

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	July 17, 2019
Time of Incident:	8:40 am
Location of Incident:	2150 N. California Ave – 014 th District Station (Men’s Locker Room)
Date of COPA Notification:	July 17, 2019
Time of COPA Notification:	10:00am

It was reported that while Officer Timmie DeBerry was in the 014th District Station men’s locker room, he took his off-duty weapon (a Glock 43 – S/N # [REDACTED]) and placed it on the coat hook inside his assigned locker #335. Officer DeBerry went to the bathroom, then returned to his locker and removed his gun from the hook inside his locker, at which time the weapon discharged twice. Officer DeBerry indicated that the trigger of the gun got caught on the hook causing the accidental discharge. There were no injuries reported. However, the discharged resulted in damage to Officer DeBerry’s locker #335 and Officer Cervantes’s locker #328 which was directly behind his locker. COPA finds that Officer DeBerry was inattentive to duty when handling his off-duty weapon.

II. INVOLVED PARTIES

Involved Officer #1:	Timmie DeBerry, Star #5427, Employee ID# [REDACTED], Date of Appointment: June 4, 2007, Police Officer, Unit: 014 / 640, DOB: [REDACTED], 1970, Male, Black
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III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Timmie DeBerry	<p>It is alleged that on or about July 17, 2019, at or near 014th District Station men’s locker room, Officer Timmie DeBerry Star# 5427 committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> 1. Inattentive to duty when handling your off-duty firearm. 2. Accidentally discharged your off-duty firearm while in the 014th District men’s locker room. 3. Caused damage to city property, lockers #328 and #335, in the 014th District men’s locker room. 	<p>Sustained /3 Day Suspension and Firearms Safety Training</p> <p>Sustained /3 Day Suspension and Firearms Safety Training</p> <p>Sustained /3 Day Suspension and Firearms Safety Training</p>

IV. APPLICABLE RULES AND LAWS

Rules¹

1. Rule 6 - Disobedience of an order/directive whether written or oral.
2. Rule 10 - Inattention to duty.

General Orders²

1. G03-02-03 - Firearms discharge incidents involving sworn members.

¹ Att. 25. Rules and Regulation #6 and #10.

² Att. 24. General Orders Firearms Discharge Incidents.

V. INVESTIGATION

a. Interviews

In his statement to COPA on March 19, 2021, **Officer Timmie DeBerry**³ stated that on July 17, 2019, he placed his off-duty weapon, a Glock 43 (S/N # [REDACTED]), on the hook inside his assigned locker #335, while he went to use the bathroom. Upon returning to his locker, Officer DeBerry grabbed his weapon to remove it from the hook and in the process the weapon accidentally discharged. Officer DeBerry explained that he believes the trigger was caught on the hook of the locker, causing it to pull back and discharge twice. As a result of the discharge, one bullet struck the upper part of Officer DeBerry's locker. Officer DeBerry believed that both bullets exited the locker at the top of the locker and one of the bullets entered the adjacent locker, assigned to Officer Cervantes. The locker assigned to Officer Cervantes was #328. Officer DeBerry stated that there were no officers in the locker room when the incident occurred and no one with a body worn camera. There are no security cameras in the men's locker room either.

Officer DeBerry stated that he immediately notified OEMC of the accidental discharge. He also notified his superiors and completed all the necessary Department reports. Proper notifications were made, and Officer DeBerry was submitted to a drug and alcohol test. He also provided a urine specimen and the results of all of his tests were all negative. Officer DeBerry apologized for placing his weapon on the coat hook, his lack of attention when he grabbed and retrieved his weapon from the hook which in turned caused it to discharge twice in the locker room, causing damage to the lockers.

b. Digital Evidence

There were no security cameras in the 014th District station men's locker room and there were no officers in the locker room with body worn cameras activated. The incident was not video recorded.

c. Physical Evidence

The **Evidence Technician (E.T.) photos**⁴ depict damage to two department lockers (#328 and #335) that appeared consistent with damage from fired projectiles. Photos were also taken of recovered shell casings from Officer DeBerry's the locker and his off duty weapon a Glock 43.

d. Documentary Evidence

The **Initiation**⁵ report from Sergeant Jason Parizanski documented that Officer DeBerry #5427, was at his assigned locker #335 preparing for his shift when he placed his off-duty weapon (Glock 43 – S/N # [REDACTED]) into his locker and as a result the weapon discharged twice. There were no injuries reported. However, the discharged weapon resulted in damage to Officer DeBerry's locker #335 and Officer Cervantes's locker #328.

³ Att. 22.

⁴ Att. 12.

⁵ Att. 1.

The Original Case Incident Report⁶ (RD# JC352328) noted that Officer DeBerry was at his assigned locker #335 preparing for his shift when he placed his off-duty weapon (Glock 43 – S/N # [REDACTED]) into his locker causing it to accidentally discharge twice. There were no injuries reported. However, the discharged weapon resulted in damage to Officer DeBerry's locker #335 and Officer Cervantes's locker #328. There are no videos that recorded the incident. BIA responded and all the proper notifications were made.

The **Tactical Response Report (TRR)**⁷ of Officer DeBerry documented that he accidentally discharged his weapon twice as he was placing it in his locker. The discharged cause damage to Officer DeBerry's locker and the locker behind his #328 assigned to Officer Cervantes. The TRR documented that there were no witnesses, no reported injuries and no videos that recorded the incident. BIA responded, all the chemical testing was conducted, and all the proper notifications were made.

The **Event Queries**⁸ from the Office of Emergency Management and Communication (OEMC) documented the notifications made by Officer DeBerry and police personnel relating to the accidental weapon discharged.

The **Weapons Discharge – Accidental Report**⁹ and package submitted by Sgt. Mark Lamberg documented that he responded to the 014th District Station after becoming aware of an accidental weapons discharge. Sgt. Lamberg prepared a Notice of Alcohol and Drug Testing and observed Officer DeBerry as he submitted a breath sample which revealed his BrAC to be .000. Officer DeBerry also submitted a urine specimen sample for substance testing in the presence of Sgt. Lamberg. Quest Diagnostics laboratory report showed negative substance abuse results for the tested urine specimen sample submitted by Officer DeBerry.

A **Firearm Qualification Report**¹⁰ documents that Officer DeBerry last qualified with his firearm on ¹¹. Officer DeBerry's FOID card, #, expires.

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;

⁶ Att. 3.

⁷ Att. 7.

⁸ Atts. 2, 5, 6.

⁹ Att. 8.

¹⁰ Att.

¹¹ Officers are required to annually qualify with their firearms. Firearm qualifications are good for one year.

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 occurred and violated Department policy. *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). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, 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. *See e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). 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." *Id.* at ¶ 28.

VII. ANALYSIS

COPA finds with Clear and Convincing evidence that Allegations#1, #2 and #3 are SUSTAINED, in violation of the Department's Rule 6, Rule 10 and General Order G03-02-03. Officer DeBerry was inattentive to duty when handling his off-duty firearm which accidentally discharged while in the 014th District men's locker room. The discharge of Officer DeBerry's weapon struck his assigned locker #335 and the adjacent locker #328, assigned to Officer Cervantes. Officer DeBerry does not deny the documented allegations.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Timmie DeBerry

i. Complimentary and Disciplinary History¹²

Crime Reduction Award in (2009), Crime Reduction Award in (2019), (3) Attendance Recognition Awards, (3) Complimentary Letters, (6) Department Commendations, (5) Emblem of Recognition-Physical Fitness, (65) Honorable Mentions, (1) Joint Operations Award, (1) NATO Summit Service Awards, (1) Presidential Election Deployment Award (2008), and (2) Problem Solving Awards.

¹² Att. 23 Complimentary and Disciplinary History.

As of 5/14/2021 there are no complaints, SPAR’s, or disciplinary history for Officer DeBerry.

ii. Recommended Penalty, by Allegation

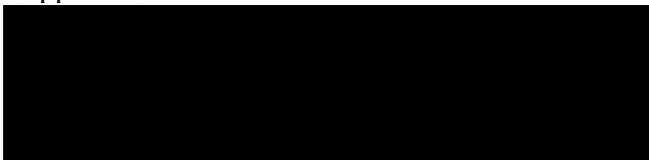
1. **Allegations No. 1** - Sustained COPA recommends a 3-day suspension and firearms safety training.
2. **Allegation No. 2** - Sustained COPA recommends a 3-day suspension and firearms safety training.
3. **Allegation No. 3** - Sustained COPA recommends a 3-day suspension and firearms safety training.

IX. CONCLUSION

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

Officer Timmie DeBerry	1. Inattentive to duty when handling your off-duty firearm. 2. Accidentally discharged your off-duty firearm while in the 014 th District men’s locker room. 3. Caused damage to city property, lockers #328 and #335, in the 014 th District men’s locker room.	Sustained /3 Day Suspension and Firearms Safety Training Sustained /3 Day Suspension and Firearms Safety Training Sustained /3 Day Suspension and Firearms Safety Training
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Approved:



6-30-2021

 Angela Hearts-Glass
 Deputy Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	11
Investigator:	Maira Webb
Supervising Investigator:	Valiza Ann Nash
Deputy Chief Administrator:	Angela Hearts-Glass