

**SUMMARY REPORT OF INVESTIGATION<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Date of Incident/Time of Incident:	May 28, 2019 / Approximately 3pm-5pm
Location of Incident:	████████████████████ Chicago, IL
Date of COPA Notification:	May 29, 2019
Time of COPA Notification:	5:00 PM

On May 28, 2019, at approximately 5:30 a.m. ██████████ arrived at the Norwegian American Hospital located at 1044 N. Francisco, Chicago, IL 60622. At that time, ██████████ reported to staff that she was sexually assaulted by a known acquaintance. Upon notice, hospital staff contacted the Chicago Police Department (“CPD”). Responding officers interviewed ██████████ at the hospital at which time she relayed that after having lunch with the accused, Capitan Michael Murphy (“Captain Murphy”) they went back to her apartment where he attempted to force her to perform oral sex on him and attempted to forcibly penetrate her vagina. At the time, ██████████ refused to provide any other information about the offender other than he was a CPD Captain and they met at St. Xavier University. The investigation later revealed the accused as Captain Murphy. No criminal charges against Captain Murphy were pursued. After a thorough investigation, COPA finds that there is insufficient evidence to sustain the allegations.

**II. INVOLVED PARTIES**

Involved Member #1:	Michael Murphy, Star# 14, Employee# ██████████ Date of Appointment: March 27, 1991 Captain, Unit of Assignment 008/124, DOB: ██████████ 1967, M/W
Involved Individual #1:	████████████████████ DOB: ██████████, 1985, F/W

<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.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Michael Murphy	1. It is alleged on or about an unknown date and time during the summer of 2015 at or near the location of ██████ W. ██████ St., Chicago, IL, the accused urinated on ██████ foot without her consent in violation of Rules 2 & 8.	Not Sustained
	2. It is alleged that on or about May 28, 2019, at or near ██████ W. ██████ St., Chicago, IL at approximately 3:00pm -6:00 pm, the accused used his body weight to hold ██████ down on a bed without her consent in violation of Rules 2 & 9.	Not Sustained
	3. It is alleged that on or about May 28, 2019, at or near ██████ W. ██████ St., Chicago, IL at approximately 3:00pm -6:00 pm, the accused attempted to place his penis inside ██████ vagina without her consent in violation of Rules 2 & 8.	Not Sustained
	4. It is alleged that on or about May 28, 2019, at or near ██████ W. ██████ St., Chicago, IL at approximately 3:00pm -6:00 pm, the accused pushed ██████ head towards his penis without her consent in violation of Rules 2 & 9.	Not Sustained
	5. It is alleged that on or about various unknown dates and times from 2014-2019 at various unknown locations the accused made unwanted verbal sexual advances towards ██████ in violation of Rules 2 & 8.	Not Sustained

#### IV. APPLICABLE RULES AND LAWS

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##### Rules

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Rule 2- Any action or conduct which impeded the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

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.

#### V. INVESTIGATION

##### a. Interviews

On August 2, 2019, ██████████ (██████████) provided a statement to COPA.<sup>3</sup> ██████████ relayed that she and Captain Murphy met in 2013 while enrolled in an MBA graduate program at St. Xavier University and established a friendship. ██████████ described their relationship as a friendship that gradually became closer, stating that eventually Captain Murphy had feelings for her beyond friendship and that those feelings were somewhat mutual.<sup>4</sup> Between 2013-2015, ██████████ and Captain Murphy spent a lot of time together.

██████████ described Captain Murphy as an alcoholic and a womanizer. She also made allegations that he made multiple inappropriate and/or unwanted sexual advances/gestures towards her.<sup>5</sup> Ultimately, in 2018, Captain Murphy's offensive behavior had taken a toll on their relationship and ██████████ decided to end their communication.

According to ██████████ on May 28, 2019, Captain Murphy reached out to her to have lunch. Although they had not spoken much during the previous 9 months, she thought it would be beneficial to get out of the house, since she had been mourning the recent passing of her dog. The two agreed to meet at the Millard's Tavern, which was within walking distance of her residence. Upon their separate arrivals, the two proceeded to have lunch, conversed, and consumed alcoholic beverages. ██████████ told investigators she had one shot and a beer, while Captain Murphy consumed multiple beers and a couple shots.

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<sup>2</sup> Atts. 14 (Audio) and 15 (Transcript)

<sup>3</sup> COPA attempted to conduct a second interview with ██████████. However, ██████████ was hesitant and unresponsive to COPA's requests.

<sup>4</sup> Att. 15 at 27 – 28, 34

<sup>5</sup> COPA determined which allegations were appropriate to serve based on the age of the allegations, the existence of corroborating evidence, the characterization of incidents as described by ██████████ and the likelihood of being able to reach a Sustained or Exonerated finding, amongst other factors.

After lunch, the two drove to [REDACTED] apartment, where they sat in the living room on the couch and watched television. At some point, Captain Murphy had to use the restroom. Since the toilet seat was broken in the guest restroom, he used the one in the master suite.<sup>6</sup> While he was in the bathroom, [REDACTED] also retreated to the master suite though she could not recall why.<sup>7</sup> Upon Captain Murphy's exit from the bathroom, [REDACTED] was sitting on the edge of the bed. Captain Murphy approached her and "forcefully in some manner, [...] pushed [her] back to the bed."<sup>8</sup> [REDACTED] felt that the pushed was not in "a violent" or "throwing" manner.<sup>9</sup> [REDACTED] landed on her back and tried to "nudge [Captain Murphy] away."<sup>10</sup> [REDACTED] described Captain Murphy as holding her down using his body weight, stating he "pinned her down [. . .]"<sup>11</sup> [REDACTED] felt "trapped by the weight of him."<sup>12</sup> As he held her down, Captain Murphy attempted to vaginally penetrate her with his penis. [REDACTED] felt Captain Murphy's penis touching her vagina but was not able to go "all the way inside,"<sup>13</sup> as she noticed he was not aroused. Next, Captain Murphy ended up laying on his back and flipping [REDACTED] over while he positioned her head towards his genitals. At that time, he rolled over on the bed, grabbed the back of her head, and directed her toward his penis to perform oral sex on him. Captain Murphy's penis did not enter her mouth and she was able to push him away, ultimately rolling and/or squirming off the bed. Subsequently, she told Captain Murphy to "get the fuck out!" After he left, he texted her "don't be a stranger."<sup>14</sup>

Shortly after the incident, [REDACTED] called her friend, [REDACTED] twice, but he did not answer. [REDACTED] left [REDACTED] a message requesting that they meet later. She followed up with a text message to [REDACTED] indicating that she had been taken advantage of by a cop.<sup>15</sup> Later that day, she spoke with [REDACTED] and the two agreed to meet at a local bar named, "Matchbox." After leaving the bar and going back to her residence, she confided to [REDACTED] that she was assaulted but hesitated to report it. After some discussion, [REDACTED] convinced her to go to the hospital and accompanied her. Upon arrival at Norwegian American Hospital, she reported the assault, spoke with CPD, and received medical treatment. [REDACTED] related that her treatment included a rape kit.<sup>16</sup> Due to Captain Murphy's position with the Department and presumed ramifications, [REDACTED] withheld the identity of the accused.<sup>17</sup> Following incident, [REDACTED] participated in follow-up trauma informed therapy sessions.

Additionally, during her statement to COPA, [REDACTED] related that over the course of their relationship, Captain Murphy made several unwanted sexual advances towards her.<sup>18</sup> Specifically, Captain Murphy sent her text messages and verbally related that he wanted to take nude photographs of her.<sup>19</sup> [REDACTED] also described an incident during which Captain Murphy was at

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<sup>6</sup> Id. at 6

<sup>7</sup> Id. at 39

<sup>8</sup> Id. at 6

<sup>9</sup> Id. at 41

<sup>10</sup> Id. at 40

<sup>11</sup> Id. at 40

<sup>12</sup> Id. at 117

<sup>13</sup> Id. at 116

<sup>14</sup> Att. 14 at 59:10-1:08:40 and Att. 15 at 21

<sup>15</sup> Att. 15 at 20

<sup>16</sup> Att. 14 at 1:12:40 and Att. 15 at 83

<sup>17</sup> Id. at 120

<sup>18</sup> Att. 14 at 20:35

<sup>19</sup> Att. 15 at 62

CPD event and told her that he went to another floor and began touching himself at the thought of her.<sup>20</sup> Finally, ██████ also described an incident in 2015. During this incident, ██████ and Captain Murphy were standing outside of her building in the parking lot. Suddenly, Captain Murphy began to urinate on ██████ feet. ██████ related she wore wearing pink Old Navy flip-flops and a summer dress at the time. When she confronted him about this behavior, Captain Murphy responded, “it just does it for me.”<sup>21</sup> ██████ described it as “a sexual thing for him.”<sup>22</sup>

On November 19, 2019, COPA conducted the statement of ██████<sup>23</sup> ██████ told COPA investigators that on May 28, 2019, after waking up from a nap, ██████ observed several missed calls and text messages from ██████<sup>24</sup> One of the messages read, “Second thought. I just had a cop follow me home and take advantage of me. But who the fuck am I gonna(sic) call, the cops?”<sup>25</sup> Upon seeing this message, ██████ returned ██████ call, at which time they planned to meet later at a nearby bar called the Matchbox. During their initial meeting at the bar, they did not discuss the message, considering they were in a public place. However, after leaving and going back to ██████ apartment, ██████ shared some details regarding the incident. While at ██████ apartment, ██████ observed items on the floor that did not belong on the floor. ██████ mentioned that Captain Murphy become upset and knocked the items to the floor. Later, upon returning to ██████ apartment from the hospital, ██████ entered the bedroom but did not see anything out of the ordinary.<sup>26</sup>

██████ told to ██████ that earlier in the day, Mike (now known as Captain Murphy) was at her apartment and would not leave.<sup>27</sup> ██████ was unclear if ██████ ever verbally requested for Captain Murphy to leave; however, she went outside onto her balcony to smoke, as Captain Murphy did not like the smoke. When she returned inside, Captain Murphy was shirtless and sitting on ██████ couch with his chest exposed.<sup>28</sup>

██████ described ██████ as crying and reluctant to discuss the incident. ██████ directly asked ██████ if she had been raped and ██████ nodded yes.<sup>29</sup> ██████ told ██████ that Captain Murphy had her on the bed and was trying to penetrate her, but she did not state if he successfully penetrated her or not.<sup>30</sup> ██████ hesitated to report the incident because she did not believe a rape kit would detect the assault because of Captain Murphy’s inability to remain erect. However, after some convincing, ██████ agreed to go to the hospital and ██████ accompanied her to Norwegian Hospital.

While at the hospital, ██████ learned the Captain Murphy attempted to force ██████ to perform oral sex on him.<sup>31</sup> After ██████ was evaluated and finished speaking with the police and

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<sup>20</sup> Id. at 28- 29, 32

<sup>21</sup> Att. 15 at 58

<sup>22</sup> Id.

<sup>23</sup> Att. 23 and 24

<sup>24</sup> Att. 23 at 7:00-8:25

<sup>25</sup> Att. 20

<sup>26</sup> Att. 24 at 8:30-12:55

<sup>27</sup> Att. 23 at 25:20

<sup>28</sup> Id. at 14:50-16:20

<sup>29</sup> Id. at 12:20

<sup>30</sup> Id. at 17:50-20:45

<sup>31</sup> Id. 16:25-22:50

hospital staff, the two returned to ██████ residence where they hung out and watched television.<sup>32</sup> To his knowledge, ██████ knew Captain Murphy from college and they were just friends.<sup>33</sup> He further added, ██████ relayed she had been assaulted by Captain Murphy on multiple occasions and at least once, she was tied up. However, she provided no further details regarding the alleged assaults.<sup>34</sup>

In a statement to COPA on December 14, 2020, **Captain Michael Murphy**<sup>35</sup> denied that he sexually assaulted ██████. Instead, Captain Murphy described a long-term dating relationship between the two. They two met during 2013, became friends, and almost immediately entered in to intimate/dating relationship. Although they occasionally took breaks away from one another, the two maintained the relationship through 2019.<sup>36</sup> During these breaks, they maintained their sexual relations when given the opportunity.<sup>37</sup>

### Relationship History

During the dating period, ██████ was married, and Captain Murphy had a live-in girlfriend. Occasionally, the two couples socialized together and visited each other's residences.<sup>38</sup> At some point during their relationship, ██████ gave Captain Murphy a key to her apartment and would list him as her medical emergency contact person.<sup>39</sup>

In the beginning of their relationship, the two had sex frequently but over time their opportunities to see each other waned. Their encounters included vaginal intercourse and oral sex. Captain Murphy described their relationship as entirely consensual, indicating that ██████ never complained to him about anything they did sexually, nor did she state his gestures/advances were unwanted. On the contrary, Captain Murphy felt the two were very affectionate towards one another, often holding hands and kissing. He further explained that their sexual encounters took place at both of their residences and in some instances the car. Captain Murphy asserted that both of them would both initiate sexual encounters, which were always consensual.<sup>40</sup>

### May 28, 2019<sup>41</sup>

When specifically asked about May 28, 2019, Captain Murphy related that he had not spoken with ██████ for at the most 6 weeks prior to May 28, 2019.<sup>42</sup> However, at some point he learned of the passing of ██████ dog and wanted to offer support. Therefore, on May 28, 2019, he and ██████ agreed to meet at a restaurant near her house for lunch.

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<sup>32</sup> Id. at 27:00-27:15

<sup>33</sup> Att. 24 at 13:50-14:27 and 16:55-18:15

<sup>34</sup> Att. 23 at 29:23-31:00 and Att. 24 at 14:50-16:10

<sup>35</sup> Att. 25 (Audio) and Att. 26 (Transcript)

<sup>36</sup> Att. 25 at 14:50-16:30

<sup>37</sup> Id. at 1:38:35-1:39:10

<sup>38</sup> Att. 25 at 6:30-11:50 and 17:40-18:45, Att. 26 at 35- 36

<sup>39</sup> Att. 25 at 12:50-14:00

<sup>40</sup> Id. at 26:05 and 33:35

<sup>41</sup> Id. at 35:25-52:10 and 53:35-1:14:39, Att. 26 at 36-40

<sup>42</sup> Id. at 1:28:00

During lunch, they conversed about the passing of her dog, but he did not recall any other details. He denied consuming any alcohol during lunch. After eating, they left together and went to ██████ condo.<sup>43</sup> Shortly after arriving, they began to watch a movie; however, ██████ did not appear interested. Instead, ██████ brought up a conversation the two had in 2013 during which she professed her love for him. ██████ also expressed some current feelings about their relationship and Captain Murphy had the impression that ██████ was trying to see if he was open to the idea of entering an exclusive relationship. In response, Captain Murphy expressed that he was not interested and suggested that ██████ remain with her husband.<sup>44</sup>

██████ proceeded to stand in front of him and began to dance as he sat on the couch. Next, she lifted her shirt and bra, straddled him, and placed her breasts in his face. As he kissed her breasts, ██████ took his hand and said words to the effect of, “I want you to fuck me!” and led him into her bedroom.<sup>45</sup> Captain Murphy felt that this was out of character for ██████ as she never used such language or been that assertive.<sup>46</sup> He could not recall exactly how happened, but by the time they “hit the bed” she was naked from the waist down.<sup>47</sup> ██████ pulled Captain Murphy down onto the bed. Captain Murphy fell into ██████ buttocks region face-first and immediately rolled off of her due to an odor but continued to lay on the bed.<sup>48</sup> ██████ mentioned again that she wanted to have sex, but he was not aroused. After telling her that he could not perform, ██████ briefly attempted to arouse him by performing oral sex on him as he lay on his back. He stated he did not recall precisely where his hands were positioned but was certain that he did not hold ██████ head down near his penis. Ultimately, ██████ was unsuccessful at arousing him because he requires more foreplay, added that he sometimes requires sexual enhancement medications to assist with his performance. Once she saw that he was not aroused, ██████ abruptly stood up and headed into the bathroom.

Upon exiting the bathroom, ██████ asked Captain Murphy to leave, so he put his clothes on and left. Captain Murphy could tell ██████ was upset by her body language and one-word responses to him, added it was also the first time he was unable to perform.<sup>49</sup> Captain Murphy believed ██████ felt rejected by him, which may have motivated her to make such allegations.<sup>50</sup> Captain Murphy has not had any verbal communication with ██████ since the day of incident. Based on their last conversation and ██████ behavior he believed it was best that he stops engaging with her.<sup>51</sup> At the conclusion of his statement with COPA, Captain Murphy denied all allegations.

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<sup>43</sup> Id at 53:35-55:30

<sup>44</sup> Att. 26 at 35-37

<sup>45</sup> Id at 62.

<sup>46</sup> Att. 25 at 37:55-38:50

<sup>47</sup> Att. 25 at 37:55-38:50 and Att. 26 at 38

<sup>48</sup> Att. 26 at 39-40

<sup>49</sup> Id. at 1:33:10

<sup>50</sup> Id. at 1:30:40- 1:32:35

<sup>51</sup> Id. at 1:14:39

Unwanted Sexual Advances

On the topic of unwanted sexual advances, Captain Murphy stated that ██████ never complained to him about any verbal or physical sexually motivated gestures he made towards her.<sup>52</sup> Instead, Captain Murphy suggested the two equally displayed affection towards one another. Additionally, ██████ occasionally brought the physical attributes of other women to his attention. Moreover, she never complained to him about talking to or complimenting other women.<sup>53</sup>

With respect to the allegation regarding urinating on ██████ feet, Captain Murphy stated that he sometimes urinates in the shower. He suggested this is the only way something like that could have occurred, since they have showered together. However, if it was a problem, she never communicated that to him.<sup>54</sup> As such, he denied the allegation.

**b. Documentary Evidence**

According to the **Initiation Report**,<sup>55</sup> ██████ reported that while at her residence, she was forced to perform oral sex on a fellow graduate student from St. Xavier University and CPD Captain but refused multiple requests to provide a name for the accused. ██████ related they had known each other for 4 years and had a previous consensual sexual relationship.

Similarly, the **Original Case Incident Report RD# JC** ██████<sup>56</sup> documents a criminal sexual assault reported on May 29, 2019 by ██████. The narrative states ██████ was sexually assaulted at her residence after having lunch and returning to her apartment with the offender. She related he forced her to perform oral sex on him. The report further adds that ██████ alleged that he “forced himself on her.”<sup>57</sup> ██████ refused to identify the offender for fear of her safety. She mentioned that although the two had consensual sexual relations in the past, the encounter on May 28, 2019 was not consensual.

Further investigation revealed records from CPD’s **Bureau of Detectives Division**<sup>58</sup>. CPD attempted to interview ██████ on multiple occasions. However, she did not provide a statement stating she did not believe she had enough evidence. The Detective records further document that ██████ refused a rape kit at the hospital.<sup>59</sup> On May 31, 2019, CPD obtained video from ██████ building at ██████ W. ██████ St., Chicago, IL. Ultimately, CPD’s case was “Suspended” due to ██████ lack of cooperation and the unknown identity of the offender.

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<sup>52</sup> Att. 25 at 31:25 and 44:50

<sup>53</sup> Id. at 50:25-52:15

<sup>54</sup> Id. at 27:53-31:25

<sup>55</sup> Att. 1

<sup>56</sup> Att. 2

<sup>57</sup> Id.

<sup>58</sup> Att. 4

<sup>59</sup> Id. at 11

According to the Detective's **Case Supplemental Report**,<sup>60</sup> CPD obtained and reviewed surveillance video from ██████████ building from the date of this incident.<sup>61</sup> ██████████ was observed on video entering her building with an unknown male offender. However, after an hour and a half or so the male is observed leaving the building.

██████████ was observed leaving the building and returning with another unknown male, who appears to be the male seen with ██████████ at the hospital on BWC. They are observed kissing in the hall prior to getting on the elevator. After leaving together and returning, the two were observed holding hands, smoking, snuggling, and kissing. After a few hours, the pair exited the building again. This time they were observed standing outside waiting on a rideshare. ██████████ appeared to have changed clothes and was now wearing the clothes she wore to hospital.

The **Office of Emergency Management Communications (OEMC)** event number 1914901239<sup>62</sup> documents a call initiated by a Nurse at Norwegian American Hospital requesting for police service regarding a sexual assault that took place on May 28, 2019 inside of the victim's condo unit on ██████████

**Medical Records**<sup>63</sup> retrieved from Norwegian American Hospital documents treatment administered to ██████████ on May 29, 2019. Records reflect that she reported an assault by a known person at her home address on May 28, 2019 at approximately 3:00 p.m. She reported vaginal and oral penetration without a condom. ██████████ washed, brushed her teeth, and changed her clothes after the assault occurred. Although she initially requested a rape kit, she later signed a release refusing a sexual assault exam and rape kit, stating she only wanted to be treated.<sup>64</sup>

### c. Digital Evidence

Responding Officers Wilbur Calicdan # ██████████ and Carolina Salamanca # ██████████ activated their **Body-worn cameras (BWC)**<sup>65</sup> as they investigated the incident and interacted with ██████████ Upon their arrival, ██████████ is observed lying in bed accompanied by a male, later identified as ██████████ She relates that on May 28, 2019, between 3 p.m. and 5 p.m., she was assaulted by a CPD officer after having lunch with him, but she is uncomfortable with identifying him by name because of his high rank with CPD. However, she relays that they met at St. Xavier University and has known him for 4 years.

██████████ relates the accused followed her upstairs, forced himself on her, and attempted to force her to perform oral sex on him. She also states this was not the first time this happened.<sup>66</sup> However, they had consensual sex once or twice in the past, but this was not one of those times.<sup>67</sup>

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<sup>60</sup> Att. 13

<sup>61</sup> It should be noted that although COPA also obtained this footage, COPA was unable to view portions of the footage using its electronic equipment. Specifically, COPA was unable to view the footage of ██████████ with the man now known to be ██████████

<sup>62</sup> Att. 3

<sup>63</sup> Att. 12

<sup>64</sup> Id. at 8, 22-25

<sup>65</sup> Att. 5 and 6

<sup>66</sup> Att. 5 at 8:25-8:36

<sup>67</sup> Id. at 8:45-9:05

█████ states prior to this incident, she stopped spending so much time with him because he had become “more and more aggressive and inappropriate.”<sup>68</sup>

In the **surveillance videos**<sup>69</sup> obtained by CPD from the property management company of █████ residence at █████ W. █████ Chicago, IL, she, and Captain Murphy are observed exiting a black 4-door sedan, enter a building, and proceed through the lobby. After some time, Captain Murphy is observed exiting the elevator and building.

COPA obtained **text messages from █████ █████** from her personal cell phone. The messages appear to reflect conversation between █████ and Captain Murphy. On May 28, 2019, at 11:56 a.m., █████ received a message from Captain Murphy inviting her out to lunch. Although █████ initially declined, she later agreed to meet him at the Milliard’s Tavern on Milwaukee Avenue.<sup>71</sup> On the same date at 6:00 p.m., Captain Murphy sent █████ two texts stating, “Don’t be a stranger lol,” and “You’re cute.”<sup>72</sup>

In addition, COPA received copies of **text messages from █████ █████**<sup>73</sup> On May 28, 2019, at 1:35 p.m., █████ received a message from █████ asking if he wanted to hang out. Later, at 6:17 p.m., █████ received a follow-up message that read, “Second thought. I just had a cop follow me home and take advantage of me. But who the fuck am I gonna (sic) call, the cops?”

## 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 allegation 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** is evidence indicating that it is **more likely than not** that the conduct occurred and violated 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

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<sup>68</sup> Id. at 4:25-4:40

<sup>69</sup> See physical file. Videos unable to upload to CMS.

<sup>70</sup> Att. 21 & 22

<sup>71</sup> Att. 21

<sup>72</sup> Id.

<sup>73</sup> Att. 20

investigation establishes that it is more likely than not that the misconduct occurred, 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 is 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. Credibility Assessment

The credibility of an individual relies primarily on two factors: 1) the individual's truthfulness and 2) the reliability of the individual's account. The first factor addresses the honesty of the individual making the statement, while the second factor speaks to the individual's ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory. In this case, COPA is unable to find that a preponderance of the evidence demonstrates that either [REDACTED] or Captain Murphy's account more credible.

Captain Murphy, as the accused, has a motive to portray these events in a manner that does not place blame or culpability on himself. However, there is insufficient evidence to demonstrate that his account is either incredible or more credible than [REDACTED] as there was no objective evidence to either corroborate or refute his account.

Furthermore, COPA found [REDACTED] account lacks a degree of credibility. During her statement, [REDACTED] appeared vague and evasive with respect to the nature of her prior relationship with Captain Murphy. At times, [REDACTED] appeared to characterize it as merely a friendship from her perspective, while characterizing Captain Murphy's feelings and actions as overtly sexual and romantic to the point of repulsing her. At other times, she seemed to concede that she also had romantic feelings for him. Furthermore, during her statement to COPA, [REDACTED] denied a prior sexual relationship with Murphy, but during her conversation with responding officers on body-worn camera, [REDACTED] related they had consensual sex once or twice in the past. Additionally, medical records and the case incident report state that [REDACTED] reported vaginal and oral penetration by the accused. However, in her statements to COPA, oral penetration was attempted but unsuccessful. Unfortunately, due to [REDACTED] unwillingness to provide a second statement to COPA, COPA was unable to gain explanations or clarifications from her that might explain these inconsistencies.

Therefore, COPA is unable to find that a preponderance of the evidence demonstrates that either [REDACTED] or Captain Murphy's account more credible.

**b. Allegations**

COPA finds that **Allegation #1** against Captain Murphy alleging that he urinated on [REDACTED] feet without her consent is **Not Sustained**. COPA found no evidence to support the claim. Although Captain Murphy admitted to urinating during showers with [REDACTED] he did not admit to intentionally urinating on her feet and asserted she never complained or had issue with him urinating in the shower.<sup>74</sup> Moreover, the incident [REDACTED] described was alleged to have occurred outside of her residence, not in the shower. There were no witnesses or other independent evidence to corroborate this incident. Without any sufficient evidence to support the allegation, COPA finds this allegation is Not Sustained.

Likewise, COPA finds **Allegations #2-4** against Captain Murphy that on May 28, 2019, he held [REDACTED] down on a bed with his body weight, attempted to place his penis in her vagina, and attempted to force her to perform oral sex on him are **Not Sustained**. COPA received two conflicting stories regarding Captain Murphy and [REDACTED] prior relationship and the events that took place on the day in question. As previously stated, COPA is unable to find either Captain Murphy or [REDACTED] more credible. Although [REDACTED] reported this incident to [REDACTED] CPD, and hospital staff close in time to the incident’s occurrence, these accounts were inconsistent with each other. As previously stated, [REDACTED] denied oral penetration to COPA, but reported oral penetration according to CPD reports and medical records. These inconsistencies coupled with COPA’s inability to find [REDACTED] credible are impediments to reaching a sustained finding. Without any additional information and/or independent witnesses to corroborate or contradict either account, COPA remains unsuccessful in determining the validity of the claims and these allegations are Not Sustained.

Lastly, COPA finds that **Allegation #5** against Captain Murphy alleging that he made unwanted sexual advances toward [REDACTED] is also **Not Sustained**. Again, COPA found no evidence in the form of text messages or outcry witnesses to support the claim. Moreover, Captain Murphy adamantly denied that all advances made were nonconsensual and that [REDACTED] ever brought it to his attention that she was offended or upset by any comments or gestures. Additionally, during [REDACTED] statement, COPA found it difficult to determine if/when the examples described were unwanted or not. Therefore, this allegation is Not Sustained.

**VIII. CONCLUSION**

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

Officer	Allegation	Finding
<p><b>Captain Michael Murphy</b></p>	<p>1. It is alleged on or about an unknown date and time during the summer of 2015 at or near the location of [REDACTED] W. [REDACTED] St., Chicago, IL, the accused urinated on [REDACTED] foot without her consent.</p>	<p>Not Sustained</p>

<sup>74</sup> Att. 25 at 28:00-31:20

	<p>2. It is alleged that on or about May 28, 2019, at or near [REDACTED] W. [REDACTED] St., Chicago, IL at approximately 3:00pm -6:00 pm, the accused used his body weight to hold [REDACTED] down on a bed without her consent.</p> <p>3. It is alleged that on or about May 28, 2019, at or near [REDACTED] W. [REDACTED] St., Chicago, IL at approximately 3:00pm -6:00 pm, the accused attempted to place his penis inside [REDACTED] vagina without her consent.</p> <p>4. It is alleged that on or about May 28, 2019, at or near [REDACTED] W. [REDACTED] St., Chicago, IL at approximately 3:00pm -6:00 pm, the accused pushed [REDACTED] head towards his penis without her consent.</p> <p>5. It is alleged that on or about various unknown dates and times from 2014-2019 at various unknown locations the accused made unwanted verbal sexual advances towards [REDACTED]</p>	<p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p>
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Approved:

[REDACTED]

8/23/2021

Matthew Haynam  
*Deputy Chief Administrator*

Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	9
<b>Investigator:</b>	Chantelle Hill
<b>Supervising Investigator:</b>	Sharday Jackson
<b>Deputy Chief Administrator:</b>	Matthew Haynam