



#### IV. APPLICABLE RULES AND LAWS

---

##### Rules

---

##### 1. Rule 10, Inattention to Duty

---

##### General Orders

---

##### 1. General Order G03-02-03, Firearms Discharge Incidents Involving Sworn Members.

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

The **Arrest Report** of ██████████ documents that the victim, ██████████ related that ██████████ pointed a semi-automatic pistol at her after a verbal altercation. ██████████ stated that ██████████ is her ex-boyfriend, but they still live together. ██████████ was placed into custody and transported to Area Two for processing. A blue steel Phoenix Arms semi-automatic 22 caliber long rifle was recovered with one live round in the chamber and an unknown number of live rounds in the magazine.<sup>2</sup>

The **Crime Scene Processing Report**, recorded under RD# JE211108, indicates that a fired cartridge was located on the hallway floor near Apartment #██████ and marked as Crime Scene Marker #1. A metal fragment was located in the dirt of the rear lot at ██████████ ██████████ and documented as Crime Scene Marker #4. Officer Johnson's firearm, a Glock 19 Gen4 9 mm semi-auto, Serial #████████, was processed at Area Two. One live round was recovered from the chamber and fourteen live rounds were recovered from the magazine.<sup>3</sup>

A **Video Recording** from Officer Tony Johnson's body-worn camera begins at approximately 8:11:38 p.m., as the officer and his partner, now known to be Officer Fields, exit their vehicle at the scene and speak to the victim, now known to be ██████████ escorts them to her apartment on the second floor, unlocks the apartment door and pushes the door open. Officer Johnson announces, "Chicago Police" and approaches the entrance as the door is closing. The officer's left hand is raised and appears to touch the apartment door. Officer Johnson is holding his firearm in the right hand and the firearm is pointing to the floor. As he opens the door wider, Officer Johnson then raises his firearm out of the view of the body-worn camera and the firearm is discharged. The arm of an unknown subject, now known to be ██████████ appears behind the door and then the door is closed shut. Officer Johnson announces shots fired and his partner reports over the radio that shots have been fired by the police. Additional officers arrive on the scene and a sergeant directs Officer Johnson to leave the building. The officer enters a police vehicle and remains inside until the end of the recording.<sup>4</sup>

---

<sup>1</sup>COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA's ongoing efforts to increase case closure capacity, certain cases opened under IPRA are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, effective February 13, 2019.

<sup>2</sup> Att. #1

<sup>3</sup> Att. #4

<sup>4</sup> Att. #5

In his **statement to COPA** on May 12, 2021, **Officer Tony Johnson #16445** stated that he and his regular partner, Officer Fields, were patrolling Beat 613 when they received a dispatch to respond to the above location regarding a person with a gun. Upon arrival, the two officers met with the victim, now known to be ██████████ informed the officers that her ex-boyfriend, now known to be ██████████ had placed a gun to her head and had barricaded himself in a room. According to ██████████ kept his firearm in a cabinet area. ██████████ escorted the officers up the stairs to her second-floor apartment and the officers unholstered their firearms. ██████████ unlocked the apartment door, pushed it open, and ran down the hallway. Officer Johnson, followed by Officer Fields, approached the door, and announced his office. Officer Johnson stated that the only light was in the kitchen to the right and the rest of the apartment was dark. Officer Johnson then observed ██████████ inside the apartment “off to the right by the kitchen area.”<sup>5</sup> Based on the information he had obtained from ██████████ Officer Johnson assumed that ██████████ was in proximity to the firearm. As the apartment door was closing on its own, ██████████ ran from right to left and Officer Johnson lost sight of him. Officer Johnson stated that he did not have enough time to see if ██████████ had the firearm in his hand. Officer Johnson initially thought that ██████████ had run through the back door. Officer Johnson held his firearm in his right hand in the ready position and reached in with his left hand to open the door further. The officer stated that his finger was on the slide and did not remember having his finger on the trigger. ██████████ then “just pops out”<sup>6</sup> and pushed the door closed. Officer Johnson stated that he was not expecting ██████████ to be on the other side of the door. Officer Johnson stated that he braced himself for the impact from the door and discharged his firearm. Officer Fields reported over the radio that shots were fired by the police and additional units arrived on the scene. An unknown sergeant directed him to leave the building and Officer Johnson holstered his firearm and entered a police vehicle. The officer later learned that the bullet from his firearm struck a window and then a brick wall. Officer Johnson also learned that ██████████ was placed in custody and ██████████ firearm was recovered. In response to the allegation that he was inattentive to duty by unintentionally discharging his firearm, Officer Johnson denied that he was inattentive to duty and opined that the discharge was a result of ██████████ “forcing the door towards”<sup>7</sup> the officer.<sup>8</sup>

## **VI. LEGAL STANDARD**

### **a. Standard 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;

---

<sup>5</sup> Att. #21, Page 8, Lines 13-14

<sup>6</sup> Att. #21, Page 9, Lines 4-5

<sup>7</sup> Att. #21, Page 30, Line 17

<sup>8</sup> Att. #'s 18, 21

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.<sup>9</sup> For example, 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.<sup>10</sup> 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>11</sup>

## VII. ANALYSIS AND CONCLUSION

COPA finds that Allegation #1 against Officer Johnson that he was inattentive to duty in that he unintentionally discharged his firearm is **Sustained**. In his statement to COPA, Officer Johnson admitted that the discharge of his firearm was unintentional but denied that he was inattentive to duty. Officer Johnson stated that he believed that ██████████ had run out of the apartment through the back entrance after he had lost sight of him. The officer stated that he did not expect him to appear behind the door. As the officer was pushing the door open with his left hand, he held his firearm in his right hand. Officer Johnson stated that his finger was on the slide and did not remember having his finger on the trigger. The officer further stated that when ██████████ appeared behind the door and tried to push it closed, Officer Johnson braced for the impact of the door. The officer speculated that the discharge was a result of ██████████ attempt to close the door. The video recording from Officer Johnson's body-worn camera does not capture the officer's firearm at the time of the discharge; however, the video recording corroborates Officer Johnson's statement that he was pushing the door with his left hand and holding his firearm in the ready position. Although the investigation cannot conclusively determine what caused the discharge, the evidence indicates that Officer Johnson was surprised by ██████████ appearance behind the door and his sudden attempt to close the door and, as a result, discharged the firearm in reaction. Consequently, based on the preponderance of evidence, there is sufficient evidence to find the allegation against Officer Johnson to be **Sustained**.

### I. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

---

<sup>9</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>10</sup> See e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016).

<sup>11</sup> *Id.* at ¶ 28.

**a. Officer Tony Johnson #16445**

**i. Complimentary and Disciplinary History**

Officer Johnson’s complimentary history includes one (1) 2019 Crime Reduction Award, one (1) Annual Bureau Award of Recognition, one (1) Joint Operations Award, one (1) Problem Solving Award, and eleven (11) Honorable Mentions. Officer Johnson does not have any recent disciplinary history.

**ii. Recommended Penalty**

COPA recommends that Officer Johnson receive a **5-day suspension** for this violation.

**II. CONCLUSION**

Approved:



Angela Hearts-Glass  
*Deputy Chief Investigator*

10-12-2023

\_\_\_\_\_  
Date