



Log # 2022-0004041

## FINAL SUMMARY REPORT<sup>1</sup>

### I. EXECUTIVE SUMMARY

On September 20, 2022, the Civilian Office of Police Accountability (COPA) received an Initiation Report<sup>2</sup> from Chicago Police Department (CPD) member Sgt. Shannon Martin reporting that Police Officer Kimberly Otten was involved in an accidental discharge of her firearm at 2301 S Lake Shore Drive in the Roll Call Room where Officer Otten unintentionally discharges a firearm while attempting to put on a duty belt. COPA served an allegation that Officer Otten was inattentive to duty by causing her firearm to accidentally discharge. Following its investigation, COPA reached a sustained finding.

### II. SUMMARY OF EVIDENCE<sup>3</sup>

Officer Otten stated that when she got to work that day, she put on her gear and secured her weapon in a holster.<sup>4</sup> I here interview with COPA, Officer Otten described how her firearm needs to be pushed down and pulled forward into the duty-belt holster until you hear a click.<sup>5</sup> On the day of the incident, she was in the Roll Call Room of Unit 715 preparing for bike patrol when the accidental discharge of her firearm occurred. While changing out a used bulletproof vest into a clean one, Officer Otten momentarily placed her duty belt onto a nearby chair. When she went to put her duty belt back on, she heard a “pop,” and subsequently noticed her firearm on the floor behind her.<sup>6</sup> Officer Zeglis, who was also present during the accidental discharge, stated that she was on the computer when she heard a loud noise (sounded like something hit the floor), followed by a gunshot.<sup>7</sup>

### III. ALLEGATIONS

#### **PO Kimberly Otten:**

1. Was inattentive to duty, causing her firearm to accidentally discharge.
  - Sustained, Violation of Rules 10 and 13.

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<sup>1</sup> 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.

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

<sup>3</sup> The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including police reports and PO Otten’s interview.

<sup>4</sup> Att. 10 at 4:44.

<sup>5</sup> Att. 10 at 5:45.

<sup>6</sup> Att. 10 at 5:22

<sup>7</sup> Att. 11 at 5:33

**IV. CREDIBILITY ASSESSMENT**

This investigation did not reveal any evidence that caused COPA to question the credibility of any of the sworn members who provided statements.

**V. ANALYSIS<sup>8</sup>**

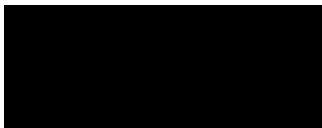
COPA finds the allegation that Officer Otten was inattentive to duty when her firearm accidentally discharged, is **Sustained**. Rule 10 of the Rules and Regulations of CPD prohibits an officer from being “inattentive to duty.” Rule 13 of the Rules and Regulations of CPD prohibits an officer from “failing to adequately to secure and care for Department Property.” The statement of Officer Otten and Department reports indicate that Officer Otten, when putting on her duty belt, heard a “pop”, indicative of a gun firing. Officer Otten believes that her firearm fell out of her holster onto the floor. The responsibility is Officer Ottens’ to ensure that a firearm is secured and under control. Accordingly, allegation 1 is sustained in violation of rules 10 and 13.

**VI. DISCIPLINARY RECOMMENDATION**

**a. Police Officer Kimberly Otten**

- i. Complimentary and Disciplinary History:**<sup>9</sup> Officer Otten has received 123 various awards. She received a reprimand in April 2023 for medical roll – failure to report.
- ii. Recommended Discipline:** COPA has considered Officer Otten’s complimentary history and lack of disciplinary history. Officer Otten independently took a fire safety class after her unintentional firearm discharge and prior to her statement with COPA, to obtain guidance to avert this situation from occurring again. COPA has found that Officer Otten’s conduct during this incident violated Rules 10 and 13. Therefore, COPA recommends a 1-Day Suspension,

Approved:



\_\_\_\_\_  
Matthew Haynam  
Deputy Chief Administrator – Chief Investigator

January 26, 2024

\_\_\_\_\_  
Date

<sup>8</sup> For a definition of COPA’s findings and standards of proof, *see* Appendix B.

<sup>9</sup> Att. 19

Appendix ACase Details

Date/Time/Location of Incident:	September 20, 2022 / at approximately 10:25 am / 2301 S. Lake Shore Dr.
Date/Time of COPA Notification:	September 20, 2022 / at approximately 11:35 am.
Involved Officer:	Kimberly Otten, Star 7988, Employee ID [REDACTED], Date of Appointment: September 13, 1999, Unit of Assignment: 8 <sup>th</sup> District, Female, White

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 13:** Failure to adequately secure and care for Department property.

Applicable Policies and Laws

- General Order 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.<sup>10</sup> 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.”<sup>11</sup>

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<sup>10</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 is found to be more probably true than not).

<sup>11</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4<sup>th</sup> 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