

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	January 28, 2019
Time of Incident:	2337 hrs.
Location of Incident:	██████████
Date of COPA Notification:	January 29, 2019
Time of COPA Notification:	0108 hrs.

On 28 January 2019 at approximately 11:37 P.M. Officer ██████████ and his wife, Administrative Service Officer Cherie McFadden were engaged in a verbal altercation that escalated to ASO McFadden throwing a paperback book at PO ██████████, striking his left eye lid and temple area. ██████████ Jr. sustained what appeared to be an abrasion/laceration type injury that did not require immediate medical attention. ██████████ Jr. called 911 and advised he was assaulted by ASO McFadden and requested a Sergeant to respond due to them both being employed by CPD.

**II. INVOLVED PARTIES**

Involved Officer #1:	██████████, Star #4446, Employee # ██████████, Date of Appointment: 01 December 1994, Rank: Police Officer, Unit of Assignment: (Narcotics Division), DOB: ██████████ 1972, Male, Black.
Involved Individual #1:	McFadden, Cherie, Employee # ██████████, Date of Appointment: 01 August 2013, Position: Administrative Service Officer, Unit of Assignment: 123 (Human Resources Division), DOB: ██████████ 1974, Female, Black.

III. ALLEGATIONS

	Allegation	Finding / Recommendation
Cherie McFadden	1. Threw a book at Officer [REDACTED] during a verbal altercation, striking him on the left side of his head.	SUSTAINED

IV. APPLICABLE RULES AND LAWS

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Rules
RULE 8: Disrespectful/maltreatment of any person while on/off duty.

## V. INVESTIGATION

### a. Interviews

In a **statement** to COPA on 15 January 2020, **Sergeant Hani Mohamed** essentially related the same account of the incident as he did in his Initiation Report. In addition, Sergeant Mohamed related ██████████ did not appear to be intoxicated. Sergeant Mohamed had no recollection of ASO McFadden alleging injury or observing injury to her. ASO McFadden informed Sergeant Mohamed that during a prior domestic incident, ██████████ had placed a gun to his head. Sergeant Mohamed informed his Lieutenant about the prior incident and ultimately ██████████ was referred to the Employee Assistance Program (EAP)<sup>1</sup>.

In a **statement** to COPA on 02 April 2019 Officer ██████████ related in summary that on 28 January 2019, he, and his wife (ASO McFadden) were engaged in a verbal altercation. January 14, 2019, they agreed to officially separate from their marriage of 24 years in which they share three children in common, ages 23, 21 and 16 years old. Their sleeping arrangements changed to ██████████ sleeping on the living room couch and ASO McFadden remaining in the master bedroom they once shared.

██████████ said the night of the incident, after he arrived home, he and ASO McFadden engaged in a verbal altercation. He does not recall exactly what initiated the argument, but ASO McFadden insisted that he leave her bedroom several times. ██████████ said he stood in the doorway of her bedroom and ASO McFadden was approximately 8-10 feet away from him standing on the side of the bed. He said he was already agitated and flustered about the separation and did not feel her request was acceptable because he paid the mortgage and bills for the home as well and did not leave.

██████████ said he observed ASO McFadden pick up a small paperback book he was told to read from an EAP counselor called, "The Language of Letting Go." ASO McFadden threw the book at him, striking him on the top left of his head near his temple. He did not realize he was injured until he felt a stream of blood flowing down his face from what he described as a "papercut that produced a bleed." ██████████ said the experience was jarring and he was devastated because they never had physical encounters outside of an incident that happened years prior.

██████████ said when he walked out of ASO McFadden's bedroom he looked for his cell phone to call 911 but could not find it. He grabbed his son's cell phone instead and called 911. He requested a Sergeant to the scene since they were both CPD employees involved in a domestic altercation. ██████████ said he then left the home and sat in his car until the police arrived. Prior to the police arriving he contacted his immediate Sergeant and notified his Commander. His Sergeant told him he was responding to the location.

When ██████████ was asked what happened during the prior domestic incident, he said it was a long time ago and does not recall if ASO McFadden hit him with an open hand or closed fist, but the incident happened when he was in the police academy. He said, "She hit me in the face." ██████████ said he filed a police report and was not injured. He said over the years they have had

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<sup>1</sup> Att. 20, 27

many verbal altercations and they generally do not argue in front of the kids. He further said, tension had been building up since June 2018 and usually he would try and walk away but sometimes buttons are pushed. ██████████ said during this incident buttons were pushed. He said the tone of ASO McFadden's voice and the condescending comments she makes are usually enough to push his buttons. The last "big blowout" incident was on 28 September 2018, at which time he felt useless because their oldest son engaged himself into their argument and began yelling at him. ██████████ said he felt that the whole world was against him and he felt himself drawing back preparing to hit his son but resisted in doing so.

██████████ denies that ASO McFadden has hit him or threatened to hit or harm him prior to this incident. He also denied ever hitting, threatening or trying to harm ASO McFadden. He further denies ever hitting, threatening, or harming his children outside of disciplining them. He said mostly he practice physical endurance like push-ups because he is a former US Marine.

Since this incident, ██████████ has moved out the house and he and ASO McFadden have a pleasant relationship as they both recognize they needed their space away from each other. He said several years ago they sought counseling assistance from EAP. ██████████ said he currently attends EAP counseling when he feels the need to talk about their separation<sup>2</sup>.

In a **statement** to COPA on 27 March 2019, **ASO McFadden** related she and ██████████ were engaged in a verbal altercation because she was invited to a Super Bowl Party by his cousin and his cousin's girlfriend. ASO McFadden said when she advised ██████████ about the party, he became irate because he did not want her to go, at which time she went into her bedroom. ██████████ followed her to the bedroom where the verbal altercation continued. She said ██████████ told her several times he did not want her to go to the party and that she should leave his family alone. ASO McFadden said she asked ██████████ several times to leave her bedroom, ██████████ complied but returned a short time later.

ASO McFadden said when ██████████ returned, he opened her bedroom door and stood in the doorway and said, "You still going to go." She responded, "Yes, I am going to go, I am a grown woman, and you are not going to tell me what to do." ASO McFadden said he continued to tell her he did not want her to go to the party, at which time she told him she did not want to talk about it anymore and to leave and close her door. ASO McFadden said ██████████ just stood there approximately 10 feet away and did not say anything or move. ASO McFadden said, "I grabbed the closest thing to me less lethal, which was a book about the size of my hand and threw it at him." She said the book hit ██████████ on the side of the head. ██████████ touched his head and said, "I'm bleeding," she responded, "Are you?", he responded, "Yeah," she responded, "Really, from a papercut?", he responded, "Yeah." ASO described the book as being a self-help paperback book.

When asked if she intended to hit ██████████ with the book, she said no, and that she only meant for him to see how agitated she was, and to scare him to leave the bedroom. She did observe the book striking ██████████ on the left temple area and that he had a papercut, but she denies seeing the injury at the time she threw the book. ASO McFadden said she saw the injury and blood

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<sup>2</sup> Att. 4, 26

for the first time when ██████████ returned from calling 911. When she was asked about ██████████ reaction to her throwing the book at him, she said, "Astonishment, amazement, almost like if he had had pearls on, he would be clutching them." That is how he reacted, "Dramatic, very dramatic."

██████████ then said, "I should call the police," she responded, "Are you really going to call the police because I threw a book at you?" he responded, "Yeah," and left her bedroom. Moments later, ASO McFadden heard ██████████ on the telephone speaking with the 911 about being assaulted, she said she was in shock.

When ASO McFadden was asked to clarify what she meant by ██████████ being irate during the verbal altercation, she described his demeanor, as extra angry because he was under the impression that she was having an affair with the cousin who invited her to the Super Bowl Party. ASO McFadden denies having an affair with ██████████ cousin and said she was invited by his cousin's girlfriend. ASO McFadden said she and ██████████ voices were very loud during the incident and that she was agitated, tired, and wanted to go to bed because it was late. She further said things had been "going back and forth, and on and off" arguing about little stuff during the week and this incident was the big blow up. She said she was agitated and angry about ██████████ trying to tell her what she could and could not do.

ASO McFadden said their 23, 21 and 16-year-olds were all at home and could hear the argument but did not visually witness the incident, as they were all in their bedrooms. The argument lasted approximately 20 minutes. ASO McFadden had not consumed alcohol prior to this incident and is not aware if ██████████ had consumed an alcohol beverage that night. She said during their marital discourse he has been drinking a lot of alcohol. ASO McFadden said she got word from his partner that he had been consuming more alcohol than usual and she saw bank statements that showed him spending a considerable amount of money at the bars for one person for approximately a two-month period.

ASO McFadden related that ██████████ is currently receiving EAP counseling regarding his drinking, their separation and a past domestic incident in which he placed and unloaded gun to his head.

ASO McFadden said on October 2, 2018, ██████████ had come home after drinking alcohol and was irate as they argued. During the argument she observed ██████████ racking a bullet out of the chamber of a gun, then placed the gun to his head and said, "Is this what you want", "Is this what you want." By this time, their 23-year-old and 16-year-old sons walked in and witnessed the gun to ██████████ head. ASO McFadden said the 16-year-old screamed, "Dad, what are you doing." She said ██████████ continued saying, "Is this what you want me to do." ASO McFadden said she was able to get ██████████ to put the gun down and calm things down. She said she wanted to call the police but did not, however, she knew someone had to be contacted because her 16-year-old and 23-year-old boys witnessed the incident. ASO McFadden called ██████████ work partner. Ultimately, ██████████ partner (Ricky) and cousin (██████████) arrived at the house. Ricky took possession of the gun that was inside the house and a gun that was in ██████████ vehicle. Ricky and ██████████ followed ██████████ to a hotel where she believes he stayed for the weekend. ASO McFadden said this incident was the first time

she witnessed [REDACTED] placing a gun to his head as the result of them arguing. She said she never reported the incident to CPD and is offering this information now because [REDACTED] called 911 on her.

When asked what type of gun [REDACTED] used, ASO McFadden said it was a standard issued black gun with a clip. She added that she could not say for sure if there were other bullets in the gun, and that all she saw is that [REDACTED] “palmed” a bullet in his hand. She said they have been having marital issues since approximately July 2018. She was aware of and have discussed exit strategies and seriously contemplated leaving. When asked if she thought he was a danger, she said she did at the time, but [REDACTED] Commander recommended that he move out of the house because their relationship was not good. [REDACTED] agreed and moved out a couple weeks later. ASO McFadden said she has had many conversations with [REDACTED] assuring him that she would not restrict him from seeing the kids and she is satisfied that he is not a danger.

ASO McFadden described her current relationship with [REDACTED] as cordial and reiterated she does not believe [REDACTED] is a threat to himself or others at this time. Throughout their years of marriage, ASO McFadden related that [REDACTED] has never threatened, harmed, or physically abused her nor their kids in any manner. ASO McFadden did not fear for her safety during this current incident. There were no weapons involved in this incident<sup>3</sup>. ASO McFadden said divorce is the end result and she believes she and [REDACTED] can continue with positive communication.

#### **b. Digital Evidence**

Chicago Police Department (CPD) **Evidence Technician photographs** of [REDACTED] show what appeared to be several abrasion/laceration type marks to the left eyelid/temple area that contained a red colored substance<sup>4</sup>.

**Body Worn Camera (BWC) of Sergeant Hani Mohammed.** Sergeant Mohamed’s BWC shows him arriving at the scene of incident and being met outside by [REDACTED] essentially provided the same account of the incident to Sergeant Mohamed as he did in his statement to COPA. [REDACTED] displayed the injury he sustained to his left temple to Sergeant Mohamed. Thereafter, Sergeant Mohamed entered the McFadden’s residence and spoke to ASO McFadden. ASO McFadden essentially provided the same account of the incident to Sergeant Mohamed as she did in her statement to COPA. ASO McFadden admitted to throwing and striking [REDACTED] with a book and took responsibility for her actions. Sergeant McFadden briefly spoke to the McFadden’s daughter, who related she did not witness the incident. [REDACTED] refused to sign a complaint against ASO McFadden and stated he only wanted a Case Report. [REDACTED] refused medical attention and related that he would stay at a hotel for the night to keep the peace. [REDACTED] informed ASO McFadden that she was the aggressor in this incident and that he would be completing the necessary Department reports regarding the incident. ASO McFadden related that [REDACTED] did not threaten nor batter her. Sergeant Mohamed spoke to [REDACTED] about EAP and instructed [REDACTED] to report to the

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<sup>3</sup> Att. 3, 25

<sup>4</sup> Att. 12

005<sup>th</sup> District Station so he could be photographed by and Evidence Technician. Responding Officers disarmed ██████████ during the preliminary stage of their investigation<sup>5</sup>

**c. Documentary Evidence**

In an **Initiation Report**, Sergeant Mohamed related he responded to the address of the incident regarding two off-duty Department Members (██████████ and ASO McFadden). ██████████ related he and ASO McFadden were having a verbal altercation inside their residence, at which time ASO McFadden proceeded to throw a book at him. The book struck ██████████ on the left side of his forehead. Sergeant Mohamed observed a minor laceration to ██████████ forehead. ASO McFadden corroborated ██████████ account of the incident. ██████████ declined to sign a complaint against ASO McFadden and refused medical treatment. An Evidence Technician was requested to take photographs of ██████████ injury<sup>6</sup>.

The **Original Case Incident Report (Domestic Battery Simple)** relates officers responded to an assist Police Officer call at the address of incident. Upon arriving at the scene officers spoke to ██████████ informed officers that he was having a verbal altercation with his wife (ASO McFadden) in their bedroom regarding her attending a Super Bowl Party being hosted by his relatives. ASO McFadden demanded ██████████ leave the bedroom. ██████████ initially refused to leave the bedroom, at which time ASO McFadden threw a book toward him. The book struck ██████████ on the left side of his forehead. Thereafter, ██████████ exited the bedroom, went into the living-room, and called 911. Officers then spoke to ASO McFadden, who corroborated ██████████ account of the incident. ASO McFadden admitted that she threw a book at ██████████ and the book struck him. Officers observed a minor laceration to ██████████ forehead. ██████████ declined to sign a complaint against ASO McFadden and refused medical attention. After voluntarily leaving the residence for the night, ██████████ reported to the 005<sup>th</sup> District Station to be photographed by an Evidence Technician<sup>7</sup>.

The **Detective Supplementary Report** did not provide any additional information already related in the Original Case Incident Report<sup>8</sup>.

**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;

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<sup>5</sup> Attachment 13

<sup>6</sup> Att. 10

<sup>7</sup> Att. 5

<sup>8</sup> Att. 6

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

██████████ reported to CPD that his wife, ASO Cherie McFadden threw a book at him during a verbal altercation, striking him on the left side of his head causing injury, which is a Violation of Rule 8: Disrespectful/Maltreatment of any person on or off duty. The allegation and violation are supported by ASO McFadden self-admission, BWC, photographic images, documentary evidence and Sgt. Mohammed and other officers on location. The standard for a finding of sustained need only be by the **preponderance of evidence, indicating it is more likely than not that the incident occurred.** *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). COPA recommends a finding of **SUSTAINED** for **Allegation #1**,

## VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. ASO Cherie McFadden

#### i. Complimentary and Disciplinary History

(1) Crime Reduction Award

#### ii. Recommended Penalty, by Allegation

##### 1. Allegation No. 1

ASO McFadden threw a book at Officer ██████████ during a verbal altercation, striking him on the left side of his head, in violation of Rule 8. Disrespect to or maltreatment of any person on or off duty.

COPA recommends a 10-day suspension with Anger Management Counseling and Domestic Violence Training.

**IX. CONCLUSION**

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

Officer	Allegation	Finding / Recommendation
Cherie McFadden	1. Threw a book at Officer [REDACTED] during a verbal altercation, striking him on the left side of his head	SUSTAINED

Approved:

[REDACTED]

1-4-2021

\_\_\_\_\_  
 Angela Hearts-Glass  
 Deputy Chief Investigator

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 Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	11
<b>Investigator:</b>	Darren Bowens
<b>Supervising Investigator:</b>	Valiza Ann-Nash
<b>Deputy Chief Administrator</b>	Angela Hearts-Glass