

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	June 1, 2020
Time of Incident:	8:00 P.M.
Location of Incident:	3403 W. 53 rd Place, Chicago, Illinois 60632
Date of COPA Notification:	July 30, 2020
Time of COPA Notification:	10:26 A.M.

On June 1, 2020, the subject, [REDACTED] was a passenger in a vehicle involved in a traffic stop. [REDACTED] and the other occupants were ordered to exit the car during the traffic stop. When the involved officers were preparing to conduct a custodial search of the occupants, [REDACTED] was observed with a handgun. The involved officer ordered [REDACTED] to drop the weapon and used force to remove the gun from his person. [REDACTED] did not comply with the officer’s demands and physically resisted the officers. As [REDACTED] continued to resist the officers, Officer McNicholas struck [REDACTED] on the head with a flashlight, at which point the gun was recovered.

[REDACTED] was transported and processed at the 008th District police station. During the preparation of the Department Reports, Sgt. Amelio, involved in [REDACTED] arrest, completed a TRR and reviewed the TRRs for the officers who arrested [REDACTED]. The Watch Commander of the 008th District, Lt. Jones, failed to report the use of force by Officer McNicholas to COPA.

II. INVOLVED PARTIES

Involved Officer #1:	Peter Amelio, #1925, Empl. # [REDACTED], DOA September 30, 2002, Sgt., 007 th District, DOB [REDACTED], 1979, male, white
Involved Officer #2:	Donald Jones Jr., #316, Empl. # [REDACTED], DOA October 23, 1995, Lt., 008 th District, DOB [REDACTED], 1970, male, white
Involved Individual #1:	[REDACTED], 1992, male/ Hispanic
Involved Individual #2:	Deputy Chief Eve Gushes #23, Unit #120

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Sgt. Peter Amelio	It is alleged that on or about June 1, 2020, at approximately 8:00 P.M., Sergeant Amelio:	Unfounded

	1. Used force and performed the functions of the reviewing supervisor on associated Tactical Response Reports.	
Lt. Donald Jones Jr.	It is alleged that on or about June 1, 2020, at approximately 8:00 P.M., Lt. Jones: 1. Failed to notify COPA of a Use of Deadly Force incident.	Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 10 – Inattention to duty.

General Orders

1. G03-02-02 – Incidents Requiring the Completion of a Tactical Response Report, Section VI, B, 2, d, (1)

V. INVESTIGATION

a. Interviews

In an **interview with COPA on February 18, 2021, Lt. Donald Jones Jr.**¹ stated that on June 1, 2020, he was the Watch Commander of the 008th District, when the officers who arrested ██████ sought “probable cause.”² Lt. Jones did not recall the name of the officers he spoke with, but he vaguely recalls speaking with Sgt. Amelio. Lt. Jones recalled that Sgt. Amelio informed him they were preparing tactical response reports. Lt. Jones was told that the arresting officers had to wrestle ██████ to the ground because he produced a gun and would not release the weapon. Lt. Jones was also told that one of the officers³ feared for his life and struck ██████ on the head with a flashlight. Lt. Jones indicated that he did not observe any video footage related to the arrest of ██████. Lt. Jones stated that he reviewed and approved the Department reports. Lt. Jones admitted that Officer McNicholas’ actions were an example of deadly force, and he should have reported the incident to COPA.

In an **interview with COPA on March 10, 2021, Sgt. Peter Amelio**⁴ stated that on June 1, 2020, he was assigned to Unit 211, Area 1 Saturation Team. Sgt. Amelio and his team conducted a traffic stop of a vehicle, where ██████ was a passenger inside the stopped vehicle. Sgt. Amelio did not recall the details of the stop, but he believed there was a strong odor of cannabis emitting from the car as it was driving in traffic. Sgt. Amelio recalled that as the officers attempted a

¹ Att. 15

² Att. 15, Page 6, lines 11 - 12

³ Officer McNicholas

⁴ Att. 17

custodial search of ██████ had a gun in his hand. According to Sgt. Amelio, Officer Halpin, or Officer Havelka observed the weapon. At this time, ██████ resisted the officers, and “Officers had to hands-on in order to detain him and - - or place him into custody.”⁵ Sgt. Amelio assisted the struggling officers in controlling his hands and struck ██████ on the back with a closed fist a “handful of times”⁶ As Sgt. Amelio and the other officers on the scene attempted to remove the gun. Officer McNicholas assisted them by striking ██████ on the head with a flashlight⁷ until the weapon was recovered⁸ from ██████

Sgt. Amelio indicated ██████ did not sustain any injuries, nor did he complain of any. Sgt. Amelio completed a tactical response report (TRR) related to the arrest of ██████ A lieutenant⁹ from the 008th District reviewed his TRR. Sgt. Amelio stated that Officers McNicholas and Harding also completed TRRs. Sgt. Amelio admitted that he reviewed the officers’ TRR, but he did not approve the paperwork. Sgt. Amelio reviewed their paperwork because he was their sergeant, and he had direct knowledge of the incident. He also indicated that he was unaware of any rule or General Order that does not allow him to review a TRR, because he used force during the same incident.

b. Digital Evidence

The **in-car camera video**¹⁰ depicts several uniformed officers curb and approach a light-colored sedan. The officers order the individuals out of the vehicle. As the officers begin searching the individuals, the subject, now known as ██████ appears to stiffen his body and pull away from the officers. During the video footage, ██████ was observed reaching between his legs, near his waistband area. Several officers attempt to grab ██████ and push him into the vehicle. The video shows a few officers throwing punches in the direction of ██████ while one of the officers, a male/black and with a bald head, punches in the direction of ██████ torso, during which time the officer reaches down and appears to pick up a small handgun. One of the officers, now known to be Officer McNicholas, is seen striking ██████ with a small object. The officers then take ██████ to the ground and put him in handcuffs.

c. Documentary Evidence

COPA received an **initiation report from Commander Eve Gushes**¹¹. Commander Gushes indicated that the TRR of Officer McNicholas was “flagged for review” by the automated TRR application. Officer McNicholas wrote, “Fearing that the efforts of the closed fist strikes being conducted by R/O as well as assisting officers were ineffective and if they did not gain control of the subject and secure the gun immediately, he would be able to gain control and shoot R/O as well as officers on scene. R/O switched to a different force option by retrieving the closest and immediately accessible object being, a flashlight, and struck the subject in the back of the head multiple times until the subject dropped the weapon.”

⁵ Att. 17, Page 8, lines 23- 24 and Page 9, line 1

⁶ Att. 17, Page 9, line 10

⁷ Sgt. Amelio did not recall how many times Officer McNicholas struck ██████ but he recalls at least one time.

⁸ Sgt. Amelio did not confirm whether or not if the weapon was recovered because of Officer McNicholas actions.

⁹ Sgt. Amelio did not recall the name of the Lieutenant. Based from the Department reports is Lt. Jones Jr.

¹⁰ Att. 14 & 19

¹¹ Att. 7

Commander Gushes further reported although no members fired their weapon, and the subject was reportedly uninjured, intentional strikes to the head constitute deadly force per CPD policy. Therefore, Lt. Donald Jones Jr should have notified COPA on the TRR-Investigation report.

Commander Gushes related, Sgt. Peter Amelio used reportable force during said incident as reported on TRR 2020-2033. Because he used reportable force, Sgt. Amelio should not have performed the functions and responsibilities of the reviewing supervisor for the incident.

The **arrest report of [REDACTED]** indicates that he was arrested on June 1, 2020, for UUI, possession of a police scanner and resisting arrest. Officers McNicholas was listed as the arresting officer. The arrest report indicated that [REDACTED] was stopped and detained after the officers smelled a strong odor of marijuana emitting from his vehicle. During the detainment of [REDACTED] he ([REDACTED] removed a handgun from his waistband, during which time an assisting officer yelled, “gun gun gun!” The arresting officers gave several verbal commands to [REDACTED] to drop the gun, but he continued to hold control of the weapon and did not comply. Due to the actions of [REDACTED] the arresting officers responded with force to gain control of the [REDACTED] and secure [REDACTED]. Sgt. Amelio continued to give verbal commands to drop the firearm. The report states that Sgt. Amelio delivered closed fist strikes to [REDACTED] back left leg, and Officer McNicholas delivered closed fist strikes to the back of the head and then struck [REDACTED] on the back of the head with a flashlight. Once Officer McNicholas administered the head strikes, [REDACTED] dropped the weapon. [REDACTED] refused medical treatment and was transported to the 008th District for processing.

The **TRR of Sgt. Amelio for [REDACTED]** indicates that [REDACTED] “did not follow verbal direction,” “stiffened,” “pulled away,” and “imminent threat of battery with weapon (semi-auto pistol).” Sgt. Amelio responded with “member presence,” “verbal direction/ control techniques,” “tactical positioning,” “additional unit members,” and “closed hand strike/punch.”

The **TRR of Officer Harding for [REDACTED]** indicates that [REDACTED] “did not follow verbal direction,” “stiffened,” “pulled away,” and “imminent threat of battery with weapon (semi-auto pistol).” Officer Harding responded with “member presence,” “verbal direction/ control techniques,” “tactical positioning,” “additional unit members,” and “closed hand strike/punch.”

The **TRR of Officer McNicholas for [REDACTED]** indicates that [REDACTED] “did not follow verbal direction,” “stiffened,” “pulled away,” and “imminent threat of battery with weapon (semi-auto pistol).” Officer McNicholas responded with “member presence,” “verbal direction/ control techniques,” “tactical positioning,” “additional unit members,” “closed hand strike/punch,” and “other flashlight.”

¹² Att. 6

¹³ Att. 8

¹⁴ Att. 9

¹⁵ Att. 12

d. Additional Evidence

The **General Order 03-02-02 – Incidents Requiring the Completion of a Tactical Response Report (TRR)**¹⁶ does not indicate that a sergeant is restricted from reviewing a TRR if said sergeant used force in the same incident.

In section VI, B, 2, d, of G03-02-02¹⁷, the Lieutenant or Incident Commander must “determine if the member’s use of force requires a notification to the Civilian Officer of Police Accountability (COPA) to obtain a complaint log (CL) number. A notification to COPA is required for all incidents involving: (1) the use of deadly force.”

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 the conduct reviewed complied with 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 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. 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.

¹⁶ Att. 13

¹⁷ Att. 13, Page 11, Section 2, D, (1)

VII. ANALYSIS

Sgt. Peter Amelio

COPA makes a finding of **Unfounded** for allegation #1 for using force and performing the functions of the reviewing supervisor on associated Tactical Response Reports (TRR). The Department reports indicated that Sgt. Amelio was physically restrained and used closed hand strikes during the arrest of [REDACTED] Officers McNicholas and Harding TRRs have Sgt. Amelio is the reviewing supervisor on the reports. Sgt. Amelio said he reviewed the reports because he was their sergeant and he had direct knowledge of the incident. Sgt. Amelio did not approve any of the reports. Sgt. Amelio indicated that he is unaware of any rule or General Order that does not allow him to review a TRR because he used force during the same incident. General Order 03-02-02 – Incidents Requiring the Completion of a Tactical Response Report (TRR) does not indicate that a sergeant is restricted from reviewing a TRR if said sergeant used force in the same incident. Based on the facts presented, COPA find the allegation is **Unfounded**.

Lt. Donald Jones #316

COPA makes a finding of **Sustained** for allegation #1, for failing to notify COPA of Use of Deadly Force during an arrest. The Department reports documented that Officer McNicholas struck [REDACTED] with a flashlight with the purpose of retrieving a gun from [REDACTED] Officer McNicholas' actions were documented in several reports approved by Lt. Jones. VI, B, 2, d, of G03-02-02, indicates that the Lieutenant or Incident Commander must “determine if the member’s use of force requires a notification to the Civilian Officer of Police Accountability (COPA) to obtain a complaint log (CL) number. Lt. Jones admitted that Officer McNicholas actions were considered the Use of Deadly Force and should have been reported to COPA. Based on the evidence provided and the admission of Lt. Jones COPA finds the allegation is **Sustained**.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Lt. Donald Jones Jr.

i. Complimentary and Disciplinary History

Lt. Jones received 102 Complimentary awards.

Lt. Jones has no Disciplinary history.

ii. Recommended Penalty, by Allegation

1. Allegation No. 1

COPA recommends that Lt. Jones serve a 3-day suspension for failing to notify COPA of Use of Deadly Force during an arrest.

IX. CONCLUSION

Based on the analysis set forth above, COPA makes the above finding and recommendation.

Approved:



Sharday Jackson

Deputy Chief Administrator – Chief Investigator

5/6/22

Date