

**SUMMARY REPORT OF INVESTIGATION**

Date/Time/Location of Incident:	October 29, 2021 / 10:10 P.M. / 2255 E. 103 <sup>rd</sup> Street, Chicago, IL 60617 / 004 <sup>th</sup> District Station
Date/Time of COPA Notification:	October 30, 2021/ 12:11 A.M.
Involved Officer #1:	Artavius Bailey / Star #18837 / Employee ID # [REDACTED] / Date of Appointment: February 20, 2018 / Rank: Police Officer / Unit of Assignment: 004 / DOB: [REDACTED], 1992 / Male / Black
Case Type:	Unintentional Weapon Discharge

**I. ALLEGATIONS**

Officer	Allegation	Finding
Officer Artavius Bailey	1. It is alleged by the Civilian Office of Police Accountability that on or about October 29, 2021, at approximately 10:10 P.M., at or near 2255 E. 103 <sup>rd</sup> Street, Chicago Illinois (004 <sup>th</sup> District Station), Officer Artavius Bailey, Star #18837, committed misconduct by being inattentive to duty, in that his firearm discharged unintentionally.	Sustained/10-day suspension and retraining

**II. SUMMARY OF EVIDENCE<sup>1</sup>**

On October 29, 2021, Officer Artavius Bailey unintentionally discharged his firearm in the 004<sup>th</sup> District men’s locker room. The weapon discharged one time, striking locker #156, which is adjacent to Officer Bailey’s locker #157. Officer Bailey was alone in the locker room at the time of the discharge and there were no reported injuries. COPA’s investigation determined that Officer Bailey was inattentive to duty when handling his weapon.

**a. Interviews**

In a statement to COPA on November 18, 2021, **Officer Artavius Bailey<sup>2</sup>** stated that on October 29, 2021, he arrived at the 004<sup>th</sup> District station to begin his tour of duty at approximately 9:40 p.m. While working out in the basement gym, Officer Bailey looked at his phone and realized it was 10:05 p.m., and he was five minutes late for roll call. Officer Bailey relocated to the locker room to get dressed and retrieve his duty weapon, a Glock Model 19 semi-automatic pistol, from his assigned locker. He put on his uniform and duty belt, then removed his firearm from his off-

<sup>1</sup> COPA conducted a full and complete investigation of this matter, including the interview of all witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA’s ongoing efforts to increase case closure capacity, are summarized more succinctly in a Modified Summary Report of Investigation.

<sup>2</sup> Atts. 15, 32.

duty holster. With his right hand, Officer Bailey attempted to place the firearm in his on-duty holster, located on the right side of his duty belt. At the same time, he used his left hand to place his wallet in his left pocket. As Officer Bailey attempted to holster his firearm, the weapon discharged one time, striking the bottom of locker #156. Officer Bailey stated the discharge was unintentional, and there was no one else in the locker room when it occurred.

Immediately after the discharge, two officers ran into the locker room and Officer Bailey informed them his firearm had discharged. Officer Bailey then went upstairs and informed his supervisor, Sergeant Claire Vanslyke, Star #1275, that he “had an accidental discharge.”<sup>3</sup> He also spoke with Lieutenant Martin Loughney, Star #429, and Commander Darrell Spencer, Star #354, about the incident. Officer Bailey completed a Tactical Response Report and submitted to drug and alcohol testing that evening.<sup>4</sup>

Officer Bailey stated he had never unintentionally discharged a firearm prior to this incident, and he felt “very silly”<sup>5</sup> about what happened. He acknowledged that, in the future, he needs to be more careful and mindful of his training when handling a firearm.

#### **b. Digital Evidence**

The incident was not captured on any video or audio recordings, as there are no security cameras or other recording devices installed in the 004<sup>th</sup> District men’s locker room. On November 17, 2021, COPA investigators visited the location of incident and took **photos** of the locker room and the projectile damage.<sup>6</sup>

#### **c. Documentary Evidence**

Department reports, including the **Initiation Report**<sup>7</sup>, **Original Case Incident Report**<sup>8</sup>, **and Tactical Response Report (TRR)**<sup>9</sup>, document that Officer Bailey unintentionally discharged his firearm one time inside the 004<sup>th</sup> District locker room, striking locker #156. The discharge occurred as Officer Bailey removed his firearm from his off-duty holster and was in the process of placing it in his on-duty holster. There were no witnesses, no reported injuries, and no body worn camera footage of the incident.

The **Inventory Report**<sup>10</sup> documents that one shell casing, headstamped WIN 9MM Luger, was recovered from the locker room floor.

The **Event Queries**<sup>11</sup> from the Office of Emergency Management and Communication (OEMC) show that 004<sup>th</sup> District police personnel made all required notifications relating to the weapon discharge.

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<sup>3</sup> Att. 32, pg. 10, lines 2-3.

<sup>4</sup> As of the date of this report, COPA has not received the testing results.

<sup>5</sup> Att. 32, pg. 22, line 5.

<sup>6</sup> Att. 11-14, Photos of general area of incident and damage to locker 156.

<sup>7</sup> Att. 1.

<sup>8</sup> Att. 3.

<sup>9</sup> Att. 5.

<sup>10</sup> Att. 6.

<sup>11</sup> Atts. 8-10.

### III. 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 occurred and violated Department policy.<sup>12</sup> 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. 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.”<sup>13</sup>

### IV. ANALYSIS AND CONCLUSION

An allegation of an unintentional firearm discharge is evaluated under Chicago Police Department Rules 10 and 13. Rule 10 prohibits inattention to duty, while Rule 13 prohibits the failure to adequately secure or care for Department property. Both rules are evaluated under the legal standard of negligence, which is “the failure to do something which a reasonably careful person would do, or the doing of something which a reasonably careful person would not, under circumstances similar to those shown by the evidence.”<sup>14</sup>

In this case, it is undisputed that Officer Bailey’s firearm discharged, and that the discharge was unintentional. Officer Bailey told COPA the incident occurred when he attempted to holster the firearm with his right hand while simultaneously placing his wallet in his pocket with his left hand. Although Officer Bailey denied he was inattentive to duty, he did not claim the weapon malfunctioned and offered no reason for the discharge other than human error. COPA finds a

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<sup>12</sup> 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).

<sup>13</sup> See *e.g., People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (2016).

<sup>14</sup> Illinois Pattern Jury Instructions- Civil (2006), No. 10.01.

reasonably careful person would not have attempted to holster a loaded firearm using only one hand.

Based on the foregoing, COPA finds the preponderance of the evidence establishes that Officer Bailey’s conduct was negligent, and the firearm discharge resulted from the officer’s inattention to duty and failure to adequately secure his weapon. Therefore, Allegation #1 against Officer Bailey is **sustained** as a violation of Rules 10 and 13.

**V. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**a. Officer Artavius Bailey**

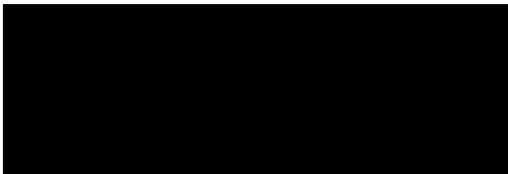
**i. Complimentary and Disciplinary History<sup>15</sup>**

Officer Bailey has received seven awards, including one 2019 Crime Reduction Award, two Emblems of Recognition- Physical Fitness, and four Honorable Mentions. He has no sustained disciplinary history.

**ii. Recommended Penalty**

COPA has found that Officer Bailey violated Rules 10 and 13 when he unintentionally discharged his firearm in the 004th District locker room. Officer Bailey’s negligence was significant, and could have resulted in death or serious injury. However, COPA notes that Officer Bailey’s conduct after the incident fully complied with Department policy, and he accepted responsibility for his actions. Given Officer Bailey’s inexperience as a police officer, COPA recommends he receive a **10-day suspension and retraining** on safe firearms handling.

Approved:



Matthew Haynam  
*Deputy Chief Administrator*

12/15/2021

Date

<sup>15</sup> Att. 33.