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David O. Brown
Superintendent of Police

April 19, 2022

Andrea Kersten
Chief Administrator
Civilian Office of Police Accountability
1615 West Chicago Avenue, 4th Floor
Chicago, IL 60622

RE: Complaint Register Number: #2021-0004307
Superintendent's concurrence with COPA's findings
Superintendent's non-concurrence with some of COPA's proposed penalties
Sergeant Oneta Sampson #1496

Dear Chief Administrator:

After careful review of the recommendations made by the Civilian Office of Police Accountability (COPA) in this matter, as detailed below the Chicago Police Department (CPD) concurs with most COPA's findings, but does not concur with COPA's recommended penalty.

Facts

On October 30, 2021 at 6:40 P.M. in the Sam's Club parking lot, Off-Duty Police Sergeant Oneta Sampson (ODPO Sampson) and her husband [REDACTED] were loading their groceries into the trunk of their Toyota when three juvenile offenders advanced on them. [REDACTED] jumped into the driver's seat of ODPO Sampson's and [REDACTED] Toyota and sped off, while the other two juveniles ran in different directions in an attempt to disorient ODPO Sampson and [REDACTED] ODPO Sampson as well as [REDACTED] followed the Toyota on foot, and ODPO Sampson unholstered her weapon and fired one round into the pavement from approximately 25 yards away. [REDACTED] and his accomplices successfully fled the scene with ODPO Sampson's and [REDACTED] Toyota. ODPO Sampson, who was terrified and panicked, reported the incident via 911 as well as identified herself as an ODPO to the 911 call-taker.

At approximately 6:48 p.m., an Evergreen Park Police Officer (EPPO) arrived on-scene to conduct a preliminary investigation. The EPPO asked ODPO Sampson what happened and ODPO Sampson told the EPPO that her Toyota was stolen as well as provided pertinent details regarding the Toyota's particulars and the offenders' physical descriptions - making it possible for the EPPO to disseminate an immediate flash message to alert other law enforcement personnel about the vehicular hijacking. A short time after this at approximately 6:54 p.m. Sampson, who was still visibly terrified and panicked, told the on-scene Evergreen Park Police Officers (EPPOs) as well as her Chicago Police Department (CPD) Captain that she discharged her weapon.

At approximately 7:30 pm. EPPOs relocate ODPO Sampson to the Evergreen Park Police Station where ODPO Sampson was mirandized and arrested for reckless discharge. ODPO Sampson refused to answer

questions without an attorney present. [REDACTED] on the other hand, provided a statement that was consistent with ODPO Sampson's on-scene testimony as well as the surveillance video. [REDACTED] related that when he heard the gunshot he thought the offenders were firing at him and his wife and therefore unholstered his firearm to protect himself from the perceived threat.

The EPPOs recovered one 9mm fired bullet from the ground in the Sam's club parking lot, ODPO Sampson's firearm, magazine and fifteen live rounds.

At approximately 8:35 p.m., CPD Officers observed the Toyota and attempted to stop it. The Toyota and its five occupants fled. The CPD Officers pursued and eventually stopped the Toyota. Once the Toyota was stopped its five occupants fled from the CPD Officers on foot. The CPD Officers, after a foot pursuit, apprehended and arrested the Toyota's five occupants for possession of a stolen vehicle and aggravated fleeing.

On November 1, 2021 CPD's Bureau of Internal Affairs (BIA) relieved ODPO Sampson of her police powers pending the results of this investigation. ODPO Sampson pled her Fifth Amendment right and therefore did not participate in the COPA's investigation of this incident.¹

Sustained Allegations

COPA sustained four allegations against ODPO Sampson for the following misconduct.

Allegation #1: It is alleged that on October 30, 2021, at approximately 6:45 p.m., at 9400 S Western Avenue, ODPO Sampson discharged her firearm in violation of G03-02. Allegation #2: It is alleged that on October 30, 2021, at approximately 6:45 p.m., at 9400 S Western Avenue, ODPO Sampson failed to timely and accurately notify the appropriate agency that she discharged her firearm in violation of G03-06. Allegation #3: ODPO Sampson failed to register her secondary firearm with CPD in violation of U04-02. Allegation #4: ODPO Sampson failed to qualify with her secondary firearm in violation of U04-02.

Analysis

A. COPA's finding against ODPO Sampson for discharging her firearm in violation of G03-02 is sustained (allegation 1).

The CPD agrees with the finding against ODPO Sampson for discharging her firearm at a moving vehicle. The relevant General Order in the instant case is *Firearm Discharge Incidents – Authorized Use and Post-Discharge Administrative Procedures* G03-02-03 which prohibits firing at or into a moving vehicle. In the instant case, ODPO Sampson did not abide by the latter proscription. ODPO Sampson fired her weapon in the direction of her stolen Toyota – a moving vehicle. However it is unclear whether or not ODPO Sampson's actions fall within the exception to the latter proscription: firing at a moving vehicle is permissible when such force is a last resort and necessary, based on the specific circumstances confronting the sworn member, to protect against an imminent threat to life or to prevent great bodily harm to the sworn Department member, another person or a group of people. In this vein, ODPO Sampson most likely believed the juveniles were armed as well as that the juveniles posed a threat of great bodily harm to the public due to their erratic driving of the stolen Toyota – to make good their escape.²

¹ The results of ODPO Sampson's criminal investigation are unknown.

² In its summary report of investigation COPA contends [REDACTED] did not drive recklessly or erratically.

COPA summarily argues that [REDACTED] actions and flight do not lend support to a reasonable belief that it was permissible for ODPO Sampson to fire at the moving vehicle. COPA points to the fact that when the offenders were apprehended hours later they were unarmed, however COPA does not cite to the fact that the five juveniles were not apprehended peacefully. rather these juveniles led CPD officers on a high-speed, dangerous vehicle pursuit as well as a foot pursuit. In fact, when the vehicle pursuit ended due to grid-lock traffic, [REDACTED] rammed two occupied vehicles in an attempt to open up an egress route to continue fleeing from CPD.

Nonetheless after a careful examination of the events, CPD agrees that COPA proved by a preponderance of the evidence that ODPO Sampson's firearm discharge, on its face, contravened CPD's use of force policy proscribing firing at a moving vehicle.

B. COPA's finding against ODPO Sampson for failure to timely and accurately notify the appropriate agency that she discharged her firearm in violation of G03-06 is not sustained (allegation 2).

At approximately 6:40 p.m. ODPO Sampson became the victim of a vehicular hijacking. At 6:54 p.m., not less than fourteen minutes later, ODPO Sampson told both the EPPOs and her CPD Captain, that she discharged her weapon in the direction of her stolen Toyota. In terms of post-discharge policy, ODPO Sampson who was terrified, panicked and emotionally traumatized made the proper notifications at an extremely chaotic crime-scene within fourteen minutes. While ODPO Sampson did not personally notify CPIC, her CPD Captain certainly did as absolutely nothing was amiss in regards to CPD's post-discharge investigation and policies including ODPO Sampson's mandatory drug and alcohol testing by the BIA call-out supervisor.

C. COPA's finding against ODPO Sampson for failure to register and qualify her secondary firearm with CPD in violation of U04-02 is sustained (allegations 3 and 4).

COPA proved by a preponderance of the evidence that ODPO Sampson's auxiliary firearm is not registered with CPD as well as that ODPO Sampson did not qualify with that same firearm. COPA obtained ODPO Sampson's firearm registration(s) as well as her qualification records to prove the same.

D. CPD's Penalty Analysis and Conclusion

CPD concurs with the sustained findings that ODPO Sampson: 1) discharged her firearm at a moving vehicle; and 2) failed to register and qualify with her auxiliary firearm, but disagrees with the proposed penalty of separation. Below please find precedential disciplinary recommendations for sustained officer-involved discharges on similar facts:

1. In Police Board Case 21 PB 2986, Police Officer Luigi Sarli #14398 was suspended for 2 years for firing at or into a moving vehicle.
2. In Log #1079644 COPA recommended a 180-day suspension for Police Officer Christopher Thedford #14940 (Retired) for firing his weapon at a moving, get-away vehicle occupied by two offenders that just stole his catalytic converter.
3. In Log #1078756, Police Officer Lemornet Miller #10424 was car jacked in front of his residence by two offenders. Officer Miller repeatedly fired at the offender as he fled in Officer Miller's stolen personal vehicle. On March 31, 2016 COPA administratively closed this misconduct investigation.

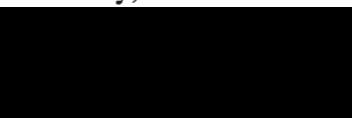
COPA did not impute any wrong doing on Officer Miller. COPA never named him as an accused nor did COPA serve him with charges and allegations.

4. In Log #1082645 COPA recommended a 365-day suspension for Police Officer Alicja Teper #17840 for firing into a building when the person firing at was not clearly visible as well as for firing multiple times into a gas station overhang.
5. In Police Board Case 19 PB 2956, Off-Duty Chicago Police Sergeant Khalil Muhammad #960 was suspended for 180 days for mistakenly firing his weapon at unarmed autistic juvenile.

In light of the aforementioned cases CPD has determined that a suspension of 180 days is the appropriate penalty.

CPD looks forward to discussing this matter with you pursuant to MCC-2-78-130(a)(iii).

Sincerely,



David O. Brown
Superintendent of Police
Chicago Police Department