



Log # 2022-5417

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On December 24, 2022, the Chicago Police Department's (CPD) Crime Prevention and Information Center (CPIC) notified the Civilian Office of Police Accountability (COPA) of an officer involved shooting that occurred at approximately 2:05 am near 1599 W. Roosevelt Road. COPA learned that off-duty Officer Hodges Smith (Officer Smith) discharged his firearm. The incident, which was captured on surveillance video, occurred after [REDACTED] ([REDACTED] stole Officer Smith's Jeep, crashed it into a fire hydrant, then fired multiple gun shots at Officer Smith.

Any discharge of an officer's firearm results in a mandatory notification to COPA.² This investigation was initiated pursuant to the required notification. During COPA's investigation, it was determined that Officer Smith's firearm discharge was within policy. However, COPA served an allegation that Officer Smith failed to notify the Office of Emergency Management and Communication (OEMC) that he discharged his weapon.

II. SUMMARY OF EVIDENCE³

On December 24, 2022, Officer Smith stopped at the Mobil gas station located at 1549 W. Roosevelt Road⁴ to put oil in his Jeep.⁵ After Officer Smith opened the hood to add the oil, he discovered that he purchased the wrong type, so he returned to the gas station walk-up window to exchange the oil.⁶ Officer Smith's Jeep was on and the doors unlocked, but he had the key fob with him as he walked away. While Officer Smith waited at the window, [REDACTED] approached him. First, [REDACTED] asked Officer Smith for directions to a train station. Then, he asked Officer Smith for a ride. Officer Smith provided [REDACTED] with directions, then turned his attention back to the gas station attendant. As Officer Smith waited for the gas station attendant to complete the oil exchange, [REDACTED]

¹ Appendix A includes case identifiers such as the date, time, and location of the incident, the involved parties and their demographics, and the applicable rules and policies.

² One or more of these allegations fall within COPA's jurisdiction pursuant to Chicago Municipal Code § 2-78-120. Therefore, COPA determined it would be the primary investigative agency in this matter.

³ The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including third-party surveillance video, 911 recordings, police reports, and officer statement(s).

⁴ 1549 W. Roosevelt Road is the location of the Mobil gas station and the location of the vehicle theft.

⁵ 2018 Maroon Jeep; license plate # [REDACTED].

⁶ All purchases are made at an attendant's window. Customers are not allowed inside the store. Att. 27, photo 91.

⁷ Through his attorney, [REDACTED] declined to provide a statement to COPA. See att. 80.

walked to the driver's side of Officer Smith's Jeep, opened the door, sat in the driver's seat, then drove eastbound on Roosevelt Road, with the hood of the vehicle still in an open, upward position.⁸

When Officer Smith realized that [REDACTED] drove away, he ran after the Jeep on foot. As Officer Smith pursued his Jeep, [REDACTED] crashed into a fire hydrant on the side of Roosevelt Road and knocked it over, causing a rush of water to spill forth. As Officer Smith approached his Jeep on foot, [REDACTED] exited the driver's seat, produced a firearm, aimed it at Officer Smith, and fired multiple shots. In response, Officer Smith took cover on the passenger side of the Jeep, unholstered his firearm, and returned fire.⁹ After [REDACTED] shot at Officer Smith, he fled the scene and ran eastbound on Roosevelt Road. Officer Smith returned to the gas station and called 911 from his personal phone. Officer Smith explained to the dispatcher that he was an off-duty police officer, that someone had stolen his car, crashed it, shot at him, and provided his location and a description of [REDACTED] along with his direction of flight.¹⁰ When responding officers arrived at the scene, Officer Smith repeated his account of the incident, adding that he discharged his firearm.¹¹ [REDACTED] was apprehended nearby by on-duty CPD officers who responded to Officer Smith's 911 call.¹²

During his February 15, 2023, statement to COPA, Officer Smith explained that after the shooting, he called 911 and identified himself as an off-duty police officer who was involved in a shooting. Further, Officer Smith provided a description of [REDACTED] and his direction of flight.¹³ Officer Smith concluded his statement by declaring that, to the best of his recollection, he informed the dispatcher that he discharged his firearm.¹⁴

III. ALLEGATIONS¹⁵

Officer Hodges Smith:

1. Failed to notify the Office of Emergency Management and Communications (OEMC) that he discharged his weapon, in violation of General Order G03-06,V.
 - Sustained, Violation of Rule 6 & 10

⁸ Atts. 45 and 52.

⁹ Att. 77 pg.12 lns. 13 to 24; Att. 53.

¹⁰ Att. 8 and 9.

¹¹ Att. 63 at 2:43 to 3:15; Att. 65 at 2:42 to 3:11 and 5:17 to 5:19.

¹² COPA observed various technical violations related to the responding officers' scene response, including issues related to timely body worn camera activation and deactivation and one instance of an officer directing profanity at [REDACTED]. The Bureau of Internal Affairs (BIA) is investigating these allegations under Log 2023-0777.

¹³ Att. 77 pg.13 lns. 13 to 15 and 18 to 22.

¹⁴ Att. 77 pg.33 lns. 17 to 24 and pg. 34 line 1.

¹⁵ On December 24, 2022, at approximately 6:00 am, Officer Smith provided breath and urine samples to BIA to test for intoxication. Officer Smith tested negative for all substances, except for marijuana metabolites. BIA initiated their own investigation into the positive test result under Log 2023-0094. See atts. 31 and 32. The presence of marijuana metabolites in the bloodstream does not necessarily indicate intoxication. In his statement to COPA, Officer Smith denied being under the influence of drugs or alcohol when he discharged his firearm. See att. 77, pg. 23, lns. 13 to 21.

IV. CREDIBILITY ASSESSMENT

COPA's investigation did not reveal evidence calling into question the credibility of any of the individuals who provided a statement regarding this incident.

V. ANALYSIS¹⁶

Officer Smith's Use of Deadly Force Complied with CPD Policy¹⁷

COPA finds by a preponderance of the evidence that Officer Smith's use of deadly force was objectively reasonable, necessary, and proportional to the circumstances he faced. COPA further finds that Officer Smith used deadly force as an option of last resort. COPA thus concludes that Officer Smith's use of deadly force complied with CPD policy.

CPD's stated highest priority is the sanctity of human life. In all aspects of their conduct, the Department expects that its members act with the foremost regard for the preservation of human life and the safety of all persons involved.¹⁸ CPD members are only authorized to use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, to ensure the safety of a member or third person, stop an attack, make an arrest, control a subject, or prevent escape.¹⁹ This means CPD members will only resort to the use of force when required under the circumstances to serve a lawful purpose.²⁰ CPD members "may use deadly force only when such force is necessary to prevent: (1) death or great bodily harm from an imminent threat posed to the sworn member or to another person; (2) an arrest from being defeated by resistance or escape, where the person to be arrested poses an imminent threat of death or great bodily harm to a sworn member or another person unless arrested without delay."²¹

A threat is considered imminent "when it is objectively reasonable to believe that: (1) the person's actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken; **and** (2) the person has the means or instruments to cause death or great bodily harm; **and** (3) the person has the opportunity and ability to cause death or great bodily harm."²² Officers are expected to modify the use of force as circumstances change and in ways that are consistent with officer safety, including stopping the use of force when it is no longer necessary.²³

Based on the review of the evidence, COPA finds that it is more likely than not that Officer Smith's use of deadly force was objectively reasonable in light of the imminent threat he faced.

¹⁶ For a definition of COPA's findings and standards of proof, *see* Appendix B.

¹⁷ Att. 82, G03-02, De-escalation, Response to Resistance, and Use of Force (effective April 15, 2021 to Present).

¹⁸ Att. 82, G03-02(II)(A).

¹⁹ Att. 82, G03-02(III)(B).

²⁰ Att. 82, G03-02(II)(C).

²¹ Att. 82, G03-02(IV)(C).

²² Att. 82, G03-02(IV)(B) (emphasis added).

²³ Att. 82, G03-02(III)(C)(2)

Officer Smith reported firing at █████ after █████ shot at him several times. Video footage confirms his account. The evidence shows █████ was an imminent threat. Specifically, █████ was in possession of a firearm that he aimed and discharged at Officer Smith.²⁴ COPA finds Officer Smith's belief that █████ actions were immediately likely to cause death or great bodily harm to him was objectively reasonable.²⁵ The evidence further shows that █████ had the means or instruments and the opportunity and ability to cause death or great bodily harm. █████ discharged his gun at Officer Smith several times, showing that his weapon was functional and that he was willing to use it against Officer Smith. Moreover, █████ close proximity to Officer Smith combined with the lack of sufficient cover for Officer Smith further shows that █████ had the opportunity and ability to cause death or great bodily harm to Officer Smith.

The preponderance of the evidence further indicates that Officer Smith used only the amount of force necessary based on the circumstances he faced. Officer Smith used no deadly force prior to █████ firing at him and stopped firing once the threat diminished. The totality of the circumstances thus demonstrates that Officer Smith's use of deadly force was proportional. Officer Smith was confronted by an assailant²⁶ whose actions constituted an imminent threat of death or great bodily harm. Officer Smith was thus permitted to use deadly force in response.²⁷ The preponderance of the evidence demonstrates that Officer Smith's use of deadly force complied with CPD policy in that it was objectively reasonable, necessary, and proportional to the circumstances he faced.

Allegation #1, that Officer Smith Failed to Notify OEMC of his Firearm Discharge, is Sustained

COPA finds that Allegation #1 against Officer Smith, that he failed to notify OEMC that he discharged his weapon, in violation of General Order G03-06(V), is sustained. When a CPD member is involved in incidents involving the discharge of a firearm, the member is required to immediately notify OEMC, provide all relevant information, and request additional resources.²⁸ During his statement to COPA, Officer Smith stated that when he called OEMC, he identified himself as an off-duty officer who was involved in an officer involved shooting. Officer Smith provided his name, described the incident, the location of the incident, a description of the suspect, and the suspect's direction of flight.²⁹ However, the evidence also established that Officer Smith

²⁴ Att. 53.

²⁵ By his actions, █████ met the definition of an "assailant" under CPD policy. *See* G03-02-01(IV)(C).

²⁶ Att. 83, G03-02-01, Response To Resistance And Force Options (effective April 15, 2021 to present). G03-02-01(IV)(C) defines an assailant as a person "who is using or threatening the use of force against another person or himself/herself which is likely to cause physical injury. Assailants are divided into two categories: (1) a person whose actions are aggressively offensive with or without weapons and (2) a person whose actions constitute an imminent threat of death or great bodily harm to a Department member or another person.").

²⁷ Att. 83, G03-02-01(IV)(C)(2).

²⁸ Att. 84, G03-06(V)(A), Firearm Discharge and Officer-Involved Death Incident Response and Investigation (effective April 15, 2021 to present).

²⁹ Att. 8.

failed to immediately report that he discharged his firearm.³⁰ Officer Smith did not report that he discharged his firearm until responding officers arrived on scene.

Thus, Officer Smith failed to act in accordance with the prescribed directive, therefore, **Allegation #1** is **SUSTAINED**.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Hodges C. Smith

i. Complimentary and Disciplinary History³¹

Officer Smith’s complimentary history is comprised of 40 awards, highlights of which include two Complimentary Letters and 26 Honorable Mentions. He has no recent disciplinary history.

ii. Recommended Discipline

COPA has found that Officer Smith failed to notify OEMC that he discharged his firearm, in violation of Rules 6 and 10. COPA notes that Officer Smith was off duty at the time this occurred. In addition, he was the victim of a violent crime mere moments before he contacted OEMC, which undoubtedly affected his state of mind when relaying information over the phone. Nevertheless, it is vitally important the officers relay all relevant information to OEMC, most certainly that they discharged their firearms, to ensure timely notifications to all relevant parties. Upon consideration of Officer Smith’s complimentary and disciplinary history, COPA recommends a penalty of Violation Noted.

Approved:

[Redacted Signature]

Sharday Jackson
Deputy Chief Administrator – Chief Investigator

June 29, 2023

Date

[Redacted Signature]

Andrea Kersen
Chief Administrator

June 29, 2023

Date

³⁰ Att. 8.

³¹ Att. 81.

Appendix ACase Details

Date/Time/Location of Incident:	December 24, 2022 / 2:05 am / 1549 S. Roosevelt Road
Date/Time of COPA Notification:	December 24, 2022 / 2:53 am
Involved Member #1:	Hodges C. Smith, Star #17084, employee ID# [REDACTED], Date of Appointment: December 5, 2005, Unit of Assignment: 011, Male, Black
Involved Individual #1:	[REDACTED] Male, Hispanic

Applicable Rules

- Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10:** Inattention to duty.
- Rule 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.
- Rule 11:** Incompetency of inefficiency in the performance of duty.

Applicable Policies and Laws

- Att. 82, G03-02, De-escalation, Response to Resistance, and Uses of Force (effective April 15, 2021 to present).
- Att. 83, G03-02-01, Response to Resistance and Force Options (effective April 15, 2021 to present).
- Att. 84, G03-06, Firearm Discharge and Officer-Involved Death Incident Response and Investigation (effective April 15, 2021 to present).

Appendix B

Definition of COPA’s Findings and Standards of Proof

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 a proposition is proved.³² For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD 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. 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.”³³

³² 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 is found to be more probably true than not).

³³ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

Appendix C

Transparency and Publication Categories

Check all that apply:

- Abuse of Authority
- Body Worn Camera Violation
- Coercion
- Death or Serious Bodily Injury in Custody
- Domestic Violence
- Excessive Force
- Failure to Report Misconduct
- False Statement
- Firearm Discharge
- Firearm Discharge – Animal
- Firearm Discharge – Suicide
- Firearm Discharge – Unintentional
- First Amendment
- Improper Search and Seizure – Fourth Amendment Violation
- Incidents in Lockup
- Motor Vehicle Incidents
- OC Spray Discharge
- Search Warrants
- Sexual Misconduct
- Taser Discharge
- Unlawful Denial of Access to Counsel
- Unnecessary Display of a Weapon
- Use of Deadly Force – other
- Verbal Abuse
- Other Investigation