sean K. Borisy, Star #11207, committed misconduct through the following acts and/or omissions:</p> <ol style="list-style-type: none"> <li>1. While in the rear seat of a moving CPD vehicle that was occupied by other CPD officers, Officer Borisy pointed a loaded firearm in the direction of a CPD officer or officers;</li> <li>2. While attempting to assist other CPD officers in effecting an arrest, Officer Borisy pointed a loaded firearm in the direction of other persons;</li> <li>3. While attempting to assist other CPD officers in effecting an arrest, Officer Borisy discharged that firearm;</li> </ol>	<p><b>Sustained / Minimum 90-Day Suspension</b></p> <p><b>Sustained / Minimum 90-Day Suspension</b></p> <p><b>Sustained / Minimum 90-Day Suspension</b></p>

<sup>71</sup> For certain less serious transgressions, CPD members may be disciplined through an abbreviated process, referred to as the automated Summary Punishment Action Request (SPAR) system. See Special Order S08-05, Summary Punishment (effective Jan. 7, 2019, to present).



4. After having discharged that firearm, and while that firearm was still loaded, Officer Borisy failed to properly secure that firearm; and/or	<b>Sustained / Minimum 90-Day Suspension</b>
5. After having discharged that firearm, Officer Borisy failed to immediately notify the Office of Emergency Management and Communications, the local law enforcement agency having jurisdiction, and/or and the CPD's Crime Prevention and Information Center, as required by CPD General Order G03-06, Section V.A.	<b>Exonerated</b>

Approved:



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Angela Hearts-Glass  
*Deputy Chief Administrator – Chief Investigator*

11-30-2023

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Date