

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	February 2, 2020 / [REDACTED] /1:30PM
Date/Time of COPA Notification:	February 3, 2020/9:18AM
Involved Officer #1:	Philip Banaszekwicz, Star #1695, Employee ID# [REDACTED] Date of Appointment: October 3, 1994, Rank: SGT, Unit of Assignment: 016, DOB: [REDACTED]/69, Male, White
Involved Officer #2:	Oswaldo Maldonado, Star #18563, Employee ID# [REDACTED] Date of Appointment: October 13, 1998, Rank: PO, Unit of Assignment: 020, DOB: [REDACTED]72, Male, White
Involved Officer #3:	Marco Bruno, Star #18850, Employee ID# [REDACTED] Date of Appointment: June 5, 1995, Rank: PO, Unit of Assignment: 016, DOB: [REDACTED]/67, Male, White
Involved Officer #4:	Spyros Lezimis, Star# 10616, Employee ID# [REDACTED] ¹
Involved Individual #1:	[REDACTED], DOB: [REDACTED]/69, Male, White
Involved Individual #2:	[REDACTED], DOB: [REDACTED]/05, Male White
Case Type:	Domestic Abuse

I. ALLEGATIONS

Officer	Allegation	Finding
Sgt Philip Banaszekwicz	1. On or about February 2, 2020, at approximately 2:30 PM at or near [REDACTED] [REDACTED] Sgt. Philip Banaszekwicz failed to file an initiation report after receiving allegations of misconduct against Officer Oswaldo Maldonado in violation of Rule 2, Rule 6 and Special Order S04-04.	Sustained
	2. On or about February 2, 2020, at approximately 2:30 PM at or near [REDACTED] [REDACTED] Sgt. Philip Banaszekwicz failed complete a case report for [REDACTED]	Sustained

¹ Officer Lezimis is no longer employed by the Chicago Police Department. Additional information is unavailable.

Officer Bruno Marco

Officer Oswaldo Maldonado

	<p>█████ and/or ██████ in violation of Rule 2, Rule 6 and General Order G04-04.</p>	
	<p>3. On or about February 2, 2020, at approximately 2:30 PM at or near ██████ ██████ Sgt. Philip Banaszkiwicz attempted to dissuade ██████ and/or ██████ from reporting an allegation of misconduct and/or criminal conduct in violation of Rule 2.</p>	Sustained
	<p>4. On or about February 2, 2020, at approximately 2:30 PM at or near ██████ ██████ Sgt. Philip Banaszkiwicz failed to fully capture an incident on body worn camera in violation of in violation of Rule 6 and Special Order S03-14.</p>	Sustained
Officer Bruno Marco	<p>1. On or about February 2, 2020, at approximately 1:30 PM at or near ██████ ██████, while responding to a domestic disturbance involving another police officer, Officer Marco Bruno failed to request a higher-ranking officer be assigned when investigating allegations against a Department Member in violation of Rule 6 and General Order G04-04.</p>	Sustained
Officer Oswaldo Maldonado	<p>1. On or about Summer 2019, at or near ██████ ██████, Officer Oswaldo Maldonado struck ██████ with open hand without justification.</p>	Not Sustained
	<p>2. On or about December 2019, at or near ██████ ██████, Officer Maldonado verbally threatened to physically abuse ██████ after learning of his ear piercing.</p>	Not Sustained
	<p>3. On February 2, 2020, at approximately 12:00 PM, at or near ██████ ██████, Officer Oswaldo Maldonado, grabbed ██████ without justification.</p>	Not Sustained

<p>4. On February 2, 2020, at approximately 12:00 PM, at or near [REDACTED], Officer Oswaldo Maldonado, pushed [REDACTED] without justification.</p>	<p>Not Sustained</p>
<p>5. On February 2, 2020, at approximately 12:00PM, at or near [REDACTED], Officer Oswaldo Maldonado threatened to strike [REDACTED].</p>	<p>Not Sustained</p>

II. SUMMARY OF EVIDENCE²

On February 3, 2020, [REDACTED] ([REDACTED]) contacted COPA to file a complaint against Officer Oswaldo Maldonado (Officer Maldonado) for an incident that occurred on February 2, 2020, and which Chicago Police Officers responded to. [REDACTED] also complained of the actions of the responding officers and sergeant. **Body worn camera (BWC)**³ revealed that on February 2, 2020, [REDACTED] ([REDACTED]), a 14-year-old minor, was staying with [REDACTED] his biological father, per the custody arrangement [REDACTED] had with [REDACTED] mother, [REDACTED] (hereafter [REDACTED]). That morning, [REDACTED] and [REDACTED] had an argument. The argument upset [REDACTED] so he went to his mother and Officer Maldonado’s home located at [REDACTED]. Officer Maldonado is [REDACTED] stepfather. [REDACTED] reported that while he was in the bathroom preparing to leave, Officer Maldonado asked him what was wrong and tried to prevent him from leaving while he was in an emotional state. Officer Maldonado pushed [REDACTED] into the tub and threatened to strike him. After [REDACTED] left the bathroom, he left the house and contacted the police.⁴ Responding Officers Marco Bruno (Officer Bruno) and Spyros Lezimis (Officer Lezimis) responded to the call. Officer Lezimis was first on the scene and spoke with [REDACTED] and [REDACTED] aunt, who arrived with him.⁵ While [REDACTED] was visibly upset, he did not appear nor claimed to be physically injured. Officer Bruno spoke with [REDACTED],⁶ who told him she was not present in the bathroom when the alleged incident occurred. She also informed Officer Bruno that Officer Maldonado was a City of Chicago police officer.⁷ Officer Bruno did not communicate this fact to Officer Lezimis.⁸ Neither Officer Lezimis nor Officer Bruno called a supervisor to the scene. Neither officer filed a case report.

Later that same day, [REDACTED] contacted CPD and asked for a supervisor to meet him and [REDACTED] regarding the earlier incident.⁹ During his statement,¹⁰ Sgt. Philip Banaszekiewicz related

²COPA 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.

³ Att. 6, 7, 8

⁴ Att. 7 at 6:18. Att. 17.

⁵ Id.

⁶ Att. 6

⁷ Id. at 4:22

⁸ Att 6

⁹ Att. 18

¹⁰ Att. 24

that he responded and met them at a Starbucks, where he spoke with them about what happened and agreed to meet them at [REDACTED]. Sgt. Banaszkiwicz did not activate his BWC during this first encounter. He did activate his BWC upon arriving at [REDACTED].¹¹ While on the scene, Sgt. Banaszkiwicz attempted to get [REDACTED] to speak with Officer Maldonado and [REDACTED] to mediate the incident without reports being filed.¹² When [REDACTED] refused and insisted on filing charges, Sgt. Banaszkiwicz told him that he would also have to charge him and [REDACTED] with child neglect for allowing him to be abused by Officer Maldonado and [REDACTED] could be removed from the home.¹³ Sgt. Banaszkiwicz further stated that if anything [REDACTED] stated was proven to be false he would be held criminally and civilly liable.¹⁴ Sgt. Banaszkiwicz also spoke with [REDACTED] on BWC and told him that [REDACTED] [REDACTED] and Officer Maldonado could all be arrested. He further told [REDACTED] that if that happened both he and his brother could go into DCFS custody for 72 hours. [REDACTED] eventually agreed to not file a report and Sgt. Banaszkiwicz left the scene.

On February 11, 2020, [REDACTED] and [REDACTED] gave statements at COPA's office and filed a **case report**¹⁵ with the 16th District, alleging essentially the same information as was alleged on BWC.

In [REDACTED] statement to COPA,¹⁶ he stated that while he used to get along with Officer Maldonado, as he has gotten older, they have fought more because he does not like Officer Maldonado telling him what to do. He described an incident in Summer 2019 where Officer Maldonado told him to help him with some yard work. He then said that Officer Maldonado yelled at him for not doing the yard work correctly. When [REDACTED] argued with him, Officer Maldonado "smacked" him. He described the "smack" as an open hand strike on the face that left a red mark.¹⁷

In December 2019, [REDACTED] father took him to get earrings. Afterward [REDACTED] called his mother to tell her he got his ears pierced. She got very upset and told him he better be kidding. He stated that in the background he heard Officer Maldonado state that if [REDACTED] "stepped into this house" he would "throw (him) to the ground and rip them out of (his) ear."¹⁸

[REDACTED] stated that on February 2, 2020, he came home after a fight with his biological father about riding bikes with his friends. While he was in the bathroom getting ready to go out, Officer Maldonado came in and tried to get him to talk about what was wrong. He repeatedly stated that he did not want to talk about it, but Officer Maldonado insisted and tried to hug him. He pushed Officer Maldonado away. After more attempts by Officer Maldonado to talk to him, Officer Maldonado grabbed him by his arm and pulled him to sit down on the edge of the tub. After more arguing, Officer Maldonado pushed him into the tub. Later in the conversation, Officer Maldonado asked him, "who's my number one?"¹⁹ [REDACTED] understood that Officer Maldonado wanted him to say that he was, but he instead answered "[REDACTED]," referring to Officer Maldonado's

¹¹ Att. 8

¹² Id.

¹³ Id. at 11:44

¹⁴ Id. at 11:35

¹⁵ Att. 13

¹⁶ Att. 16

¹⁷ Id. at 9:15

¹⁸ Id. at 30:19

¹⁹ Id. at 14:32

3-year-old biological son. ██████ said in his response to his answer, Officer Maldonado raised his hand and threatened to strike him. After ██████ left the house, he called the police.

In ██████'s statement to COPA,²⁰ he complained of three instances of abuse by Officer Maldonado against his son ██████. He claimed that in Summer 2019, Officer Maldonado "smacked" ██████. ██████ eventually told ██████ about the incident several months later. ██████ also stated that in December 2019, he took ██████ to get his ears pierced. When ██████ called his mother on speaker phone to tell her about the earrings, Officer Maldonado threatened to rip the earrings out of his ears. ██████ asserted that he was able to hear this threat.

██████ related that on February 2, 2020, ██████ told him that he went into the bathroom and was followed by Officer Maldonado, who tried to hug him and grab him. ██████ told him not to touch him and pushed Officer Maldonado off him. Officer Maldonado then grabbed him and threw/shoved him into the bathtub. ██████ further told him that Officer Maldonado raised his hand as if to hit him after ██████ told him that ██████ was his number one. Later, ██████ met ██████ at another location and decided to call for a supervisor to respond. A sergeant (now known as Sgt. Banaszkiwicz) responded and spoke with them. They eventually relocated to Officer Maldonado's home. ██████ related that once he told Sgt. Banaszkiwicz he wanted a police report, the sergeant's demeanor changed.²¹ Sgt. Banaszkiwicz related that ██████ could go to jail and be civilly sued. ██████ related Sgt. Banaszkiwicz made him "nervous," "intimidated," and "scared" during the conversation.²² Sgt. Banaszkiwicz further told ██████ his dad, mom and stepdad could go to jail and ██████ could go into DCFS custody. ██████ further related that Sgt. Banaszkiwicz did not see a need for a police report and left. ██████ went home with ██████

██████ statement²³ to COPA was consistent with brief statements she made to responding officers on BWC. She stated that she is the primary disciplinarian for ██████ when he is in her home, though she and Officer Maldonado do cooperate and discuss disciplinary issues as they come up. She has never specifically discussed corporal punishment with Officer Maldonado but stated that both are against it.

██████ was not present for the Summer 2019 incident, though she was aware of it. She stated that later that day ██████ had come in and told her that Officer Maldonado had "smacked" him after an argument they had while doing yard work. ██████ recalled the December 2020 phone call, during which ██████ told her that he got his ears pierced. ██████ stated she had ██████ on speaker phone. Based on prior instances when ██████ made jokes about things that were not true, both she and Officer Maldonado initially thought ██████ was telling a joke. She did not recall anything being said about the earrings being ripped out, though there were conversations about him not wearing them in her home.

She was not present in the bathroom during the February 2, 2020 incident, as she was in the living room with her other child. She confirmed that ██████ was upset when he came home. She said to this day, she does not know what happened because ██████ refuses to discuss it with

²⁰ Att. 15

²¹ Id. at 10:12

²² Id. at 11:00 – 12:15

²³ Att. 25

her. She speculated [REDACTED] might be influencing [REDACTED]. A few weeks before the incident, she stated she took him to court for failure to pay nearly thirty-thousand dollars in child support. Soon after [REDACTED] came home asking why she was suing his dad for “lies.” Finally, she stated that she has not seen [REDACTED] in months because he has been staying with his biological father.

During **Officer Maldonado’s statement**²⁴ to COPA, he stated he has known [REDACTED] for eleven years and has been his stepfather for seven years. Officer Maldonado stated that he does sometimes act in a parenting role towards [REDACTED] but his mother is always the final authority on discipline. Regarding the incident in Summer 2019, Officer Maldonado stated that he asked [REDACTED] to help him with some yard work while [REDACTED] recovered inside the house from a recent surgery. [REDACTED] was reluctant to help and complained while they worked in the yard. Officer Maldonado chastised him for his attitude and briefly tapped [REDACTED] under the chin with two fingers as [REDACTED] was not making eye contact. [REDACTED] did not express any pain or injury from the brief contact.

In December 2020, Officer Maldonado was nearby when [REDACTED] received a call from [REDACTED] telling her that he had gotten his ears pierced. Officer Maldonado explained that [REDACTED] was known for calling his mom and telling her he did things he did not do as a joke. Officer Maldonado and his wife responded that they would take them out when [REDACTED] got home. They intended the comment as a joke as they believed at that time [REDACTED] was joking. Officer Maldonado denied saying they would rip the earrings out and denied raising his voice.

Regarding the incident on February 2, 2020, Officer Maldonado’s statement to COPA was generally consistent with what he told responding officers. He stated that when [REDACTED] came home, he was upset and wanted to go out with his friends. Officer Maldonado did not want him to out around the city in that emotional state for his own safety, so he tried to talk to [REDACTED] about why he was upset. [REDACTED] did not want to talk and eventually left the bathroom to leave the house. Officer Maldonado denied any physical contact other than an attempted hug.

Sgt. Banaszkiwicz’s statement²⁵ to COPA was consistent with the statement of [REDACTED] and what can be viewed on his BWC. Sgt. Banaszkiwicz stated that when he met [REDACTED] and [REDACTED] in the parking lot of a Starbuck’s Coffee House, he thought he activated his body worn camera but had not. After speaking with them and agreeing to meet at [REDACTED], he realized the camera was not on because he could not hear it beep. He then activated the camera while in his car.

While his camera was off, he interviewed [REDACTED] about what had happened that day and he got two different stories. One in which Officer Maldonado told [REDACTED] to sit down on the bathtub and one in which Officer Maldonado raised his hand to forcibly sit him onto the bathtub. This inconsistency along with the accounts he got from Officer Maldonado and [REDACTED] led him to believe that no crime or misconduct occurred, and he believed he was within his discretion to attempt to resolve the matter without filing a case report or initiation report. Sgt. Banaszkiwicz stated that he understood [REDACTED] wanted a case report. He told [REDACTED] that he could potentially be arrested for neglect as he allowed [REDACTED] to go unescorted to the home where the abuse allegedly

²⁴ Att. 23

²⁵ Att. 24

occurred. Sgt. Banaszekiewicz admitted that one motivation for doing so was to convince ██████ to mediate the situation. When pressed, Sgt. Banaszekiewicz also admitted that an actual arrest for neglect in the current scenario was unlikely.

During **Officer Bruno's statement**²⁶ to COPA, he related that he was the backup officer on scene not the primary officer. Officer Bruno stated he did not recall if ██████ told him that the accused was a police officer. He also did not recall if he told Officer Lizimis that the accused was a police officer but that it would be the primary officer's responsibility to call a sergeant to the scene not his as the backup officer. Officer Bruno's recollection was that no one wanted a police report.

III. ANALYSIS AND CONCLUSION

a. Officer Oswaldo Maldonado

COPA finds that all allegations against Officer Oswaldo Maldonado are **Not Sustained**.

First, with respect to **Allegation 1**, that in the Summer of 2019 Officer Maldonado struck ██████ with an open hand without justification, both Officer Maldonado and ██████ stated that physical contact occurred. The two accounts differ with respect to the extent of the physical contact. Officer Maldonado says it was a light tap with two fingers under the chin. ██████ says it was an open hand slap that left redness on his face. There were no witnesses or other evidence related to the encounter. Thus, there is insufficient evidence to determine which conduct occurred. Therefore, based on a preponderance of the evidence, Allegation 1 is Not Sustained.

Similarly, **Allegation 2**, that Officer Maldonado threatened physical abuse when he learned about ██████ getting an ear piercing in December 2019, is Not Sustained. According to the statements, ██████ ██████ ██████ and Officer Maldonado were all present on that phone call. ██████ and ██████ stated that Officer Maldonado threatened to tear or rip the earrings out. Officer Maldonado and ██████ thought ██████ was joking. They further denied that Officer Maldonado threatened to tear or rip the earrings out, but rather stated they said they would remove the earrings when he got home. Therefore, there is insufficient evidence to conclude by a preponderance of the evidence that the comment was a threat and Allegation 2 is Not Sustained.

Lastly, **Allegations 3, 4 and 5**, that on February 2, 2020, Officer Maldonado grabbed, pushed, and threatened to strike ██████ without justification are Not Sustained. ██████ alleged Officer Maldonado grabbed ██████ by the arm and made him sit on the edge of the tub while they talked, then pushed ██████ from a seated position further into the tub. He then allegedly raised his hand in a threatening gesture but did not strike ██████ According to Officer Maldonado and ██████ ██████ was upset and preparing to leave the house. Both parents were concerned about him leaving in that emotional state, and Officer Maldonado was trying to get him to talk about how he was feeling. ██████ was not present for Officer Maldonado's interaction with ██████ in the bathroom. Officer Maldonado denied any physical contact other than an attempted hug. There was no physical injury. Therefore, there is insufficient evidence to determine if the allegations occurred, and COPA finds that Allegations 3,4 and 5 are Not Sustained.

26

b. Sgt. Phillip Banaszekiewicz Allegations

COPA finds that all allegations against Sgt. Banaszekiewicz, that he failed to file an initiation report, failed to file a case report, attempted to dissuade [REDACTED] and/or [REDACTED] from reporting an allegation of misconduct and/or criminal conduct, and failed to fully capture an incident on BWC, are **Sustained**. Sgt. Banaszekiewicz was called to [REDACTED] on allegations of child abuse by a department member. Initially upon his arrival, Sgt. Banaszekiewicz failed to activate his BWC when speaking to [REDACTED] and [REDACTED] causing the account [REDACTED] made to him to not be captured on BWC. Sgt. Banaszekiewicz admitted to this error.

Additionally, Sgt. Banaszekiewicz admitted that he did not document the allegations in an initiation report or case report, stating he did not believe a crime or misconduct occurred. According to General Order G04-04 when responding to a domestic incident, department members should “prepare the appropriate case report for any bona fide allegation of domestic violence.” Although Sgt. Banaszekiewicz stated that he did not feel that this incident rose to the level of domestic violence, the allegations made by [REDACTED] that he was grabbed, pushed, and threatened with bodily harm, constituted an allegation of domestic violence under the law. Thus, the allegations should have been documented in a case report. Furthermore, under Special Order S04-04, Sgt. Banaszekiewicz was obligated to “obtain a CR number [...] if a department member is involved in the domestic incident and a crime [and/or] misconduct by the Department member is alleged.” Under the order, Sgt. Banaszekiewicz did not have discretion to only file an initiation report if he believed Officer Maldonado committed the conduct alleged, but rather was required to file the report if misconduct was *alleged*. The above cited General and Special Orders prevents responding department members from becoming arbiters of the allegations on scene and allow for the appropriate investigative agencies to conduct thorough investigations of the incident.

Finally, Sgt. Banaszekiewicz admitted and BWC captured Sgt. Banaszekiewicz informing [REDACTED] that filing a report could lead to a DCFS investigation, criminal charges against both biological parents, a civil suit against him and possible removal of [REDACTED] from both homes. Sgt. Banaszekiewicz further admitted to attempting to convince the parties to settle the matter without a report. Although Sgt. Banaszekiewicz may have genuinely thought mediation without reports was in the best interests of all parties, his conduct discouraged [REDACTED] from filing a report and placed him in fear. [REDACTED] related Sgt. Banaszekiewicz made him “nervous,” “intimidated,” and “scared” during the conversation. Moreover, Sgt. Banaszekiewicz admitted that the outcomes he suggested may occur to [REDACTED] were unlikely to actually take place. COPA further recognizes that criminal charges for neglect against both parents and a temporary removal of [REDACTED] from the home were highly unlikely.

Therefore, based on a preponderance of the evidence, COPA finds that these allegations are Sustained.

c. Officer Marco Bruno Allegation

COPA finds that the allegation against Officer Marco Bruno that while responding to a domestic disturbance involving another police officer, Officer Marco Bruno failed to request a

higher-ranking officer be assigned when investigating allegations against a department member is **Sustained**. While, in his statement to COPA, Officer Bruno could not recall whether he was informed on the scene that Officer Maldonado was a Department member, ██████ can clearly be heard on BWC telling him that the accused was a police officer.²⁷ From that point on, he had a duty to request a supervising officer to scene, per General Order G04-04. His failure to call a supervisor puts him in violation of a General Order. His obligation as an assisting officer do not lessen his responsibilities under the General Orders. Therefore, based on a preponderance of the evidence, COPA finds that Allegation 1 is Sustained.

IV. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Sgt. Phillip Banaszekiewicz

i. Complimentary and Disciplinary History²⁸

1. **Complimentary:** 3 Crime Reduction Awards (2004, 2009, 2019), 4 Attendance Awards, 17 Complimentary Letters, 1 Democratic Convention Awards, 2 Department Commendations, 76 Honorable Mentions, 3 Life Saving Awards, 1 Military Deployment Award, 1 NATO Summit Service Award, 1 Presidential Election Deployment Award 2008
2. **Disciplinary:** None

ii. Recommended Penalty, by Allegation

1. **Allegation No. 1:** 180-day Suspension
2. **Allegation No. 2:** 180-day Suspension
3. **Allegation No. 3:** 180-day Suspension
4. **Allegation No. 4:** Written Reprimand

Sgt. Banaszekiewicz mishandled his response to the call of domestic violence involving a Chicago Police Officer. How a sergeant responds and handles such cases is critical not only to how the administrative or criminal investigations proceed, but also vital to public trust in the Department. Sgt. Banaszekiewicz's conduct caused a civilian and a minor who were attempting to report misconduct to feel that they may face consequences if the misconduct was reported. His statements also included express and implied threats to the civilian complainants resulting in them being intimidated into not making a complaint or report. Therefore, COPA recommends a 180-day suspension.

²⁷ Att 6 at 4:22

²⁸ Att. 35 & 36

b. Officer Marco Bruno

i. Complimentary and Disciplinary History²⁹

1. Complimentary: 3 Crime Reduction Awards (2004, 2009, 2019), 1 Attendance Awards, 3 Complimentary Letters, 1 Democratic Convention Award, 5 Department Commendations, 2 Department Operations Center Awards, 2 Physical Fitness Emblems of Recognition, 116 Honorable Mentions, 2 Joint Operations Awards, 1 Life Saving Award, 1 Life Saving Award, 1 NATO Summit Service Award, 1 Presidential Election Deployment Award 2008, 1 Unit Meritorious Performance Award

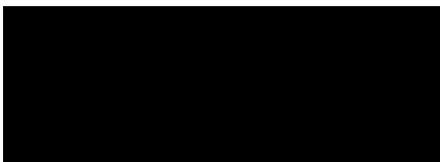
2. Disciplinary: None

ii. Recommended Penalty, by Allegation

1. Allegation No. 1: Written Reprimand.

Officer Bruno should have called a sergeant to the scene to handle the investigation upon learning that the allegations involved a Department member. Officer Bruno claims to have misunderstood his responsibilities as a responding officer. Therefore, COPA recommends a written reprimand.

Approved:



Matthew Haynam
Deputy Chief Administrator

6/30/2021

Date



Andrea Kersten
Interim Chief Administrator

6/30/2021

Date

²⁹ Att. 34 & 36

Appendix A

Assigned Investigative Staff

Squad#:	9
Investigator:	Ryan McPhail
Supervising Investigator:	Sharday Jackson
Deputy Chief Administrator:	Matthew Haynam