



May 20, 2022

Mr. Max A. Caproni
Executive Director, Chicago Police Board
30 North LaSalle Street, Suite 1220
Chicago, Illinois 60602

Via Email

RE: Request for Review, Log #2021-0004307

Dear Mr. Caproni,

Pursuant to the Municipal Code of Chicago Section 2-78-130 and Police Board Rules of Procedure Section VI, please consider this letter a Request for Review of a non-concurrence between the Civilian Office of Police Accountability (COPA) and the Superintendent of the Chicago Police Department (Department) in Log # 2021-0004307.¹

As set forth in detail in COPA's Summary Report of Investigation dated January 18, 2022 (SRI), there is a compelling legal and evidentiary basis to support COPA's disciplinary recommendation of separation of Sergeant Oneta Sampson based on findings that she discharged her weapon at a fleeing vehicle in violation of Department policy, that she failed to timely and/or accurately notify the appropriate agency of her weapon discharge, and that she failed to register and qualify with her weapon.²

I. BACKGROUND

A. Relevant Factual Background³

On the evening of the incident, off-duty Sergeant Sampson and her husband, [REDACTED] [REDACTED] were loading groceries into their idling car in front of Sam's Club in Evergreen Park, Illinois. Three juvenile males approached the couple. One of the juveniles entered the driver's seat of the couple's car and drove away through the parking lot. Sergeant Sampson and Mr. [REDACTED] ran after the car. Sergeant Sampson unholstered her weapon and fired one round towards the back of the fleeing car from approximately 25 yards away. Sergeant Sampson's round struck the pavement behind the fleeing car and did not hit any people or vehicles.

Following the incident, Sergeant Sampson called 911, identified herself as an off-duty police officer and reported that three teenagers stole her car. Evergreen Park Police Department ("EPPD") responded shortly thereafter and Sergeant Sampson again relayed information similar to that she had provided earlier to 911.

¹ As required by the Police Board Rules of Procedure, enclosed are copies of COPA's final summary report, the Department's non-concurrence letter, and the certificate of meeting.

² The Superintendent concurs with COPA's findings that Sergeant Sampson committed misconduct by discharging her firearm and failing to register and qualify with her weapon. The Superintendent disputes that separation is an appropriate penalty for these violations. In addition, the Superintendent does not agree that Sergeant Sampson untimely notified the appropriate agency of her weapon discharge.

³ A more detailed factual summary can be found in the SRI.

Approximately 14 minutes after discharging her weapon, Sergeant Sampson informed her CPD captain and EPPD officers that she had shot at the fleeing car.

The juveniles were later apprehended fleeing from Sergeant Sampson's car after a brief vehicle pursuit by CPD officers. No weapons or firearms were recovered from the car or from the juveniles. Sergeant Sampson was subsequently charged with one count of Felony Reckless Discharge of a Firearm.

B. Disputed Findings and Recommendations

As the Superintendent states in the enclosed letter, he disputes COPA's finding that Sergeant Sampson failed to timely and accurately notify the appropriate agency that she discharged her firearm. He further disagrees with the recommended penalty of separation for Sergeant Sampson.

C. Applicable Department Policy

1. Use of Deadly Force.

Directive G03-02 identifies "the sanctity of human life" as the Department's "highest priority."⁴ The Directive further provides that "[t]he main issue in evaluating every 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 on the scene."⁵ An officer's use of force decisions are "judged based on the totality of the circumstances known by the member at the time and from the perspective of a reasonable Department member on the scene, in the same or similar circumstances, and not with the benefit of 20/20 hindsight."⁶

Additionally, Directive G03-02-03 expressly prohibits members from "firing solely in defense or protection of property,"⁷ 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.⁸

2. Responsibilities Following a Firearms Discharge.

For any firearm-discharge incident, the discharging member will immediately notify OEMC of the firearm discharge and provide all relevant information and request additional resources.⁹ If the firearm-discharge incident occurs outside of the City of Chicago, the member is additionally required to notify the law enforcement agency with jurisdiction over the incident and CPIC.

3. Firearms Registration and Qualification Requirements

Department members are required to "register all duty and non-duty firearms with the Department."¹⁰ In addition, members must qualify annually with all prescribed, alternate prescribed, or auxiliary firearms prior to carrying the firearm on or off duty."¹¹

⁴ G03-02.II.A (Eff. Apr. 15, 2021)

⁵ G03-02.III.B.1

⁶ G03-02 II.D.1

⁷ G03-02.03.II.D.3 (Eff. Apr. 15, 2021)

⁸ G03-02-03.II.D.6

⁹ G03-06.V.A (Eff. Apr. 15, 2021)

¹⁰ U04-02.II.F (Eff. May 7, 2021)

¹¹ U04-02.II.D.4.A.

II. ANALYSIS

A. Sergeant Sampson's Use of Deadly Force at a Fleeing Juvenile Who Posed No Imminent Threat Warrants Separation, not 180 days' Suspension Recommended by the Superintendent.

The Superintendent attempts to insert post-facto rationale and relies on hindsight for Sergeant Sampson's use of deadly force to support his proposed penalty of 180 days of suspension. First, the Superintendent speculates that Sergeant Sampson "most likely believed the juveniles were armed" and that their "erratic driving" posed a threat of great bodily harm to the public at large. The record belies his assertion. Rather, it was Sergeant Sampson's firearm discharge at the fleeing car that caused an imminent threat of harm to innocent shoppers in the Sam's Club parking lot. Second, the Superintendent contends that the juveniles' later arrest following a foot and motor vehicle pursuit lend support for Sergeant Sampson's use of deadly force two hours earlier. As noted by the Seventh Circuit, "[k]nowledge of facts and circumstances gained after the fact . . . has no place in the trial court's or jury's proper post-hoc analysis of the reasonableness of the actor's judgment."¹² Accordingly, the juveniles' later apprehension should not be considered in determining whether they posed an imminent threat at the time that Sergeant Sampson used deadly force.

To support the conclusion that Sergeant Sampson should merely be suspended for 180 days, the Superintendent relies on several disciplinary recommendations made by COPA and the Police Board that are factually inapposite. First, none of the examples relied upon by the Superintendent involve a member being criminally charged with a Class 4 Felony for the misconduct in question.¹³ Second, none of the examples involve a Sergeant who had violated three different prohibitions against the use of deadly force, failed to immediately report her use of deadly force and had failed to register and qualify with the weapon she had used to commit these violations. Sergeant Sampson, as a supervisor within the Department, is charged with ensuring compliance with the Directives by her subordinates. Instead, she blatantly ignored those same Department Directives she is required to enforce when some kids stole her car. Her utter lack of a reasonable response to circumstances where she faced no imminent threat is highly concerning and undermines her ability not only to serve as a Chicago Police Officer but also as a supervisor to other members.

B. Contrary to the Superintendent's Argument, Sergeant Sampson's Notification of Weapons Discharge was Untimely and Violated Department Policy.

It is undisputed that Sergeant Sampson did not notify CPD or EPPD that she had fired her gun in the Sam's Club parking lot until approximately 14 minutes after her discharge. It is also undisputed that Sergeant Sampson entirely failed to notify CPIC. CPD policy, however, requires immediate notification. The Merriam-Webster dictionary defines "immediate" as "occurring, acting, or accomplished without loss or interval of time."¹⁴ Sergeant Sampson's notification was not immediate or instantaneous. The record indicates that Sergeant Sampson had numerous opportunities to notify the authorities regarding her discharge – when she called 911 and when she spoke with responding EPPD officers. Instead, she waited nearly quarter of an hour to notify. During that time, she placed others in danger. The record demonstrates that initially not even her husband was aware that it was Sergeant Sampson who had fired her weapon. He

¹² *Sherrod v. Berry*, 856 F.2d 802, 804 (7th Cir. 1988).

¹³ See *People v. Oneta Carney*, 21CR1477901 (Sergeant Sampson was charged with Reckless Discharge of a Firearm under 720 ILCS 24-1.5(a), a Class 4 felony); Under 720 ILCS 24-1.5(a), Reckless Discharge of a Firearm is defined as "discharging a firearm in a reckless manner which endangers the bodily safety of an individual."

¹⁴ <https://www.merriam-webster.com/dictionary/immediate> last accessed 5/3/2022.

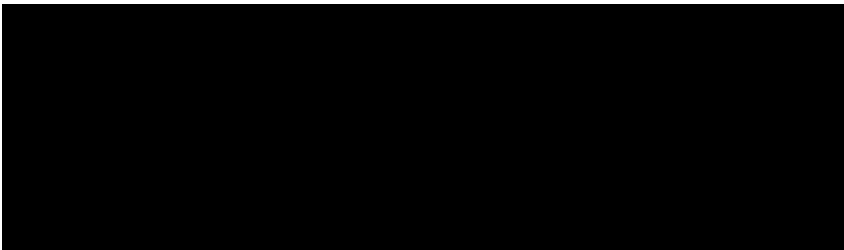
indicated that he initially believed that he was being fired at by the juveniles who had stolen his car. If Mr. [REDACTED] believed this inaccurate information, bystanders in the area could have operated under the same assumption. Had that inaccurate information been conveyed to EPPD or CPD, the juveniles, who were indisputably unarmed, may have been reported to be armed and had been classified accordingly by CPD.

The Superintendent argues that Sergeant Sampson's failure to immediately notify CPD and EPPD of her discharge should be excused because she was "terrified, panicked and emotionally traumatized."¹⁵ However, her statements and actions following her discharge show that she was also angry. In fact, her post-shooting statement shows that she was furious and fully aware of her duties and responsibilities under Department Directives. Yet, she ignored them. Specifically, following her discharge, Sergeant Sampson acknowledged that although the juveniles had just committed a "property crime," she nevertheless wished that she had struck the fleeing Toyota because then they "would have stopped."¹⁶ Her statement shows not only a knowing disregard for the safety of others but also her willful disregard of the rules and regulations she was sworn to uphold. As such, Sergeant Sampson's violation of S03-06 was blatant and warrants separation.

III. CONCLUSION

For these reasons, COPA maintains that the Superintendent has failed to meet his affirmative burden of showing COPA's recommendations in this case are unreasonable. Accordingly, COPA respectfully requests that the Chicago Police Board reject the Superintendent's non-concurrence in this matter and accept COPA's recommendation to separate Sergeant Sampson .

Respectfully,



Andrea Kersten
Chief Administrator
Civilian Office of Police Accountability

¹⁵ Superintendent's Letter at p. 3.

¹⁶ See COPA Summary Report of Investigations at p. 3.