

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	February 9, 2021
Time of Incident:	12:13 a.m.
Location of Incident:	5111 W. Ferdinand Street, Chicago, Illinois
Date of COPA Notification:	February 9, 2021
Time of COPA Notification:	07:49 a.m.

On February 9, 2021, Officer Mauricio Rodriguez responded to a call of a burglary in progress. Due to snowy conditions on the ground, Officer Rodriguez slipped and unintentionally discharged his firearm, striking a vehicle’s headrest. No injuries were sustained as a result of the accidental discharge.

**II. INVOLVED PARTIES**

Involved Officer #1:	Mauricio Rodriguez, star #5575, employee ID [REDACTED] Date of Appointment 09/27/2018, rank PO, Unit of Assignment 015, DOB [REDACTED] 1988, Male, White Hispanic
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**III. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Officer Mauricio Rodriguez	<p>It is alleged that on or about February 9, 2021, at approximately 12:10 a.m., at or near 5110-5112 W. Ferdinand Street, Officer Mauricio Rodriguez, #5575:</p> <ol style="list-style-type: none"> <li>1. Was inattentive to duty in that he discharged his firearm.</li> <li>2. Failed to timely activate and/or prematurely deactivated his Body Worn Camera, in violation of Special Order S03-14.</li> </ol>	<p><b>Sustained / 7 Days</b></p> <p><b>Sustained / 7 Days</b></p>

#### IV. APPLICABLE RULES AND LAWS

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##### Rules

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1. Rule 10: Inattention to duty
  2. Rule 13: Failure adequately secure and care for Department property
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##### General Orders

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1. G03-06 Firearm Discharge and Officer-Involved Death Incident Response and Investigation.
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##### Special Orders

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1. S03-14 Body Worn Cameras

#### V. INVESTIGATION

##### a. Interviews

In his March 16, 2021, **statement to COPA Officer Mauricio Rodriguez**<sup>1</sup> (Officer Rodriguez) stated that he was on duty and responded to a call of a burglary in progress of a railcar. The suspect vehicle allegedly used in the burglary was a brown GMC Conversion Van, and Officer Rodriguez arrived on scene as two suspects were being placed in handcuffs just outside the van. Officer Rodriguez stated he did not see anyone clear the van and wanted to make sure no one else was inside.<sup>2</sup> Officer Rodriguez stated he approached the van from the passenger side and unholstered his weapon. Officer Rodriguez pointed his firearm towards the van, because, although the passenger side door was open, the windows were tinted, and he was unsure who was still inside. Officer Rodriguez stated as he looked inside the passenger side door, he “tripped or slipped” and his finger came off the slide of the firearm and he accidentally fired his weapon.<sup>3</sup> Officer Rodriguez was asked about the weather conditions and stated there was visible snow on the ground but did not recall if he slipped on snow, ice, or both. Officer Rodriguez stated his firearm was pointed towards the rear passenger side of the vehicle when he slipped. After the accidental discharge, Officer Rodriguez could see his bullet had struck the passenger seat headrest. Officer Rodriguez was also told that his bullet struck boxes which contained televisions in the back of the van but did not see the actual damage.

Officer Rodriguez was asked to clarify his finger placement on his firearm as he approached the van. Officer Rodriguez stated he had his finger along the slide of the firearm and as he tripped, his finger came off the slide and onto trigger, as a reflex.<sup>4</sup> After Officer Rodriguez got to his feet, he verbally informed those on scene that it was he who had discharged his weapon. Officer Rodriguez notified his Sergeant of the accidental discharge. Because of the accidental

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<sup>1</sup> Attachment 66

<sup>2</sup> *Id.* at 12:10

<sup>3</sup> *Id.* at 16:30

<sup>4</sup> *Id.* at 25:05

discharge, detectives were called to the scene to interview Officer Rodriguez and process the scene. Officer Rodriguez was given a blood and urinalysis test at the 15<sup>th</sup> District later that day.<sup>5</sup>

Officer Rodriguez was asked about his body worn camera related to this event. Officer Rodriguez acknowledged that his body worn camera was working on the day of the incident but he did not activate his body worn camera until after he fired his weapon.<sup>6</sup> Officer Rodriguez acknowledged that body worn cameras should be activated at the beginning of an event and deactivated when an officer is no longer involved in law enforcement activity.

### **b. Digital Evidence**

COPA obtained and reviewed Officer Rodriguez' **body worn camera**<sup>7</sup> related to the event. During the two-minute buffering period, several officers can be seen handcuffing and detaining two suspects on the ground just outside the passenger side of a van. Officer Rodriguez runs towards the van and unholsters his firearm. A visible amount of snow can be seen on ground as Officer Rodriguez approaches with his firearm drawn. As Officer Rodriguez points his firearm and looks inside the front passenger side door, he discharges his firearm.<sup>8</sup> Officer Rodriguez briefly loses his footing and uses his right hand, with which he was holding his firearm, to brace himself against the passenger side seat. A hole consistent with a bullet strike can be seen in the front passenger seat headrest after Officer Rodriguez accidentally discharges his firearm.<sup>9</sup> Officer Rodriguez deactivated his body worn camera approximately seventeen seconds after he activated it.

### **c. Documentary Evidence**

**Event Query #2104001086**<sup>10</sup> details the evidence collection regarding Officer Rodriguez accidentally discharging one cartridge into a passenger van involved in an alleged burglary near 5110 W. Ferdinand.

According to **CPD Crime Scene Report #454233**<sup>11</sup>, one fired cartridge went through the passenger side head rest and caused damage to two (2) television boxes in the rear of the van.

**A Synoptic Report**<sup>12</sup> indicates that after discharging his firearm, Officer Rodriguez was instructed to report to the 15<sup>th</sup> District. The Bureau of Internal Affairs administered an alcohol breathalyzer test and collected a urine sample to test for the presence of illegal drugs. The results showed that all tests for drugs and alcohol were negative.

**Firearm Training and FOID Card Records**<sup>13</sup> show Officer Rodriguez' duty weapon is a Sig Sauer P320 9mm handgun. The Sig Sauer P320 is designed to hold 17 rounds of ammunition

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<sup>5</sup> Attachment 47

<sup>6</sup> Attachment 66 at 39:26

<sup>7</sup> Attachment 23

<sup>8</sup> *Id.* at 00:06-02:17

<sup>9</sup> Attachment 68

<sup>10</sup> Attachment 15

<sup>11</sup> Attachment 39

<sup>12</sup> Attachment 48

<sup>13</sup> Attachment 49

in the magazine plus one round in the chamber. Officer Rodriguez last qualified with his duty weapon on January 23<sup>rd</sup>, 2021.

## 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.

## VII. ANALYSIS

### a. Accidental Discharge

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>

COPA finds the evidence establishes that Officer Rodriguez was inattentive to duty when he accidentally discharged his firearm while attempting to clear a passenger van. Body worn

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

camera of the event shows Officer Rodriguez approaching the passenger side of the van with his weapon drawn. Officer Rodriguez appeared to lose his footing in snowy conditions and accidentally discharged one round through the passenger side head rest. In addition, physical evidence also supports that a fired cartridge went through the passenger side head rest.<sup>15</sup>

In his interview with COPA, Officer Rodriguez was asked at various times about his finger placement when the accidental discharge occurred. Officer Rodriguez maintained that his finger was on the slide of the firearm as he approached the van, and the accidental discharge was a result of losing his footing due to weather conditions causing his finger to accidentally move from the slide onto the trigger. Officer Rodriguez's firearm is a Sig Sauer P320 9mm handgun. The firearm is equipped with a manual safety, along with other precautions, most notably a trigger guard. The trigger guard is a protective loop built into the firearm purposely designed to prevent a finger moving from the slide to the trigger and prevent such things accidental discharges.<sup>16</sup> Thus, COPA finds that a preponderance of the evidence supports that Officer Rodriguez's finger was on the trigger prior to losing his footing and the allegation that he was inattentive to duty when he discharged his firearm be **SUSTAINED**.

#### **b. Body Worn Camera**

An allegation of failing to activate and/or deactivate an officer's body worn camera is evaluated under Special Order S03-14. Pursuant to that order, officers are required to activate their body worn cameras whenever they are engaged in a law enforcement encounter, a duty which is mandatory, not discretionary.<sup>17</sup> In addition, officers, "will not disengage the BWC until the entire incident has been recorded or when further recording of the incident will not serve a proper police purpose."<sup>18</sup> In his interview with COPA, Officer Rodriguez acknowledged that his body worn camera was working on the day of the incident as he recorded previous service calls. Officer Rodriguez was asked at what point he activated his body worn camera relative to this incident, and he stated that he activated his body worn camera *after* he fired his weapon.<sup>19</sup> Initially Officer Rodriguez offered that he thought he activated his body worn camera, but subsequently stated his body worn camera should have been activated before arriving on scene. Officer Rodriguez was asked when is he supposed to deactivate his body worn camera. Officer Rodriguez offered that his body worn camera can be de-activated upon approval of his Sergeant.<sup>20</sup> Officer Rodriguez not only misstated CPD's policy, he also did not explain why he deactivated his body worn camera after only seventeen seconds. Considering his admissions to COPA as well as the body worn camera evidence itself, COPA finds that the allegation that Officer Rodriguez failed to timely activate and/or prematurely deactivated his body worn camera is **SUSTAINED**.

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<sup>15</sup> Attachment 39

<sup>16</sup> Attachment 69

<sup>17</sup> Special Order S03-14(V)(D)(2).

<sup>18</sup> Special Order S03-14(V)(G).

<sup>19</sup> Id. at 39:30

<sup>20</sup> Id at 41:10

**VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**a. Officer Mauricio Rodriguez**

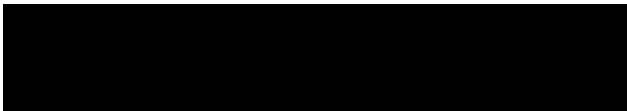
**i. Complimentary and Disciplinary History**

Officer Rodriguez’s complimentary history includes the 2019 Crime Reduction Award, one (1) Military Service Award, five (5) Department Commendations, one (1) Life Saving Award, and forty-six (46) Honorable Mentions. Officer Rodriguez has no recent disciplinary record.

**ii. Recommended Penalty**

COPA has found that Officer Rodriguez violated Rules 10 and 13 when he accidentally discharged his firearm and failed to activate and deactivate his body worn camera in a timely manner, respectively. Officer Rodriguez’s negligence was significant and could have resulted in death or an injury to other officers, or citizens, at the scene. COPA notes, however, that Officer Rodriguez was contrite and accepted responsibility for his actions. Officer Rodriguez acknowledged he did not activate or de-activate his body worn camera according to CPD Policy. Given Officer Rodriguez’s relative inexperience as a police officer, COPA recommends he receive **7 Days of Suspension and Training on Firearm Safety.**

Approved:



Sharday Jackson  
*Deputy Chief Investigator*

January 25, 2023

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Date