

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	October 30, 2021 / 6:45 pm / 9400 S. Western Avenue, Evergreen Park, Illinois
Date/Time of COPA Notification:	October 30, 2021, 7:18 pm
Involved Sergeant #1:	Oneta Sampson, Star #1496, Employee ID # [REDACTED], Date of Appointment: February 25, 2002, Sergeant, Unit 007/376, DOB: [REDACTED], 1963, Female, Black
Case Type:	Excessive Force – Off Duty Firearm Discharge

Pursuant to Section 2-78-120 of the Municipal Code of Chicago, the Civilian Office of Police Accountability (COPA) has a duty to investigate all incidents in which a Chicago Police Department member discharges their firearm. During its investigation of this incident, COPA determined that Sergeant (Sgt.) Oneta Sampson committed the following violations of Department rules and policy:

I. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Sergeant Oneta Sampson	<p>It is alleged that on or about October 30, 2021, at approximately 6:45 pm, at or near 9400 South Western Avenue Sergeant Oneta Sampson, Star #1496 committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. discharged your firearm, in violation of General Order G03-02; 2. failed to timely and/or accurately notify the appropriate agency that you discharged your firearm, in violation of General Order G03-06; 3. failed to register your firearm (Serial # [REDACTED] with the Department, in violation of Uniform and Property Order U04-02 II.F.; and 4. failed to qualify with your firearm (Serial # [REDACTED] in violation of Uniform and Property Order U04-02 II.D. 	<p>Sustained/ Separation</p> <p>Sustained/ Separation</p> <p>Sustained/ Separation</p> <p>Sustained/ Separation</p>

II. SUMMARY OF EVIDENCE¹

On October 30, 2021, off-duty Sgt. Oneta Sampson and her husband, ██████████, shopped at the Sam's Club located in Evergreen Park, Illinois. At approximately 6:40 pm, while the couple loaded groceries into their idling Toyota 4Runner (the Toyota), three unarmed juvenile males approached them. As Mr. ██████████ closed the Toyota's trunk, ██████████ entered the driver's seat and drove the Toyota east down an aisle in the parking lot. The other two juveniles fled on foot in different directions. Sgt. Sampson, followed by Mr. ██████████, ran after the Toyota.³

The Toyota stopped momentarily when one of the juvenile males ran towards the driver's side of the vehicle. However, the Toyota accelerated as Sgt. Sampson closed the distance, and the juvenile male fled northbound on foot. Sgt. Sampson continued to run after the Toyota, unholstered her weapon, and fired one round towards the rear of the vehicle from approximately 25 yards away.⁴ Sgt. Sampson's round struck the pavement behind the Toyota and did not hit any people or vehicles.⁵ The Toyota then fled the scene and the other two juvenile males escaped on foot.⁶ Sgt. Sampson called 911, distressed and yelling. She identified herself as an off-duty officer, and reported that three teenagers stole her Toyota from the Sam's Club at 95th and Western.⁷

At approximately 6:48 pm, an Evergreen Park Police Department (EPPD) officer arrived at Sgt. Sampson's location and asked what happened. Sgt. Sampson identified herself as an off-duty officer carrying her weapon, explained that her vehicle was stolen, and provided details for the stolen vehicle investigation.⁸ About a minute later, Chicago's Office of Emergency Management Communications (OEMC) issued a flash message reporting that three male black teenagers stole a white Toyota 4Runner with license plate number ██████████⁹ from the Sam's Club located at 9400 S Western Avenue.¹⁰ Over the radio, EPPD confirmed the incident was not an armed robbery.¹¹ Additionally, Sgt. Sampson told EPPD, on scene, that there were no weapons inside her vehicle.¹²

At approximately 6:54 pm, while on the phone with her Chicago Police Department (CPD) captain, Sgt. Sampson informed EPPD officers she discharged her weapon at the Toyota.¹³ The

¹ COPA conducted a full and complete investigation of this matter, including the collection and review of digital, documentary, and forensic evidence. As part of COPA's efforts to increase case closure capacity, certain investigations are summarized more succinctly in a Modified Summary Report of Investigation.

² Attachment 9.

³ Attachment 23 at 3:57-4:25; Attachment 28, pgs. 4, 9.

⁴ Attachment 28, pg. 9; Attachment 21 at 1:30-1:45. ██████████ reported he heard a gunshot after Sgt. Sampson yelled words to the effect, "No, don't take my car." Attachment 55 at 27:12 – 27:32.

⁵ Attachment 21 at 1:40-1:42; Attachment 28, pgs. 4, 9.

⁶ Attachment 23 at 4:15-4:33; Attachment 21 at 1:30-2:00.

⁷ Attachment 30 at 0:00 – 2:17. Sgt. Sampson provided her name, her license plate number, a limited description of the juveniles, and the direction the Toyota fled. She did not report discharging her weapon.

⁸ Attachment 36 at 00:30-02:30. Initially, Sgt. Sampson did not inform EPPD that she fired her weapon.

⁹ Initially, Evergreen Park reported the license plate number as ██████████ but quickly corrected the information.

¹⁰ Attachment 17 at 19:01. OEMC dispatch also related the Toyota's owner is a police officer. *Id.* at 22:00.

¹¹ Attachment 17 at 19:53.

¹² Attachment 36 at 3:50.

¹³ Attachment 53 at 5:10; Attachment 55 at 5:18. An EPPD officer indicated the incident occurred at 6:43 pm, which means Sgt. Sampson did not make the notification until 11 minutes after she discharged her firearm. Attachment 40 at 9:35.

officers told Sgt. Sampson they had to notify their lieutenant of the discharge.¹⁴ When one of the officers asked where the discharge occurred, Sgt. Sampson explained she was in the middle of the parking lot when she shot at the Toyota as it was driving away, but she did not strike the vehicle.¹⁵ She further stated, “I wish I would have [struck the Toyota] because then he would have stopped. And, yes, it is property crime, but it was the point. It was the point. It was the point. And at that point I was terrified, and I didn’t know what was going on.”¹⁶ Sgt. Sampson then repeatedly confirmed she fired at her own vehicle in order to stop the theft.¹⁷

At approximately 7:30 pm, officers told Sgt. Sampson they had to take her to the EPPD station, and Mr. ██████ said he would meet them there.¹⁸ At the station, EPPD officers read Sgt. Sampson her *Miranda* Warnings, and she refused to answer questions without her attorney.¹⁹ Mr. ██████ provided a statement that was consistent with Sgt. Sampson’s statement on scene, as well as the surveillance video. Mr. ██████ stated Sgt. Sampson told him after the incident that she had discharged her weapon. However, at the time Mr. ██████ heard the gunshot, he thought one of the juvenile males was firing at Sgt. Sampson. He unholstered his own firearm, but did not fire. Mr. ██████ confirmed Sgt. Sampson secured her weapon after the discharge.²⁰

EPPD officers recovered one 9mm fired cartridge casing from the Sam’s Club parking lot.²¹ They also obtained Sgt. Sampson’s firearm, a Smith & Wesson 9mm semi-automatic pistol, Serial Number ██████ as well as a magazine and fifteen live cartridges.²³

At approximately 8:35 pm, after a brief vehicle pursuit of the Toyota, CPD officers arrested five juvenile males who fled the Toyota on foot. No firearms or weapons were recovered from the vehicle or the juveniles.²⁴

At approximately 5:12 am, Sgt. Sampson was charged with one felony count of Reckless Discharge of a Firearm.²⁵ On November 1, 2021, CPD stripped Sgt. Sampson of her police powers pending the outcome of this investigation.²⁶ COPA served Sgt. Sampson with four allegations related to the incident, but through her attorney, she invoked her Fifth Amendment rights and refused to provide a statement to COPA.²⁷

¹⁴ Attachments 53 at 5:48; Attachment 55 at 5:54.

¹⁵ Attachment 36 at 7:58-8:17.

¹⁶ Attachment 36 at 8:17-8:28.

¹⁷ See, e.g., Attachment 36 at 7:40-7:45, 8:57-9:00; Attachment 53 at 5:57-6:01.

¹⁸ Attachment 54 at 10:34; Attachment 57 at 10:40.

¹⁹ Attachment 28, pg. 9; Attachments 35 at 1:33-3:34, 41 at 4:53-6:53-.

²⁰ Attachment 40 at 4:50-10:27, Attachment 42. Mr. ██████ provided his FOID card and Conceal and Carry License to the EPPD officers. Attachment 40 at 0:44-2:55.

²¹ Attachment 28, pgs. 4, 7-9.

²² According to CPD’s records, there is only one firearm registered with the Department under Sgt. Sampson’s name, and she has only qualified with that firearm. The registered firearm is a Smith & Wesson Model 5943, 9mm semi-automatic pistol, Serial Number ██████. Attachments 25, 26.

²³ Attachment 28. The EPPD photographs confirm the serial number of the firearm recovered from Sgt. Sampson was ██████ Attachment 29, pgs. 12-14. Additionally, the Tactical Response Report completed by Captain Curtis Mullenix on Sgt. Sampson’s behalf also lists Serial Number ██████ Attachment 3.

²⁴ Attachments 7-13, 15, 16.

²⁵ Attachments 1, 28.

²⁶ Attachment 20.

²⁷ Attachments 60-61.

III. LEGAL STANDARD

a. Use of Deadly Force

Department members are expected to resolve situations without using force, unless required under the circumstances to serve a lawful purpose.²⁸ Members may only use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, to ensure the safety of a member or third person, stop an attack, make an arrest, or prevent escape.²⁹ The main issue in evaluating each use of force is whether the amount of force used by the member was objectively reasonable in light of the totality of the circumstances faced by the member, at the time of the incident.³⁰ Factors to be considered include, but are not limited to, (a) whether the person is posing an imminent threat to the member or others; (b) the risk of harm, level of threat or resistance presented by the person; (c) the person's proximity or access to weapons; (d) whether de-escalation techniques can be employed or would be effective; and (e) the availability of other resources.³¹

The use of deadly force is "a last resort that is permissible only when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person."³² Department policy specifically prohibits a member from using deadly force on a fleeing person unless the person poses an imminent threat.³³ A threat is imminent "when it is objectively reasonable to believe that: (1) the person's actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken; and (2) the person has the means or instruments to cause death or great bodily harm; and (3) the person has the opportunity and ability to cause death or great bodily harm."³⁴

Additionally, Department policy expressly prohibits members from "firing solely in defense or protection of property,"³⁵ or from firing at or into a moving vehicle, unless such force is a last resort and necessary to protect against an imminent threat to life or to prevent great bodily harm.³⁶

b. Notification Requirements

Department policy requires any member who discharges their firearm to immediately notify OEMC of the discharge, provide all relevant information, and request additional resources. When the discharge occurs outside the City of Chicago, the member must also notify the law

²⁸ General Order G03-02(II)(C), De-escalation, Response To Resistance, And Uses Of Force (effective April 15, 2021 – present).

²⁹ G03-02(III)(B).

³⁰ G03-02(III)(B)(1).

³¹ G03-02(III)(B)(1).

³² G03-02(IV)(C).

³³ G03-02(IV)(D)(1)(a).

³⁴ G03-02(IV)(B).

³⁵ General Order G03-02-03(II)(D)(3), Firearm Discharge Incidents - Authorized Use And Post-Discharge Administrative Procedures (effective April 15, 2021 – present).

³⁶ G03-02-03(II)(D)(6).

enforcement agency that has jurisdiction, as well as CPD's Crime Prevention and Information Center (CPIC).³⁷

c. Firearm Registration and Qualification Requirements

Department policy requires all sworn members to "register all duty and non-duty firearms with the Department."³⁸ Additionally, Department members must qualify annually with all prescribed, alternate prescribed, or auxiliary firearms prior to carrying the firearm on or off duty.³⁹

d. 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.⁴⁰ 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.⁴¹ 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."⁴²

³⁷ General Order G03-06(V)(A), Firearm Discharge And Officer-Involved Death Incident Response And Investigation (effective April 15, 2021 – present).

³⁸ Uniform and Property U04-02(II)(F), Department Approved Weapons And Ammunition (effective May 7, 2021 – present).

³⁹ U04-02(II)(D)(4)(a).

⁴⁰ 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).

⁴¹ See, e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016).

⁴² *Id.* at ¶ 28.

IV. ANALYSIS AND CONCLUSION

a. Sgt. Sampson discharged her firearm in violation of General Order G03-02.

COPA finds it was not objectively reasonable for Sgt. Sampson to discharge her firearm at the Toyota because deadly force was not necessary to prevent death or great bodily harm. Factors to be considered in assessing whether the force was objectively reasonable include, but are not limited to, (a) whether the person is posing an imminent threat to the member or others; (b) the risk of harm, level of threat, or resistance presented by the person; (c) the person's proximity or access to weapons; (d) whether de-escalation techniques can be employed or would be effective; and (e) the availability of other resources.⁴³ When determining whether the force was reasonable, courts balance the nature and quality of the intrusion on the individual's rights against the "countervailing governmental interests at stake."⁴⁴

Here, neither Sgt. Sampson nor Mr. [REDACTED] reported that the juvenile males possessed any weapons, used any weapons, or threatened to harm them or anyone else when they stole the Toyota. Video surveillance and physical evidence confirms the juvenile males did not use a weapon or any type of force during the vehicle theft. Sgt. Sampson evidently failed to identify herself as a police officer as she pursued the Toyota on foot. At the time she discharged her weapon, Mr. [REDACTED] was alone in the Toyota, driving away from her, and there is no evidence he drove in a manner that would lead Sgt. Sampson to reasonably believe he posed an imminent threat of death or great bodily harm. Conversely, Sgt. Sampson caused a greater threat to innocent bystanders when she fired at the fleeing Toyota in a crowded parking lot.⁴⁵

For these reasons, COPA finds Sgt. Sampson used deadly force when it was not objectively reasonable to do so, where no imminent threat was present.

1. Sgt. Sampson violated Department policy by firing at a fleeing person who did not pose an imminent threat.

Department policy prohibits members from using deadly force on a fleeing person unless the person poses an *imminent* threat of death or great bodily harm.⁴⁶ A threat is imminent "when it is objectively reasonable to believe that (1) the person's actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken; and (2) the person has the means or instruments to cause death or great bodily harm; and (3) the person has the opportunity and ability to cause death or great bodily harm."⁴⁷

Here, the video evidence clearly shows Mr. [REDACTED] and the other juvenile males stole Sgt. Sampson's Toyota, which is charged as a felony. However, as discussed above, there is no evidence Mr. [REDACTED] stole the Toyota using violence – he did not possess a weapon, nor did he use or threaten to use force that would cause death or great bodily harm. While Mr. [REDACTED] was

⁴³ G03-02(III)(B)(1).

⁴⁴ *Estate of Starks v. Enyart*, 5 F.3d 230, 234 (7th Cir. 1993), quoting *Graham v. Connor*, 490 U.S. 386, 395-96 (1989).

⁴⁵ See *Scott v. Harris*, 550 U.S. 372, 384 (2007) (discussing the fact that risk of harm to "innocents" weighs against the reasonability of the police's use of deadly force).

⁴⁶ G03-02(IV)(D)(1)(a)(emphasis added).

⁴⁷ G03-02(IV)(B).

operating a vehicle that *could* be used as a weapon, the video evidence indicates he did not use the Toyota in an offensive manner. At the time Sgt. Sampson discharged her firearm, Mr. [REDACTED] was driving away with no signs of reckless driving. He used a designated driving lane, did not appear to be traveling at an excessive speed, and there was little risk that he would strike a pedestrian or another vehicle.

For these reasons, COPA finds Mr. [REDACTED] was a fleeing person who did not pose an imminent threat of death or great bodily harm, and Sgt. Sampson's use of deadly force against him violated Department policy.

2. Sgt. Sampson violated Department policy by firing at a moving vehicle when it was not necessary to prevent an imminent threat.

Department policy also prohibits members from firing at or into a moving vehicle, unless such force is a last resort and necessary, based on the specific circumstances confronting the member, to protect against an imminent threat to life or to prevent great bodily harm.⁴⁸ In *Estate of Starks v. Enyart*, the Seventh Circuit found that officers were not justified in using deadly force against an individual who attempted to flee in a stolen vehicle.⁴⁹ In that case, the officers responded to a call of a vehicle stolen without violence, activated their emergency lights, and boxed in the stolen vehicle. When the officers attempted to apprehend the driver, he sped off in the stolen vehicle, and the officers opened fire.⁵⁰ The Seventh Circuit ruled that the facts "cannot support a reasonable officer's belief that it was permissible to use deadly force to seize [the driver]."⁵¹

As discussed above, in this case, the Toyota was stolen without violence, and at the time Sgt. Sampson discharged her weapon, Mr. [REDACTED] did not pose an imminent threat of death or great bodily harm. Conversely, Sgt. Sampson's decision to fire at a vehicle that was surrounded by pedestrians and civilian vehicles, created a threat to the lives of innocent bystanders.

For these reasons, COPA finds Sgt. Sampson violated Department policy when she fired at the Toyota.

3. Sgt. Sampson violated Department policy by firing solely in defense or protection of property.

Department policy also prohibits members from "firing solely in defense or protection of property."⁵² As discussed above, Sgt. Sampson did not allege, nor is there any evidence that the juvenile males were armed or acted in a manner that posed a threat of death or great bodily harm. Sgt. Sampson acknowledged on video that she shot at her Toyota to stop Mr. [REDACTED] from stealing the vehicle, a property crime.

Based on the foregoing, COPA finds the preponderance of the evidence shows Sgt. Sampson used deadly force when it was not objectively reasonable to do so, and specifically

⁴⁸ G03-02-03(II)(D)(6).

⁴⁹ *Estate of Starks v. Enyart*, 5 F.3d 230 (7th Cir. 1993).

⁵⁰ *Id.*

⁵¹ *Id.* at 233.

⁵² G03-02-03(II)(D)(3).

prohibited by General Order G03-02 and G03-02-03. Therefore, COPA finds **Allegation #1** is **sustained** as a violation of Rules 2, 3, 6, and 9.

b. Sgt. Sampson failed to timely and/or accurately notify the appropriate agency that she discharged her firearm.

When a Department member discharges their firearm, they are required to immediately notify OEMC and provide all relevant information. Additionally, when the firearm discharge occurs outside of the City of Chicago, the Department member must notify the law enforcement agency with jurisdiction, as well as the Department's Crime Prevention and Information Center (CPIC).⁵³ In this case, Sgt. Sampson promptly called 911 to report her vehicle was stolen. Although she identified herself as an off-duty officer, she did not report that she discharged her firearm. Additionally, when EPPD officers responded to the scene, Sgt. Sampson told them she was an off-duty officer whose vehicle was stolen, and she provided details relevant to the stolen vehicle investigation. However, she did not disclose that she discharged her weapon until she called her CPD captain, approximately *eleven minutes* after the discharge.

It is clear Sgt. Sampson was required to tell EPPD, who had jurisdiction over this incident, that she discharged her firearm. She did not do so, despite having multiple opportunities and ample time to report the discharge. For these reasons, COPA finds that Sgt. Sampson failed to timely notify the appropriate agency of her firearm discharge, a violation of General Order G03-06. Therefore, **Allegation #2** is **sustained** as a violation of Rules 2, 3, 5, and 6.

c. Sgt. Sampson failed to register or qualify with the firearm she used in this incident.

Department policy requires sworn members to register all duty and non-duty firearms with the Department.⁵⁴ Additionally, before carrying a firearm off-duty, members must qualify annually with the firearm.⁵⁵ In this case, CPD records show Sgt. Sampson registered only one firearm with the Department, a Smith & Wesson 9mm semi-automatic pistol, Serial Number [REDACTED], which she last qualified with on May 11, 2021. However, the EPPD reports and photographs⁵⁶ reveal the firearm recovered from Sgt. Sampson on the night of the incident was a Smith & Wesson 9mm semi-automatic pistol, Serial Number [REDACTED]. COPA afforded Sgt. Sampson the opportunity to address this discrepancy by providing a statement; however, she invoked her Fifth Amendment rights and declined to answer any questions relating to these allegations.

As a result, the preponderance of the evidence available to COPA shows Sgt. Sampson discharged a firearm she was not qualified with, and which she had not registered with the Department. Therefore, COPA finds **Allegations #3 and 4** are **sustained** as violations of Rules 2, 3, 5, and 6.

⁵³ G03-06(V)(A).

⁵⁴ U04-02(II)(F).

⁵⁵ U04-02(II)(D)(4).

⁵⁶ See Attachment 29, pgs. 12-14.

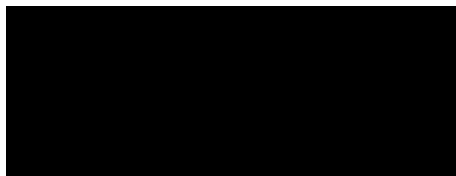
V. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**i. Complimentary and Disciplinary History**

In considering disciplinary recommendations for sustained findings, COPA reviewed Sgt. Sampson's complimentary and disciplinary histories.⁵⁷ Sgt. Sampson has received a total of 25 awards, including four complimentary letters, three crime reduction awards, and 11 honorable mentions. She has no sustained disciplinary history in the past five years.

ii. Recommended Penalty

COPA has found that Sgt. Sampson violated Rules 2, 3, 5, 6, and 9 by discharging her firearm without justification, failing to timely notify the Evergreen Park Police Department, and failing to register or qualify with the firearm she discharged. Sgt. Sampson's decision to fire her weapon at a fleeing vehicle, for the sole purpose of stopping a property crime, was a flagrant violation of Department policy. It also recklessly risked the lives of dozens of civilians in the Sam's Club parking lot. Further, Sgt. Sampson's arrest and the media attention it caused brought significant discredit to the Department and the City of Chicago. Despite Sgt. Sampson's lack of a disciplinary history, her misconduct during this incident mandates severe consequences. Accordingly, COPA recommends that Sgt. Sampson be **separated** from the Chicago Police Department.

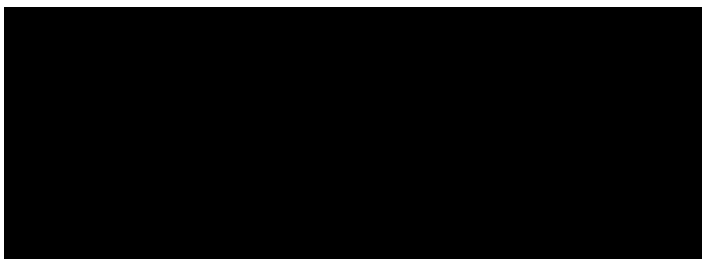
Approved:



Matthew Haynam
Deputy Chief Administrator – Chief Investigator

1/18/2022

Date



Andrea Kersten
Interim Chief Administrator

1/18/2022

Date

⁵⁷ Attachment 79.