

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	February 12, 2018
Time of Incident:	1:56 PM
Location of Incident:	[REDACTED]
Date of COPA Notification:	February 12, 2018
Time of COPA Notification:	4:27 PM

On February 12, 2018, Officer James Nichols (and additional Department members) responded to a domestic incident at [REDACTED] Officer Nichols entered the home and recovered a gun from one of the involved parties. When Officer Nichols attempted to clear the weapon, the gun discharged one round. No one was injured. After viewing Body Worn Camera (BWC) footage, reviewing relevant Department reports, and interviewing Officer Nichols, COPA found that the present allegation against Officer Nichols is Sustained.

**II. INVOLVED PARTIES**

Involved Officer #1:	James Nichols, Star #17088, Employee ID # [REDACTED], Date of Appointment: March 26, 1990, Police Officer as Field Training Officer, 6 <sup>th</sup> District, Date of Birth: [REDACTED], 1960, Male, Black
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**III. ALLEGATIONS**

Officer	Allegation	Finding
Officer Nichols	1. Unintentionally discharged a firearm in a residence, in violation of Rule 2 and Rule 10.	Sustained

**IV. APPLICABLE RULES AND LAWS**

- Rules
- Rule 2:** Prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
  - Rule 10:** Prohibits inattention to duty.

## V. INVESTIGATION<sup>1</sup>

### a. Interviews

COPA interviewed **Officer James Nichols** on August 2, 2018. On February 12, 2018, Officer Nichols responded to a domestic disturbance call at [REDACTED] between a grandfather and grandson. The grandson ([REDACTED]) met the officers outside. [REDACTED] related he fought with his grandfather ([REDACTED]) and [REDACTED] threatened [REDACTED] with a gun. Officer Nichols saw [REDACTED] in the home, holding a small semi-automatic handgun. [REDACTED] extended the handgun to Officer Nichols and the officer took it. Officer Nichols cycled the weapon, dropped the magazine, and pulled the chamber back two times to put the gun in a safe configuration. Officer Nichols had the gun pointed down the entire time he was holding it. Officer Nichols did not notice anything unusual about the gun. Officer Nichols did not look down or stick his finger in the barrel to see if there was a bullet. While he was talking to [REDACTED] in the presence of additional officers, the gun discharged. Officer Nichols was surprised by the discharge. Officer Nichols denied having his finger on the trigger at any point, including when the gun discharged.

[REDACTED] told Officer Nichols where he bought the gun. Officer Nichols stated this seller is known for selling inferior guns. Officer Nichols denied that the gun was cocked when the officer was holding it or when [REDACTED] handed it to him. Per Officer Nichols, he would not have been able to drop the magazine or clear the chamber if the gun was cocked. Officer Nichols related that he took the gun from [REDACTED] because he was an older individual and the officer did not know [REDACTED] state of mind. Officer Nichols reported he has never been trained on semi-automatic handguns, only on revolvers. Officer Nichols speculated the gun may have had a hair-trigger, meaning the gun can malfunction and fire without touching the trigger. [REDACTED] told Officer Nichols he had never fired this gun before.

### b. Digital Evidence

**Body Worn Camera (BWC)** was obtained from Officer Nichols' accidental weapons discharge on February 12, 2018.<sup>2</sup> Officer Nichols arrived at [REDACTED] at roughly 1:52 PM, along with Officer Farfan. The officers were met by a civilian ([REDACTED]) on the front porch. [REDACTED] explained that he and his grandfather ([REDACTED]) got into a fight which resulted in [REDACTED] pulling a knife at [REDACTED] and then a gun. Officer Nichols called out for [REDACTED] who responded from inside the home. Officer Nichols entered the residence at approximately 1:53 PM. [REDACTED] handed Officer Nichols the gun and told the officer it was cocked. Officer Sterling took the gun (see Photo 1). Officer Nichols asked why the gun was cocked and [REDACTED] responded it was because he wanted to protect himself from his grandson. Officer Nichols then removed the magazine (see Photo 2). Officer Nichols pointed the gun towards the ground and cleared the slide. At about 1:54 PM, a gunshot fired while the gun was pointed towards the ground. At approximately 2:01 PM, Sergeant Eyad entered the dwelling. Officer Nichols explained he "dropped the cartridge" and when he tried to clear the gun, it accidentally fired. Officer Nichols

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<sup>1</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>2</sup> Att. 15

related that the gun was cocked. At about 2:09 PM, Officer Nichols stated he “thought it was clear.” Officer Nichols remained in the residence and disengaged his BWC at roughly 2:31 PM.



Photo 1



Photo 2

**Crime Scene Photographs** were obtained from Officer Nichols’ accidental weapons discharge on February 12, 2018.<sup>3</sup> The photos included the exterior of the dwelling at [REDACTED] [REDACTED] It also depicted the bullet hole: in an ottoman at this residence (see Photo 3), through the floor (see Photo 4), and in the basement ceiling (see Photos 5 and 6).<sup>4</sup>

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<sup>3</sup> Att. 13

<sup>4</sup> Only a sampling of the most pertinent photos was included in this report.

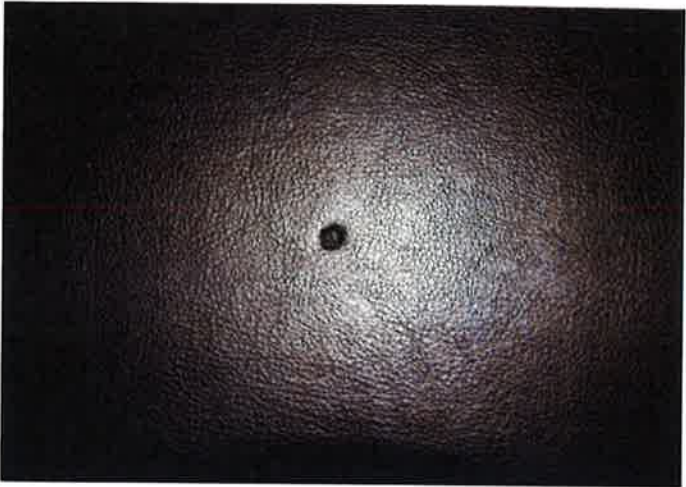


Photo 3

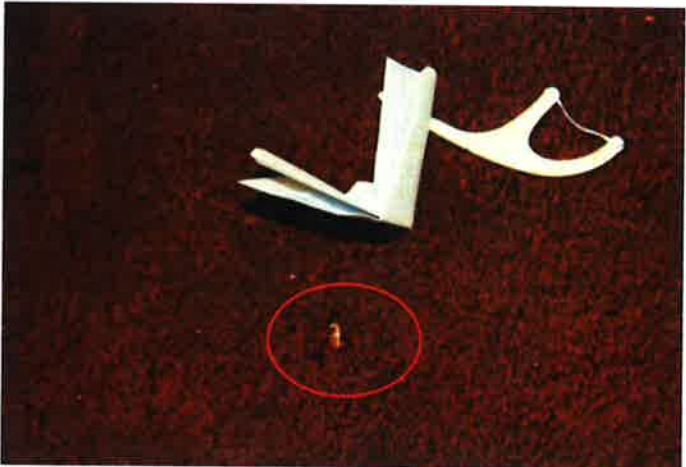


Photo 4



Photo 5



Photo 6

### c. Physical Evidence

A report of **Notice of Alcohol and Drug Testing Following a Firearms Discharge Incident** was obtained from Officer Nichols on February 12, 2018.<sup>5</sup> Officer Nichols provided a drug test specimen at approximately 4:05 PM and an alcohol test at about 4:17 PM. Officer Nichols passed the tests.

### d. Documentary Evidence

An **Original Case Incident Report** was located for **RD #JB149409**.<sup>6</sup> On February 12, 2018, CPD received a call of a person with a gun at [REDACTED]. Officer Nichols and his partner, Officer Farfan, were dispatched. Officers Bahr and Kizer were called to assist. Officers Nichols and Farfan first spoke with [REDACTED] on the front porch. [REDACTED] told the officers that he and his grandfather “were involved in a verbal altercation about the grandfather’s vehicle.” Eventually, the grandfather ([REDACTED]) “pulled out a knife to try and protect himself” which [REDACTED] took from [REDACTED] hand. [REDACTED] then went upstairs and got his gun. [REDACTED] had the gun pointed at the ground and [REDACTED] went outside and called 911. Officers Nichols, Farfan, and Bahr entered the home and saw [REDACTED]. Officer Nichols asked [REDACTED] for his gun and the officer proceeded to point the gun “at the floor [...] when he began to make the weapon safe and clear.” As Officer Nichols “was cycling the slide of the weapon to make it clear [...] the gun accidentally discharged one round. The spent round went through the ottoman near the couch, through the floor, going into the basement. There was no one in the basement,” and no one was injured. [REDACTED] had a “valid Illinois driver’s license, concealed carry license, and FOID card.” Officer Bahr recovered the spent shell casing, the weapon and magazine, the fired bullet, and the knife. Neither [REDACTED] nor [REDACTED] wanted to pursue criminal charges.

An **Office of Emergency Management and Communications Event Query Report** was obtained pertaining to February 12, 2018 call of a person with a gun at [REDACTED]. Beat 0614 was dispatched at about 1:48 PM with additional beats called to assist shortly after. At an

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<sup>5</sup> Att. 10

<sup>6</sup> Att. 6

<sup>7</sup> Att. 14



unspecified time, Lieutenant Bair reported a “weapon was accidentally fired while trying to clear the weapon by Officer Nichols [...] no injuries.”

**Detective Supplementary Reports** were identified for **RD #JB149409**.<sup>8</sup> The reporting detective, Detective David Evans II, came to an Unfounded conclusion. Detective Evans watched Officer Nichols’ BWC footage and saw that [REDACTED] give Officer Nichols “a semi-automatic firearm with the hammer in the cocked position.” The detective noted, “It is extremely dangerous to carry a cocked pistol and P.O. Nichols attempted to make the firearm safe. Nichols removed the magazine from the gun and he manipulated the slide in order to get the cartridge to eject. As P.O. Nichols was doing this the firearm discharged. At no time did P.O. [Nichols] have his finger near the trigger and the gun was always pointed in a safe direction.”<sup>9</sup>

On February 12, 2018, Sergeant James Fiedler authored a **Synoptic Report** regarding Officer Nichols’ accidental weapon discharge.<sup>10</sup> Sergeant Fiedler responded to the 6<sup>th</sup> District and observed Officer Nichols for 20 minutes. Officer Nichols then provided a breath test and urine specimen for alcohol and drug testing, both of which were negative.

## VI. ANALYSIS

Allegation 1 against Officer Nichols, that he unintentionally discharged a firearm in a residence, is **Sustained**. While Officer Nichols had good intentions in taking the weapon from [REDACTED] the result was that the officer discharged the firearm. By Officer Nichols own admission, he is unfamiliar with semi-automatic handguns and did not check the barrel of the gun to make sure it did not contain a bullet. Officer Nichols reported he wanted to take and clear the gun because [REDACTED] is an older individual. Further, Officer Nichols was unsure of [REDACTED] mental state based on details provided by [REDACTED]

Despite Officer Nichols claim to COPA that the gun was not cocked, BWC and Department reports contradict this statement.<sup>11</sup> Further, available research on the type of gun involved suggests the gun had to be cocked (or at least half-cocked) to fire<sup>12</sup>. Officer Nichol also admitted he did not confirm if there was bullet in the chamber. Since the accidental discharge occurred and Officer Nichols acknowledged such, this allegation is Sustained.

## VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS<sup>13</sup>

### a. Officer James Nichols

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<sup>8</sup> Atts. 7, 8

<sup>9</sup> Detective Evan’s report stated, “At no time did P.O. Sterling have his finger near the trigger [...]” This is believed to be a typographical error and in fact be a reference to Officer Nichols.

<sup>10</sup> Att. 4

<sup>11</sup> Rule 14 allegations were not brought against Officer Nichols as it is not believed he was being intentionally untruthful.

<sup>12</sup> [http://www.beretta.com/en-us/3032-tomcat-inox/#FeaturePoint\\_5](http://www.beretta.com/en-us/3032-tomcat-inox/#FeaturePoint_5),  
[http://www.beretta.com/assets/12/29/Beretta\\_3032\\_Tomcat\\_User\\_Manual.pdf](http://www.beretta.com/assets/12/29/Beretta_3032_Tomcat_User_Manual.pdf)

<sup>13</sup> Only include this section for investigations with at least one sustained allegation.

**i. Complimentary and Disciplinary History**

COPA has reviewed the officer complimentary and disciplinary history.

**ii. Recommended Penalty, by Allegation**

**1. Allegation No. 1**

Officer Nichols admitted to never having been trained on clearing a semi-automatic handgun. The accidental discharge happened as the officer was attempting to use safe practices to clear and cycle the weapon. COPA recommends Officer Nichols receive a reprimand and be offered basic weapons training.

**VIII. CONCLUSION**

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

Officer	Allegation	Finding
Officer Nichols	1. Unintentionally discharged a firearm in a residence, in violation of Rule 2 and Rule 10.	Sustained

Approved: 

Andrea Kersten  
Deputy Chief Administrator – Chief Investigator

Date 9/11/18

Appendix A

Assigned Investigative Staff

<b>Squad#:</b>	Four
<b>Investigator:</b>	Kelsey Fitzpatrick, #61
<b>Supervising Investigator:</b>	James Murphy-Aguilu, #19
<b>Deputy Chief Administrator:</b>	Andrea Kersten, #7