

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	May 8, 2018
Time of Incident:	8:05 p.m.
Location of Incident:	Ogden Park, 6500 S. Racine Avenue
Date of COPA Notification:	May 9, 2018
Time of COPA Notification:	7:28 a.m.

On May 8, 2018, Officer August Hyde #15058 was assigned to Ogden Park and the park supervisor, ██████████ requested that he remove a group of disruptive children from the playground. Officer Hyde approached the children who continued to cause a disturbance. Sergeant Matthew McNicholas #1142 was at the location and observed several children illuminated with red dots consistent with a Taser and heard an electric sparking sound. Officer Hyde informed Sergeant McNicholas that he aimed, and spark tested his Taser to scare the children. COPA finds that Officer Hyde aimed his Taser at the group of children unnecessarily and recommends that this allegation be sustained. COPA also finds that Officer Hyde spark tested his Taser outside of the first hour of his tour of duty and recommends that this allegation be sustained.

II. INVOLVED PARTIES

Involved Officer #1:	HYDE, August, star # 15058, employee # ██████████, DOA: September 27, 2004, Police Officer, Unit 007, DOB ██████████, 1964, Male, Black
Involved Officer #2:	MCNICHOLAS, Matthew, star# 1142, employee # ██████████, DOA: November 29, 2004, Sergeant, Unit 007, DOB ██████████, 1978, Male, White
Involved Individuals:	Multiple unidentified juvenile subjects

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer August Hyde	1. Aimed his Taser at a group of children unnecessarily in violation of Rules 2 and 38;	Sustained/ 45 Day Suspension
	2. Spark tested his Taser outside of the first hour of his tour of duty, in violation of Rule 6.	Sustained/ 45 Day Suspension

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
2. Rule 6: Disobedience of an order or directive, whether written or oral.
3. Rule 38: Unlawful or unnecessary use or display of a weapon.

General Orders

1. GO 03-02-04 Taser Use Incidents
 2. U 04-02-04 Taser Devices
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V. INVESTIGATION

a. Interviews

The recorded statement of **Sergeant Matthew McNicholas**¹ ("Sergeant McNicholas") was taken at COPA on May 22, 2018. Sergeant McNicholas stated that Officer August Hyde ("Officer Hyde") was under his supervision and assigned to Ogden Park on May 8, 2018. Sergeant McNicholas stated that he visited the park to check on Officer Hyde at approximately 8:00 p.m. Sergeant McNicholas stated that as he was speaking to Officer Hyde, the park supervisor (██████████) approached them and asked Officer Hyde to escort 8 to 10 children from the park who were being disruptive. Sergeant McNicholas stated that the ages of the children varied up to about 9 years of age. Sergeant McNicholas stated that the children were not old enough to form criminal intent, nor handcuff or arrest. He stated that one child was young enough to require assistance by another child to walk.

Sergeant McNicholas stated that after the request from ██████████ Officer Hyde asked him to remain behind for a few minutes until the children left. Sergeant McNicholas stated that the group of children surrounded Officer Hyde and began screaming profanities at him as they all moved from the playground. Sergeant McNicholas stated that one of the children said, "CPDK" which stands for Chicago Police Killer. Sergeant McNicholas stated that one of the children, who was 7 to 8 years old, was holding a log. He stated that Officer Hyde took the log from the child. Sergeant McNicholas stated the child did not swing it towards Officer Hyde nor did he perceive that Officer Hyde's life was in danger due to the child holding the log.

Sergeant McNicholas stated that as he began to drive away, he heard one of the children say, "don't shoot me" and then observed several children illuminated with red dots. Sergeant McNicholas stated that the group of children ran towards the front of his car, and then he heard an electrical sound and believed the sound to be a Taser. Sergeant McNicholas stated that as he

¹ Att. 12

turned towards Officer Hyde, he saw him holstering his Taser. Sergeant McNicholas stated that Officer Hyde stated that he aimed, and spark tested² his Taser to scare the children. Sergeant McNicholas stated that he informed Officer Hyde that he could only spark test his Taser within the first hour of his tour, and that he should not have pointed his Taser at children.

Sergeant McNicholas stated that Officer Hyde should have tested his Taser no later than 2:30 p.m., since his shift started at 1:30 p.m. He further stated that it would be improper to use a Taser on children, or to use a Taser in any manner to scare children. Sergeant McNicholas stated that he ordered Officer Hyde into the station to decide how to proceed with the incident. Sergeant McNicholas stated that once at the station he advised his Lieutenant of the situation and began a CR investigation. Sergeant McNicholas stated that Officer Hyde returned his Taser to the storage box with numerous other Tasers when they got to the station. Sergeant McNicholas stated that he examined the equipment log³ to try to figure out which Taser was assigned to Officer Hyde. He stated that he then discovered that Officer Hyde did not sign the log for his equipment. Sergeant McNicholas stated that he was not certain what personnel would have been stationed in the radio room⁴ at the time Officer Hyde arrived for duty. Sergeant McNicholas stated that it is possible that Officer Hyde and the other officers assigned to the park get their own equipment before responding to the park and that may be why Officer Hyde did not sign the log. Sergeant McNicholas stated that he then downloaded records from 10 to 12 Tasers until finding a Taser that had an ARC switch activation at the approximate time Officer Hyde spark tested his Taser.⁵ Sergeant McNicholas stated that he could not be certain that the download record was in fact from the Taser that Officer Hyde used. Sergeant McNicholas stated that he completed an Initiation Report and Officer Hyde completed a Tactical Response Report⁶ and generated an Original Case Incident Report at his direction.⁷

The recorded statement of **Officer August Hyde** (“Officer Hyde”) was taken at COPA on May 31, 2018. Officer Hyde stated that he arrived to the 7th District Station at approximately 1:30 p.m. on May 8, 2018 to pick up his radio, camera, and Taser and proceeded to Ogden Park. Officer Hyde stated that the Department member working in the radio room routinely gives out equipment without signatures. He stated, that he therefore did not have to sign for his equipment on May 8, 2018.

Officer Hyde stated that he was speaking with Sergeant McNicholas at approximately 7:50 p.m. at the park. Officer Hyde stated that the park supervisor ([REDACTED]) approached and informed him that a group of children were using profanities and throwing rocks at his car, then requested that the children be removed. Officer Hyde stated that there were 7 children in the playground between the ages of 5 to 10 years old. Officer Hyde stated that he ordered the children to leave the park. Officer Hyde stated that the group of children began to leave but used profanities at him and were throwing rocks in the parking lot. Officer Hyde stated that he walked alongside Sergeant McNicholas’ vehicle as the children moved southbound towards the exit.

² A test conducted to check the device for proper functioning by depressing the ARC switch located on the device.

³ Personal Equipment Log, Department Form CPD-21.919

⁴ A common term for the room at a District Station containing the radios and other equipment and is staffed by a Department Member during shift changes to issue equipment and maintain the equipment log.

⁵ Att. 9: Taser # [REDACTED], ARC event on MAY 8, 2018 at 8:05 p.m.

⁶ Att. 6

⁷ Att. 5

Officer Hyde stated that he took a stick that was approximately 15 inches long, and 3 inches in diameter away from an 8-year-old male.

Officer Hyde stated that at some point the children surrounded him and Sergeant McNicholas' vehicle. Officer Hyde stated that as he was standing on the driver's side of the vehicle he took out his Taser and pointed it at the 8-year-old male who was approximately 2 feet away from him. He stated that he did this to scare him and the other children and to try to get them to be compliant. Officer Hyde stated that he activated his Taser and saw the red dots projected on the 8-year-old male. Officer Hyde stated that he is not allowed to administer corporal punishment on the children and believed the display would make the children stop misbehaving and leave faster. Officer Hyde stated that he did not recall hearing a child say, "don't shoot me" as reported by Sergeant McNicholas.

Officer Hyde stated that he moved to the rear of Sergeant McNicholas' vehicle and performed the spark test to check for functionality but did not plan on using his Taser on the children unless they became combatants. Upon confronting Officer Hyde with the Original Case Incident Report that he authored⁸, he admitted that the reason that he performed the spark test was to make sure that it was operational in case he had to deploy it on the children, stating, "if I woulda had to, then I woulda had to."⁹ He further stated that if he was in fear of receiving a battery, he believed that he would've had the authority to use his Taser on the children.

Officer Hyde stated that he is certified to use a Taser but did not recall the training date.¹⁰ Officer Hyde stated that he last reviewed the Use of Force policy in or around October of 2017. Officer Hyde stated that he now knows he erred when he tested his Taser, as he was later informed that the test can only be performed within the first hour of an officer's shift. Officer Hyde stated that Sergeant McNicholas informed him of the policy and told him that they would have to return to the station to complete the paperwork required for the Taser deployment. Officer Hyde stated that at some time after returning to the station he placed his Taser into a storage box with approximately 15 other Tasers, but later realized he should have held it for Sergeant McNicholas. Officer Hyde stated that the person working in the radio room had mixed up the Tasers in the box and he was not sure which one he had at the time of the incident other than knowing the style of the holster. Officer Hyde stated that Sergeant McNicholas found his Taser in the storage box. Officer Hyde stated that he completed the Tactical Response Report and Original Case Incident Report and left the station a few hours later.¹¹

b. Documentary Evidence

The Initiation Report completed by Sergeant McNicholas contained a summary of the incident and the initial allegations against Officer Hyde.¹²

⁸ Attachment 5

⁹ Attachment 22, page 40, lines 7-24 and page 41, lines 1-8.

¹⁰ Att. 20, Taser certification completed on March 15, 2016

¹¹ Att. 19

¹² Att. 3

A **General Offense Case Report** and **Tactical Response Report** completed by Officer Hyde contained a summary of the incident and documented actions of the children and description of the use of force. The TRR also notes on last page that the LI/COMD. checked the “not in compliance” box for Hyde’s actions.¹³

The **Taser Deployment DATA Sheet** generated by Sergeant McNicholas documented the data recorded by Officer Hyde’s Taser.¹⁴

The **Employee Training Record** of Officer Hyde contained a list of training courses including Taser certification of March 15, 2016.¹⁵

VI. ANALYSIS

General Order Taser Devices U04-02-04-C, states that a field deployment of a Taser can be the use of a spark display during a use-of-force incident.¹⁶ It also states that a non-field deployment of a Taser is any spark test outside of the first hour of the member’s tour of duty.¹⁷ In the instant case, as evidenced by Officer Hyde’s statement to COPA as well as the police reports that he generated and Sergeant McNicholas’ observations, Officer Hyde’s action of spark testing his Taser was not within CPD’s codified policies. Moreover, the spark test was not in the spirit of the CPD’s use of force policy.

By all accounts, this was not a permissible use-of force incident. Officer Hyde spark tested his Taser, not only outside of the first hour of his tour, but also in an effort to scare, intimidate and control the children at Ogden Park. There is no evidence to suggest that Officer Hyde was afraid of these children, and they were indeed compliant in exiting the park, albeit at a slow pace. Officer Hyde admitted that he aimed his Taser at a child that he believed to be approximately 8 years of age. His actions were corroborated by Sergeant McNicholas. CPD was careful to enumerate in General Order Taser Use Incidents G03-02-04-II-D-5 that any use of a Taser is prohibited on people who are at a greater risk of serious injury or death, such as children, unless they are defined as assailants and other force options are not readily available or would otherwise be ineffective. It is undisputed that all the children involved were under the age of 10 years old, and there is no evidence in the record that any of these children were defined as assailants. In fact, Sergeant McNicholas stated that they were all too young to be arrested, or formulate criminal intent.¹⁸ CPD’s prohibition on the use of Tasers on children, reinforces that there would not have been an allowable field deployment of Officer Hyde’s Taser with respect to any of *these* children.

COPA reviewed Officer Hyde’s conduct under its jurisdiction to investigate excessive force. COPA finds Officer Hyde’s conduct, i.e. displaying his Taser in front of young children, deliberately pointing that Taser at young children and “spark testing” it to scare these children to

¹³ Att. 5, 6

¹⁴ Att. 9

¹⁵ Att. 20

¹⁶ General Order U04-02-04-C-1(c)

¹⁷ General Order U04-02-04-C-2(a)

¹⁸ Sgt. McNicholas was referencing diminished capacity for small children to formulate the requisite mental state necessary to be charged or convicted of a crime. *See generally* 705 ILCS 405/ Juvenile Court Act of 1987.

be particularly egregious. COPA unequivocally asserts that no reasonable officer, when placed in a similar situation, would have acted as he did. Officer Hyde's standing as a Chicago Police Officer afforded him an opportunity to provide a shining example for the children of the crime-addled community of Englewood. Instead of simply ushering the children out of the park area, Officer Hyde decided to assert his dominance as a police officer, over impressionable children. Based on the aforementioned, COPA sustains the allegation that Officer Hyde unnecessarily displayed his Taser.

Not only did COPA come to this determination, but Sergeant McNicholas, a reasonable police officer, viewed Officer Hyde's conduct and found it to be in conflict with CPD's policies. COPA commends the actions of Sergeant McNicholas. His intervention in this incident shows his leadership and dedication to the Department and to the citizens of Chicago. Not only did he order Officer Hyde back to the District after he witnessed him misuse his Taser, but he then downloaded Taser after Taser, staying well past his tour, until he found one that matched the parameters of the misuse.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer August Hyde

i. Complimentary and Disciplinary History

Officer Hyde received the Superintendent's Honorable Mention Award, (6) Complimentary Letters, the 2009 Crime Reduction Award, the NATO Summit Service Award, a Department Commendation, (3) Honorable Mentions, the Presidential Election Deployment Award and (2) Emblems of Recognition for Physical Fitness.

Officer Hyde has no prior disciplinary history, however with respect to aggravation in this incident, Officer Hyde used his Taser to terrify and intimidate a group of small children. While the General Order for Taser Devices does not enumerate a specific statement of purpose, a reasonable inference can be made, when reading the General Order in totality, that Officer Hyde's conduct was contrary to the spirit of the Department's goals with respect to Taser display and use of force.

ii. Recommended Penalty, by Allegation

Allegation No. 1

Aimed his Taser at a group of children unnecessarily in violation of Rules 2 and 38. COPA recommends a **45 day suspension**.

Allegation No. 2

Spark tested his Taser outside of the first hour of his tour of duty, in violation of Rule 6. COPA recommends a **45 day suspension**.

VIII. CONCLUSION

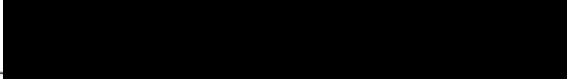
Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding/Recommendation
Officer August Hyde	1. Aimed his Taser at a group of children unnecessarily in violation of Rules 2 and 38; 2. Spark tested his Taser outside of the first hour of his tour of duty, in violation of Rule 6.	Sustained/ 45 Day Suspension Sustained/45 Day Suspension

Approved 

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

10/15/18
Date


Sydney Roberts
Chief Administrator

10/15/18
Date

Appendix A

Assigned Investigative Staff

Squad#:	10
Investigator:	Anthony Smajo
Supervising Investigator:	Erica Sangster
Deputy Chief Administrator:	Andrea Kersten
