

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	June 2016 – November 2017
Time of Incident:	Various
Location of Incident:	██████████ / ██████████, /Various Locations
Date of COPA Notification:	November 12, 2017
Time of COPA Notification:	10:11PM

██████████ and PO Encarnacion were involved in a dating relationship for approximately a year and a half. Ms. ██████████ related that throughout their relationship, PO Encarnacion drank to the point of intoxication, physically and verbally abused her, and pointed a gun at her. Ms. ██████████ submitted videos and photographs to support her allegations. The allegations are Sustained in part.

II. INVOLVED PARTIES

Involved Officer #1:	Sammy Encarnacion, Star 11790, Employee # ██████████, DOA June 29, 2015, Police Officer, Unit 016, DOB ██████████, 1989, Male, Hispanic
Involved Officer #2:	James Ponto, Star 3085, Employee ID# ██████████, DOA March 15, 2013, Police Officer, Unit 015/166, DOB ██████████, 1973, Male, Hispanic
Involved Individual #1:	██████████, 1991, Female, White

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Encarnacion	1. On various dates and times between June 2016 and November 2017 at various locations, Officer Encarnacion was intoxicated in violation of Rule 15.	Sustained
	2. On various dates and times between June 2016 and November 2017 at various locations,	Sustained

	<p>Officer Encarnacion was intoxicated while armed with a firearm in violation of Rule 6.</p> <p>3. On or about November 12, 2017, at approximately 0630 at or near [REDACTED] Chicago, IL, Officer Encarnacion engaged in an unjustified physical altercation with [REDACTED] to wit: pushed her about the body, and/or dragged her body, and/or slapped her about face, and/or placed his knee on her chest, and/or knocked her phone from her hands, and/or kicked her about the body in violation of Rule 9.</p> <p>4. On or about November 12, 2017, at approximately 0630 at or near [REDACTED] Chicago, IL, Officer Encarnacion verbally abused [REDACTED] in that he stated words to the effect of, "Bitch, cunt, whore" in violation of Rule 8.</p> <p>5. On or about November 12, 2017, at approximately 0630 at or near [REDACTED] Chicago, IL, Officer Encarnacion placed his hand around [REDACTED] throat in violation of Rule 8.</p> <p>6. On or about November 12, 2017, at approximately 0630 at or near [REDACTED] Chicago, IL, Officer Encarnacion harassed [REDACTED] by calling her repeatedly in violation of Rules 2 and 8.</p> <p>7. On or about October 18, 2017, at approximately 11:00 AM at or near [REDACTED] Chicago, IL, Officer Encarnacion pointed a firearm at [REDACTED] in violation of Rule 38.</p> <p>8. On or about October 18, 2017, at approximately 11:00 AM at or near [REDACTED] Chicago, IL, Officer Encarnacion pushed [REDACTED] to the ground in violation of Rule 9.</p>	<p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained</p> <p>Sustained</p>
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	<p>9. On or about October 18, 2017, at approximately 11:00 AM at or near [REDACTED] Chicago, IL, Officer Encarnacion struck a vehicle with his vehicle in violation of Rule 2.</p> <p>10. On or about October 18, 2017, at approximately 11:00 AM at or near [REDACTED] Chicago, IL, Officer Encarnacion left the scene of a vehicle accident in violation of Rule 2.</p> <p>11. On or about October 18, 2017, at approximately 11:00 AM at or near [REDACTED] Chicago, IL, Officer Encarnacion drove a vehicle while intoxicated in violation of Rule 2 and 15.</p> <p>12. On or about October 18, 2017, at approximately 11:00 AM at or near [REDACTED] Chicago, IL, Officer Encarnacion placed his weapon in his mouth, racked it and pulled the trigger without due regard for the safety of himself or others in violation of Rule 38.</p> <p>13. On or about October 18, 2017, at approximately 11:00 AM at or near [REDACTED] Chicago, IL, Officer Encarnacion lost control of his weapon in that [REDACTED] had the opportunity to remove the ammunition in violation of Rule 6.</p> <p>14. On or about June 19, 2016, at approximately 1:00 PM at or near [REDACTED] Chicago, IL, Officer Encarnacion discharged his weapon without justification in violation of Rule 38.</p> <p>15. On or about June 19, 2016, at approximately 1:00 PM at or near [REDACTED] Chicago, IL, Officer Encarnacion failed to notify the Chicago Police Department that he discharged his weapon in violation of Rule 6.</p>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p>
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<p>16. On or about June 19, 2016, at approximately 1:00 PM at or near ██████████ ██████████ Chicago, IL, Officer Encarnacion pointed a firearm at ██████████ in violation of Rule 38.</p>	Sustained
<p>17. On or about June 19, 2016, at approximately 1:00 PM at or near ██████████ ██████████ Chicago, IL, Officer Encarnacion endangered the safety of ██████████ ██████████ in that he discharged his weapon in her direction in violation of Rule 38.</p>	Sustained
<p>18. On or about an unknown date and time in May 2017 at or near ██████████ ██████████ Chicago, IL, Officer Encarnacion engaged in an unjustified physical altercation with ██████████ to wit: pulled a blanket off of her causing her nails to break and/or slapped her about the face in violation of Rule 9.</p>	Sustained
<p>19. On or about an unknown date and time in May 2017 at or near ██████████ ██████████ Chicago, IL, Officer Encarnacion verbally abused ██████████ stating words to the effect of "Fuck you. You're a bitch," violation of Rule 8.</p>	Sustained
<p>20. On or about July 7, 2016, at an unknown time at or near ██████████ ██████████ Chicago, IL, Officer Encarnacion engaged in an unjustified physical altercation with ██████████ ██████████ to wit: pushed her to the ground and/or dragged her body in violation of Rule 9.</p>	Sustained
<p>21. On or about October 31, 2017, at an unknown time at an unknown location Officer Encarnacion failed to secure his weapon in that he allowed ██████████ to possess it in violation of Rule 6.</p>	Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 2 –Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
2. Rule 6- Disobedience of an order or directive, whether written or oral.
3. Rule 8 - Disrespect to or maltreatment of any person, while on or off duty.
4. Rule 9 - Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
5. Rule 15 - Intoxication on or off duty.
6. Rule 38 - Unlawful or unnecessary use or display of a weapon.
7. Rule 39 - Failure to immediately make an oral report to the desk sergeant at the District of occurrence and to follow such oral report with a written report on the prescribed form, whenever a firearm is discharged by a member.

General Orders

1. U04-02 – Department Approved Weapons and Ammunition
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V. INVESTIGATION¹

This log number includes allegations of misconduct spanning various dates, times, and locations.² Therefore, to assist the reader, under each subheading below, COPA will summarize the evidence below as it relates to each specific date.

a. Various Dates and Times

In her interviews at COPA, the complainant, ██████████³ related that she met PO Encarnacion in January 2016 and the two immediately began a dating relationship. Although she lived near PO Encarnacion, she temporarily moved in with him in May 2016 and moved out upon his request in September 2016. Ms. ██████████ explained that her relationship with PO Encarnacion

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² The victim, ██████████ made other allegations that lacked specific dates and/or corroborating evidence. Thus, COPA opted not to serve the allegations.

³ Att. 11, 21, 45, 46

was great until they moved in together. She stated that she began to notice his “Dr. Jekyll and Mr. Hyde”⁴ personality, in that when he was nice and kind when he was sober but would become verbally and physically abusive when he drank alcohol. Ms. ██████ stated that she shared minimum information with family and friends about her relationship, and even though she confided in her friend, ██████,⁵ she didn’t tell her how she sustained her injuries. Ms. ██████ stated that her landlord, ██████,⁶ who also resided in the building, could have heard altercations between the two.

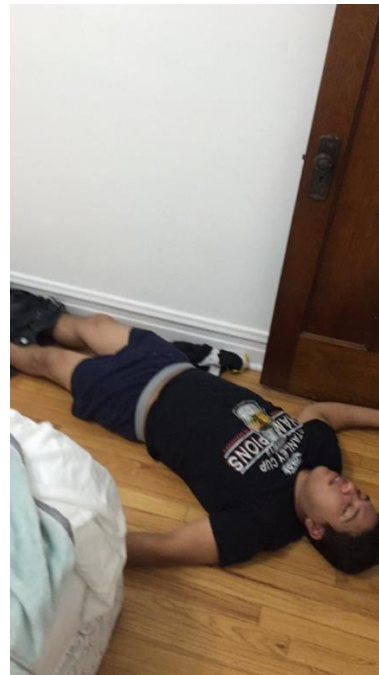
Ms. ██████ related that on the days PO Encarnacion worked, he would have a drink or two before he came home and would continue to drink at home. Ms. ██████ stated that he drinks more than the average person. Ms. ██████ related that when PO Encarnacion would drink excessively, he would pull his gun out, wave it around, and sometimes, point it at her and/or himself. Ms. ██████ related that PO Encarnacion would always leave his gun on the table, so she started hiding the guns from him.

Ms. ██████ submitted several photos and videos she recorded in which she alleged that PO Encarnacion was intoxicated. Ms. ██████ stated that PO Encarnacion was aware that he was being recorded. Ms. ██████ started recording and taking photos of PO Encarnacion to document his behavior and to remind herself of how toxic their relationship was.

July 7, 2016 – PO Encarnacion’s apartment⁷



October 28, 2016 – Ms. ██████ apartment⁸



⁴ Att. 46, page 13, line 15

⁵ COPA’s attempts to interview her were unsuccessful. See Att. 80

⁶ COPA’s attempts to interview him were unsuccessful. See Att. 34

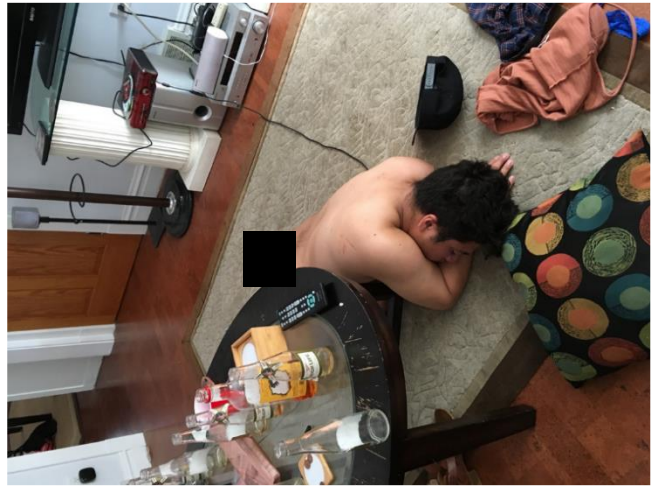
⁷ Att. 47

⁸ Att. 48

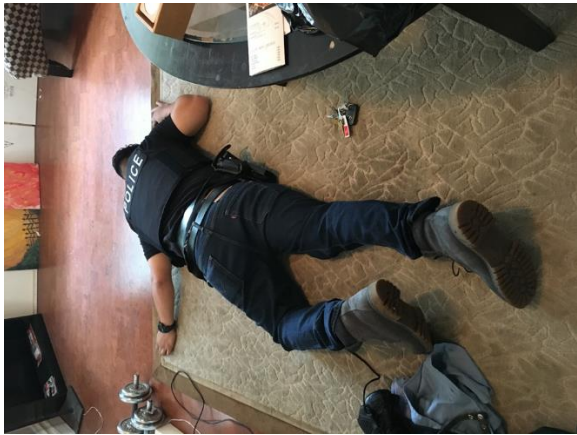
February 2, 2017 – Ms. [REDACTED] apartment⁹



June 10, 2017 – PO Encarnacion's apartment¹⁰



July 1, 2017 – PO Encarnacion's apartment¹¹



⁹ Att. 49

¹⁰ Att. 51

¹¹ Att. 47

Ms. ██████ also submitted a **video**¹² that was recorded at her apartment on an unknown date. PO Encarnacion, who appeared to be intoxicated, is seen walking around wearing black pants and no shirt. PO Encarnacion is heard in the background yelling and stating words to the effect of, “You think this is a fucking game.” As he walked past Ms. ██████ he stated “Yeah, record me.” Ms. ██████ told him that he was too drunk to go anywhere, and he needed to lay down and stop hitting her door and furnace. She also accused him of throwing a chair on her foot and pushing her against the wall. Chairs and clothing were strewn on the floor.

In his statement at COPA on July 16, 2021, **PO Encarnacion**¹³ related that he dated ██████ off and on, from 2015 to 2017, and she briefly lived with him. He stated that he ended the relationship because they were arguing too much. Sometimes, he would come home from work, and she would be intoxicated and ready to start an argument. He stated that she did not drink alcohol daily and neither did he. He estimated that he drinks approximately twice a week. PO Encarnacion stated that he mostly drinks beer, but sometimes, he would have a few shots of Jameson Whiskey. When asked if he has ever drunk alcohol to the point of intoxication, he stated words to the effect of, “I mean, I’m sure I have. Yeah.”¹⁴ PO Encarnacion explained that when he was intoxicated, he was normally in the house. There were times that both he and Ms. ██████ would be intoxicated together, but he does not recall the arguments escalating to a volatile situation. He stated that he is sure there were probably moments, but he does not recall the specific details.

After being provided the opportunity to review the photos¹⁵ that Ms. ██████ submitted, PO Encarnacion acknowledged that it was, in fact, him in the photos and he appeared to be sleeping at the time. In all the photos, except for the photo¹⁶ of him sleeping on the floor while wearing his CPD vest, PO Encarnacion stated that it was possible that he was intoxicated. PO Encarnacion denied being intoxicated while wearing his CPD vest and added that his gun was not in the holster at the time. PO Encarnacion also stated that he had no knowledge that photos were being taken of him inside of his residence. PO Encarnacion related that he has never lost consciousness or experienced memory loss because of intoxication. PO Encarnacion acknowledged that he had a drinking problem in the past, but he has since completed a substance abuse program.

After being provided the opportunity to view the videos that Ms. ██████ submitted to COPA, PO Encarnacion acknowledged that he was the male in the videos and the female voice was that of Ms. ██████. He stated that he did not remember any of the recorded incidents. PO Encarnacion admitted that on various dates and times he was intoxicated and possibly while in possession of his firearm.¹⁷

¹² Att. 22, Video 5

¹³ Att. 62, 63

¹⁴ Att. 63, Page 30, Line 23

¹⁵ Att. 22, pages 47 - 52

¹⁶ Att. 52

¹⁷ Att. 63 , pg 75

b. November 12, 2017

In her statement at COPA, Ms. ██████ related that on November 11, 2017, PO Encarnacion came to her house, stayed for approximately 10 minutes, and told her that he was going to his brother's house and would return in an hour. PO Encarnacion did not return to Ms. ██████ residence but kept in contact with her via text and continued to tell her that he was on his way. The following morning and after PO Encarnacion failed to return, Ms. ██████ decided to use her key and enter PO Encarnacion's residence, because it seemed suspicious that he was no longer answering her calls or replying to her text messages. When she entered the residence with his keys, she heard a female voice making noises. She proceeded to one of PO Encarnacion's bedrooms and turned on the lights. PO Encarnacion jumped up and said, "Is this a dream? Is this really happening?" Ms. ██████ stated that she could tell that he was drunk because of the manner in which he was speaking and the smell of alcohol on his person. Ms. ██████ related that PO Encarnacion pushed her to the floor and stated, "Get the fuck out of here. What are you doing here?" He then started dragging her across the floor. Every time she tried to stand up, he would push her back down. When Ms. ██████ was finally able to stand, PO Encarnacion slapped her on the face. As Ms. ██████ walked toward the female (now known as ██████) PO Encarnacion pushed Ms. ██████ on the floor and placed his knee on her chest. Ms. ██████ headed to the living room and said she was leaving. Ms. ██████ followed her and confronted her regarding her relationship with PO Encarnacion. Ms. ██████ grabbed Ms. ██████ bag that was on the floor, but PO Encarnacion snatched the bag from her grasp and pushed her down on the floor.

When PO Encarnacion walked back to his bedroom, Ms. ██████ followed him. PO Encarnacion began calling Ms. ██████ a bitch, cunt, and whore. He told Ms. ██████ that he and Ms. ██████ were no longer together. Ms. ██████ refuted the information and showed Ms. ██████ a recent text message he sent her. PO Encarnacion then snatched the phone from her hand and continued pushing her to the floor and onto the bed as she tried to get answers from him. At some point, PO Encarnacion pushed her against a table, which caused her to sustain a bruise on her hip. As they headed to the living room, PO Encarnacion pushed Ms. ██████ again, causing her to trip and strike her head against the wall. PO Encarnacion then started kicking her on the ribs as she laid on the floor. Eventually, Ms. ██████ got up and continued to follow PO Encarnacion around the house. Ms. ██████ grabbed PO Encarnacion's keys and placed them in her pocket in an attempt to make PO Encarnacion talk to her and to prevent him from driving drunk. Once again, PO Encarnacion pushed Ms. ██████ to the floor, placed his knee on her chest and retrieved his keys from Ms. ██████ pockets. When PO Encarnacion got up, Ms. ██████ jumped up and immediately began questioning PO Encarnacion about their relationship. At that point, PO Encarnacion placed his hand around Ms. ██████ throat and slammed her head against the door. PO Encarnacion then left through the door followed by Ms. ██████

Ms. ██████ immediately drove to the police station to report the incident. Ms. ██████ sought medical treatment at Swedish Covenant Hospital. Ms. ██████ sustained swelling and a bump on the back of her head, a bruise on her left hip, and a scratch on her neck. Ms. ██████ stated that PO Encarnacion called and texted her over 56 times following the incident to apologize and showed up at her residence on two separate occasions.

¹⁸ Att. 11, 21 ,45, 46

Evidence Technician Photographs¹⁹ of Ms. ██████ depict what appears to be a bruise on her right cheek, a scratch on her neck, a bruise on her upper left arm, and redness on her knees.

COPA obtained Ms. ██████ **medical records**²⁰ from Swedish Covenant Hospital. According to the medical records, on November 12, 2017, Ms. ██████ complained of a head injury, which she reported occurred during an altercation with her boyfriend. She reported that her boyfriend pushed her several times, grabbed her around the neck and hit her head against a table, and hit her several times on the face. She complained of pain to the back of her head and pain on the bridge of her nose, as well as dizziness. Ms. ██████ was diagnosed with head injury and injury due to physical assault.

On November 12, 2017, Ms. ██████ went to the District Station and filed a Battery Report (**RD# JA-508753**²¹) against PO Encarnacion. She related essentially the same information as she reported to COPA. According to the **Supplemental Report**,²² PO Encarnacion related that he had been dating Ms. ██████ off and on for approximately two years. He stated that when Ms. ██████ lived with him, she had a key. When the two of them broke up during the summer, she returned the key. The two of them reconciled, but as far as he knew, she did not have keys to his apartment. PO Encarnacion related that the night before the incident, he and Ms. ██████ were texting back and forth. Ms. ██████ wanted to go out with him, but he had already made plans with Ms. ██████ a female that he had been casually dating for approximately four months.

After the date, PO Encarnacion and Ms. ██████ returned to his apartment. While the two of them were engaged in sexual activities in PO Encarnacion's bedroom, he heard a clicking sound at his front entry door. Ms. ██████ entered the bedroom and turned on the lights. Ms. ██████ jumped on the bed while flailing her arms at him and Ms. ██████ Ms. ██████ grabbed Ms. ██████ by the hair and dragged her off the bed, slapped her, and called her names. Ms. ██████ then chased Ms. ██████ down the hall to the bathroom. PO Encarnacion related that he attempted to stand in between Ms. ██████ and Ms. ██████ PO Encarnacion explained that Ms. ██████ did not try to defend herself and she only tried to keep her distance from Ms. ██████ After Ms. ██████ closed the bathroom door, Ms. ██████ redirected her attention to PO Encarnacion in that she slapped him. Ms. ██████ exited the bathroom and Ms. ██████ followed her. Ms. ██████ then picked up Ms. ██████ purse, but PO Encarnacion snatched it from her and gave it back to Ms. ██████ Ms. ██████ left the apartment and proceeded down the stairs, and PO Encarnacion escorted her part of the way, while blocking Ms. ██████ from making contact with her.

PO Encarnacion returned to his apartment to put on clothes and then went back downstairs, but Ms. ██████ and Ms. ██████ were no longer there. PO Encarnacion called Ms. ██████ who related that she was safe in her Lyft ride. PO Encarnacion related that he had bruises on his inner left arm and scratches on his right arm, stomach, torso, left forearm and right hand. When asked why he did not call the police, PO Encarnacion stated that he had a negative experience with the 017th District and referred to two prior domestic incidents when he called the police.

¹⁹ Att. 38

²⁰ Att. 23

²¹ Att. 5

²² Att. 43

Ms. ██████ told detectives that she had known PO Encarnacion for a year and had been dating him for approximately three months. She stated that she met PO Encarnacion when he responded to a hit and run in which she was the victim. He and his partner would often eat at Dog Stop where she worked. Ms. ██████ had met Ms. ██████ on two previous occasions.

Ms. ██████ stated that on November 12, 2017, she and PO Encarnacion had returned to his home after celebrating her birthday. She related that the two of them were having sex when Ms. ██████ entered the bedroom and turned on the lights. Ms. ██████ began screaming at Ms. ██████ and calling her a bitch, whore, and a cunt. Ms. ██████ then pulled PO Encarnacion out the bed, shoved him and slapped him. Ms. ██████ stated that she could tell that Ms. ██████ had been drinking because she smelled of alcohol and was stumbling. Ms. ██████ then struck Ms. ██████ on the head and repeatedly slapped PO Encarnacion every time he got near her.

Ms. ██████ then grabbed Ms. ██████ who was naked, by the leg and hair and pulled her out of the bed and onto the floor. Ms. ██████ continued to slap and strike Ms. ██████ on the head and face. Ms. ██████ stated that she tried to defend herself by blocking Ms. ██████ blows. PO Encarnacion pulled Ms. ██████ off Ms. ██████ told Ms. ██████ that she should not be there and told her to leave. Ms. ██████ related that she picked up her clothes and went to the bathroom. Ms. ██████ followed her and continued to slap her while PO Encarnacion tried to place himself between them.

When Ms. ██████ exited the bathroom, she walked past Ms. ██████ and PO Encarnacion in the living room. Ms. ██████ tried to attack Ms. ██████ again as PO Encarnacion tried to block her. Ms. ██████ grabbed Ms. ██████ and pulled her to floor. PO Encarnacion threatened to call the police and repeatedly asked her why she had his keys. Ms. ██████ grabbed Ms. ██████ purse and started rummaging through it. PO Encarnacion retrieved Ms. ██████ purse and returned it to her. Ms. ██████ ordered a Lyft and left PO Encarnacion's house. She stated when she left, Ms. ██████ and PO Encarnacion were in the bedroom arguing. Ms. ██████ related that she blocked most of Ms. ██████ blows. She stated that it's possible that she scratched Ms. ██████ on the neck and arm in self-defense. Ms. ██████ further related that she did not choke Ms. ██████ and did not observe PO Encarnacion choke her. Ms. ██████ sustained rug burns on her knees and bruises on her inner left knee and her arms.

RD# JA-508753 was exceptionally cleared close after the involved parties refused to pursue criminal charges. Both PO Encarnacion and Ms. ██████ submitted photos of their injuries to the assigned detective, who in turn, inventoried the photos. Inventoried photos of PO Encarnacion²³ depict what appears to be a bruise on his arm, a scratch near his stomach, and a scratch on his arm and right hand. Photographs of Ms. ██████ depicted what appears to be bruises on both knees and her arm.

During his statement at COPA, **PO Encarnacion**²⁵ related that on November 12, 2017, he and his date, Ms. ██████ went out to celebrate her birthday and returned to his house. Shortly after the two became intimate, Ms. ██████ walked inside of the room. PO Encarnacion stated that

²³ Att. 54

²⁴ Att. 55

²⁵ Att. 62, 63

he had given her a key to his apartment when they were together, but she returned the key when they broke up. PO Encarnacion did not know she was in possession of a spare key and did not invite her over. PO Encarnacion related that when Ms. ██████ saw them in the bed, Ms. ██████ immediately began striking and punching both him and Ms. ██████ about the body. PO Encarnacion stated that he separated them by getting between them. He stated that Ms. ██████ was balled up and trying to protect herself. PO Encarnacion stated that neither he nor Ms. ██████ struck Ms. ██████. PO Encarnacion stated that he did attempt to separate Ms. ██████ from Ms. ██████ by standing between them and extending his arm towards Ms. ██████ to prevent her from attacking Ms. ██████.

PO Encarnacion related that he did not call the police because Ms. ██████ just wanted to go home. PO Encarnacion sustained scratches on his body. PO Encarnacion did not recall if photos were taken of his injuries, but when he was given the opportunity to review photos, he confirmed that he sustained bruises on his arm and ribcage. PO Encarnacion did not know what injuries Ms. ██████ sustained. PO Encarnacion denied being in an unjustified physical altercation with Ms. ██████ and stated that he did not call her a bitch, cunt and/or whore. He further denied placing his hand around Ms. ██████ neck and repeatedly calling her after the incident.

c. October 18, 2017

In her COPA statement, Ms. ██████ explained that even after she moved out of PO Encarnacion's apartment, she still had personal belongings at his house and spent every night there. On October 18, 2017, at approximately 5:00 AM, Ms. ██████ returned to PO Encarnacion's house and entered the apartment with her key. Once inside, she observed Ms. ██████ inside of the home with PO Encarnacion. PO Encarnacion began to explain that the two of them were just friends. Ms. ██████ announced that she was leaving, and PO Encarnacion followed her outside prompting Ms. ██████ to follow him. Ms. ██████ stated that she was trying to approach Ms. ██████ to ask her about her relationship with PO Encarnacion, but PO Encarnacion kept intervening by pushing Ms. ██████ to the ground. When Ms. ██████ left in an Uber, PO Encarnacion began screaming at her. Ms. ██████ stated that she believes that PO Encarnacion called the police on her. When the police officer arrived, PO Encarnacion reported that Ms. ██████ was drunk, on drugs, and had attacked him. The officer then spoke with Ms. ██████ who reported that it was PO Encarnacion who was drunk and not her. The officer told them both to go inside unless they wanted a report to be generated.

Later that day, PO Encarnacion, who Ms. ██████ stated was drunk and had side-swiped a vehicle when he pulled off, drove to his parents' house in Waukegan. Ms. ██████ stated that she wanted to continue the conversation with him regarding Ms. ██████ so she followed him. When she arrived, she observed PO Encarnacion's vehicle in the driveway. PO Encarnacion was in his vehicle drinking beers and motioned for her to come to his car. The couple talked calmly for a few minutes, but then, PO Encarnacion got upset. At some point, PO Encarnacion went in the garage and returned with a hammer. Ms. ██████ immediately began recording PO Encarnacion with her cell phone. Ms. ██████ related that PO Encarnacion threatened to strike her windshield with the hammer. Ms. ██████ also believed that PO Encarnacion called the police on her. Ms. ██████ submitted a recording of the incident which was captured in three videos.

²⁶ Att. 21, 46

Video 2²⁷ depicts what appears to be PO Encarnacion standing at Ms. [REDACTED] car and screaming at her. Ms. [REDACTED] told him not to touch her car and PO Encarnacion stated, “Get the fuck out of my car.” PO Encarnacion leans into the camera and states, “Yeah, I’m crying cuz I’m a fucking alcoholic.” PO Encarnacion, who is dressed in civilian attire, is seen with a hammer in his hand and appears to be under the influence of alcohol in that he had slurred speech. Ms. [REDACTED] is seen outside of the vehicle and holding her phone in his direction as if she is recording him. He then states to her, “Yeah, record me. Zoom in on my face.” The couple briefly argued over who broke up with whom and PO Encarnacion accused Ms. [REDACTED] of following him out to Waukegan.

Video 1²⁸ is a continuation of Video 2. PO Encarnacion is seen holding a hammer and arguing with Ms. [REDACTED]. PO Encarnacion confirmed in the video that they were at his [REDACTED]’ house in Waukegan. Ms. [REDACTED] stated that PO Encarnacion had been driving drunk all night and he had a case of beer in the car that he had been drinking. During her narration, Ms. [REDACTED] related that the video is evidence in case he damaged her car and proof that he drives drunk. Ms. [REDACTED] accused PO Encarnacion of damaging his [REDACTED]’ garage door. PO Encarnacion appears to have slurred speech.

Video #3²⁹ is a continuation of Videos 1&2. PO Encarnacion is now seen with a star (badge) hanging on a silver in color chain from around his neck that depicts, “Chicago Police Officer 11790.” PO Encarnacion explains to Ms. [REDACTED] that she is on private property, he and his parents own. PO Encarnacion physically showed her the badge and verbally stated his badge number, which correlates to the numbers observed on the badge. Ms. [REDACTED] asked him if he was intoxicated, he responded, “I may or may not be.” She then asked him if he had a case of beer in his car that he had been drinking, PO Encarnacion pointed to a silver car parked next to Ms. [REDACTED] vehicle and responded, “Yeah, go ahead, go ahead, look, look, look in there, I don’t care.” He then stuck his badge through an opening of the top portion of her car door and asked her if she had heroin. PO Encarnacion commented that he had pictures. Ms. [REDACTED] said she has never touched heroin in her life and told him he could drug test her. PO Encarnacion told her he was going to give her 5 seconds to remove herself from his private property and would call the police if she did not. PO Encarnacion then raised the hammer that was in his hand and said, “I have a legal right to smash your car right now.” When Ms. [REDACTED] asked if it was his property, PO Encarnacion responded, “I have legal right, I will do it right now.”

Ms. [REDACTED] related the reason for being there was a response to him driving erratically from Chicago while clearly intoxicated, and she was worried about him. PO Encarnacion said he was going to call the police. He retrieved a cell phone from the silver vehicle and returned to Ms. [REDACTED] car. He proceeded to talk on the cell phone and reported that his ex-girlfriend refused to leave his property. When PO Encarnacion tried to explain the address of where to send the police, he said, “The address is um...,” and removed the phone from his ear and held it down to his side and looked away from Ms. [REDACTED]. For approximately 22 seconds he stood relatively silent, although he did say something to the effect of, “I don’t want to do—but this is gonna happen,” before placing the phone back up to his mouth, and relayed he was at [REDACTED], in the alley.

²⁷ Att. 22, Video 2

²⁸ Id, Video 1

²⁹ Id, Video 3

He provided their names and gave a description of the vehicle she was driving. The video recording ended abruptly while PO Encarnacion was still on the telephone.

Ms. [REDACTED] also submitted a **video**³⁰ recorded on October 18, 2017, that depicts PO Encarnacion wearing his Chicago Police Star around his neck while holding an open bottle of wine in his left hand and a gun in his right hand. He placed the barrel of the gun in his mouth, placed the wine bottle on the table, used his left hand to rack the gun and then pulled the trigger. PO Encarnacion then stated words to the effect of, "I wish there was a fucking bullet in here." PO Encarnacion continues drinking from the wine bottle as he waved his gun around. Towards the end of the video clip, he displayed his CPD name tag in front of the camera. PO Encarnacion appeared to be intoxicated in that his speech was slurred, he was swaying from side-to-side, and drinking from a wine bottle.

According to a **911 call (Event #1729102009)**,³¹ on October 18, 2017, at approximately 5:14 AM, a male caller, who identified himself as Sam, requested police service to [REDACTED]. He reported that his ex-girlfriend entered his home with keys that she was not supposed to be in possession of. He also reported that she had been drinking.

According to **Waukegan Police Department Records**,³² on Oct 18, 2017, at approximately 8:41AM, a male caller, who identified himself as off-duty Chicago Police Officer Sam Encarnacion, requested police service to his parents' house located at [REDACTED]. He reported that his ex-girlfriend, who is in a black Mercedes, refused to leave his property and was sitting in the car recording him. He then reported that police service was no longer needed because she was leaving.

In his statement to COPA, **PO Encarnacion**³³ did not recall the events that transpired on October 18, 2017. PO Encarnacion stated that in 2017, he owned a silver Lexus IS250 sedan. He stated that he no longer has the vehicle and gave it to a family member a few months prior to his statement. PO Encarnacion related that to the best of his knowledge, he never had a car accident in the vehicle and never told Ms. [REDACTED] that he did. He denied being involved in a vehicular accident, leaving the scene of an accident, or driving while intoxicated.

PO Encarnacion admitted that it was him in the videos Ms. [REDACTED] submitted to COPA. He stated that it was possible that he was intoxicated and in possession of his weapon. He admitted that he placed his weapon in his mouth, racked it, and pulled the trigger. PO Encarnacion denied pointing a firearm at Ms. [REDACTED] pushing her to the ground, and being involved in a motor vehicle accident. He also denied losing control of his weapon and stated that Ms. [REDACTED] has never been in possession of his weapon. Furthermore, PO Encarnacion did not recall calling the Waukegan Police on Ms. [REDACTED]³⁴

³⁰ Id, Video 4

³¹ Att. 65

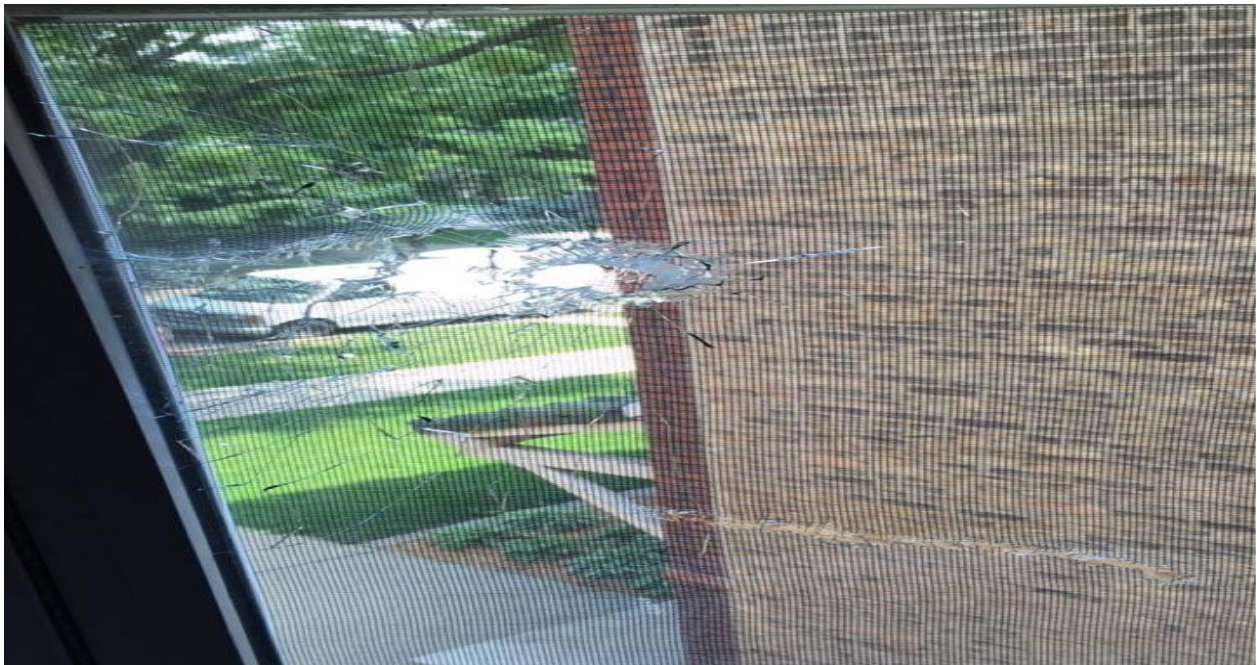
³² Att. 24, 71

³³ Att. 62, 63

³⁴ It should be noted that when Ms. [REDACTED] spoke to CPD regarding the November 12, 2017 incident, she related that on October 18, 2017, at PO Encarnacion's residence. She stated that Ms. [REDACTED] burst through PO Encarnacion's door and pushed and shoved her. PO Encarnacion called the police, but Ms. [REDACTED] left prior to the officers' arrival. See Att. 5

d. June 19, 2016

Ms. ██████ related that on June 19, 2016, she and PO Encarnacion were headed to his ██████'s house in Waukegan, when PO Encarnacion decided that he did not want to go because he was too drunk. When the two of them returned to PO Encarnacion's apartment, they had an argument over his drinking habits. Ms. ██████ was sitting beside PO Encarnacion on the bed. She told him that she could not deal with it anymore, at which time, PO Encarnacion pulled his gun out and pointed it at her. Ms. ██████ told PO Encarnacion that the gun was loaded, and he insisted that it was not. PO Encarnacion pointed the gun towards the window and pulled the trigger. Ms. ██████ reported that the bullet went through the window. Ms. ██████ took a picture of the damaged window and submitted it to COPA. Ms. ██████ stated that PO Encarnacion never reported the incident and did not tell his landlord, PO James Ponto. PO Encarnacion had his ██████ replace the window.



June 19, 2016 – PO Encarnacion's apartment³⁶

In his statement, **PO Encarnacion**³⁷ denied all allegations. When shown Attachment #40, PO Encarnacion stated that the window could be either his bedroom or dining room window. He stated that initially he stayed on the second floor but had been living on the main floor for the past two years. PO Encarnacion denied discharging his weapon but added that it is possible that Ms. ██████ discharged the weapon, though he did not provide any factual account to support this. PO Encarnacion stated that while he does not know if Ms. ██████ owns a gun, he stated that she is familiar with guns. He explained that her father owns a lot of firearms, and when they visited him in Indiana, both he and ██████ would shoot.

³⁵ Att. 45, 46

³⁶ Att. 40

³⁷ Att. 63

e. May 25, 2017

Ms. ██████ stated that on May 25, 2017, she recalled that she was laying in the bed when PO Encarnacion came home drunk. PO Encarnacion began yelling profanities at her and calling her a “bitch.” He snatched the covers off her, causing her nails to break and bleed, and slapped her on the face. PO Encarnacion called the police and reported that she was refusing to leave the house. Ms. ██████ left the house and as she was driving away, an officer curbed her vehicle and asked her to return to the scene. When she went back to PO Encarnacion’s house, the officers interviewed them separately and then let her go. Ms. ██████ stated that an evidence technician came to her home to take pictures of her injuries, but she did not seek medical attention. Ms. ██████ stated that PO Encarnacion was not injured during the incident.

OEMC 911 Recordings³⁹ obtained indicate that on May 25, 2017, at approximately 6:46AM, a male caller, who identified himself as an off-duty police officer with star 11790, called 911 and requested police service at ██████. He related that he was trying to get his girlfriend out of his house and that he would meet the responding units outside. At approximately 6:51AM, a male caller, who identified himself as off-duty officer Sammy Encarnacion, star 11790, told the call taker that he had just called a few minutes prior and was requesting a slow-down because his ex-girlfriend was leaving.

On May 25, 2017, **Domestic Battery Case Report RD# JA-278214**⁴⁰ was generated after PO Encarnacion called 911 and reported that Ms. ██████ refused to leave his residence. He related that when he relocated to a different room, she followed him, pulled the cover off him, and broke her nail in the process. Ms. ██████ then began flailing her arms near PO Encarnacion. PO Encarnacion blocked and redirected Ms. ██████ arms, sustaining a scratch in the process. When PO Encarnacion called the police, Ms. ██████ left the residence. As officers arrived on the scene, they stopped Ms. ██████ and relocated her back to PO Encarnacion’s residence. Both PO Encarnacion and Ms. ██████ refused to pursue criminal complaints or make allegations against one another. While both parties refused medical treatment, an evidence technician was ordered to photograph their injuries.⁴¹

Evidence Technician Photographs⁴² were taken of PO Encarnacion and Ms. ██████ on May 25, 2017 and recorded under RD# JA-278214. No obvious or visible injuries were observed on PO Encarnacion. Photographs depicted what appeared to be Ms. ██████ artificial nail partially detached from her natural nail and a chipped natural nail.

In his statement, **PO Encarnacion**⁴³ recalled only one incident in which he had to call the police on Ms. ██████. While he did not recall when the incident occurred or the circumstances surrounding it, he stated that he just remembered Ms. ██████ hitting him on the chest and leaving

³⁸ Att. 21, 46, 79

³⁹ Att. 67

⁴⁰ Att. 28

⁴¹ At the time of the incident, Log #1085353 was initiated. However, Ms. ██████ failed to cooperate with LOG# 1085353 at the time of initiation. She provided an account of the incident during the investigation of LOG# 1087474. Thus, the allegations are addressed under this Log Number. See Att. 29.

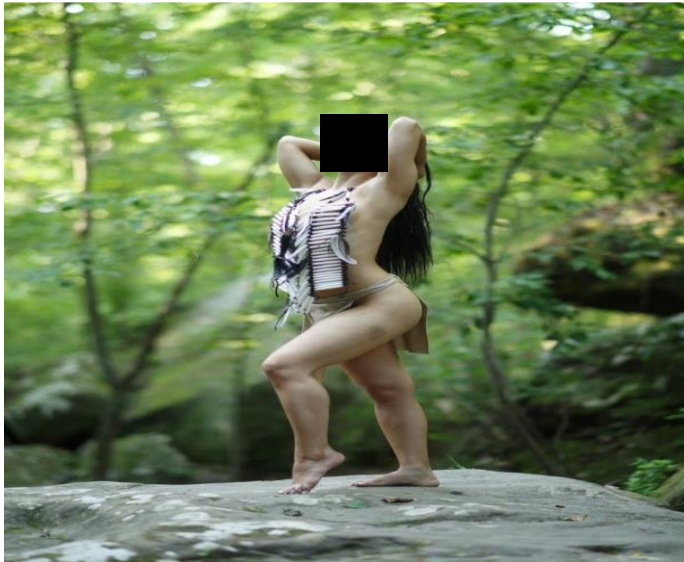
⁴² Att. 38

⁴³ Att. 63

the house. The police came and evidence technicians⁴⁴ took pictures of him. He stated that he sustained a scratch on his chest and face. PO Encarnacion stated that he did not recall much of the incident, because it took place a long time ago. He categorically denied all allegations.

f. **July 7, 2016**⁴⁵

Ms. ██████ alleged that on July 7, 2016 while PO Encarnacion was drunk, he pushed her to the ground and drug her across the kitchen floor. While Ms. ██████ stated that she rarely documented her injuries, she submitted a photo⁴⁶ of herself with a bruise on her left thigh. She explained that she sustained the bruise during this physical altercation with PO Encarnacion. Ms. ██████ did not report the incident and did not seek medical attention.



In his COPA statement, **PO Encarnacion**⁴⁷ stated that he did not recall the incident and he denied the allegations.

g. **October 31, 2017**

Ms. ██████ submitted a **photo**⁴⁸ of herself dressed as a Police Officer for Halloween and holding a gun. Ms. ██████ stated that it was PO Encarnacion's gun, and he allowed her to pose with it. During her statement, Ms. ██████ had no knowledge that her possession of his weapon was a violation of Department Rules and Regulations. When COPA asked her several questions about the photo and incident, she stated words to the effect of, "Uh, is that wrong to do that stuff? Like is that illegal?"⁴⁹

⁴⁴ While PO Encarnacion did not remember the date of the incident, COPA determined that the incident occurred on May 25, 2017.

⁴⁵ COPA determined that the incident occurred on July 13, 2016, and Ms. ██████ took the picture on July 14, 2016.

⁴⁶ Att. 22, 74

⁴⁷ Att. 63, 63

⁴⁸ Att. 53

⁴⁹ Att. 46, Page 127, line7-18

In his statement, **PO Encarnacion**⁵⁰ stated that he has two weapons, a 9mm Glock 19 and a .38 LCP. While PO Encarnacion recalled Ms. [REDACTED] dressing up as police officer for Halloween, he denied allowing her to pose with his weapon and stated that Ms. [REDACTED] has never been in possession of his weapons.

h. Additional Information

In his statement at COPA on Jan 24, 2018, **PO James Ponto**⁵¹, related that he normally works the midnight shift, but he was at home on IOD⁵² between May 13, 2016, through February 26, 2017. PO Ponto owns a two-flat with additional rooms in the basement. He rented PO Encarnacion the basement apartment in May or June 2015, and PO Encarnacion later moved upstairs to the second floor once it was finished. PO Ponto and his [REDACTED] lived on the first floor. PO Ponto stated that he does not consider PO Encarnacion a friend and had not met him prior to renting him an apartment. PO Encarnacion was a former coworker of PO Ponto's [REDACTED]. PO Ponto stated that he rarely had any interactions and conversations with Ms. [REDACTED] and PO Encarnacion. He related that he normally used the back door to enter and exit the building while they used the front door.

PO Ponto relayed that initially PO Encarnacion lived there alone, but later, Ms. [REDACTED] moved in with him and she was on the lease as well. Approximately eight months into the lease, Ms. [REDACTED] approached him and informed him that she was leaving and breaking the lease. Ms. [REDACTED] did not provide details regarding why she was leaving. PO Ponto recalled hearing raised voices in PO Encarnacion's apartment at times and knew that they were not getting along. However, PO Ponto did not speak to Ms. [REDACTED] or PO Encarnacion about the matter. PO Ponto stated that if he had heard any screaming or sounds indicating a physical altercation was taking place, he would have called the police. On one occasion, PO Ponto heard a loud thump and asked PO Encarnacion about it. PO Encarnacion explained that he and Ms. [REDACTED] were drinking, and the bottle dropped on the floor. PO Ponto stated that he did speak with PO Encarnacion regarding the noise they made in the apartment. PO Ponto threatened to call the police on PO Encarnacion if they continued to be loud. He explained that PO Encarnacion and Ms. [REDACTED] would be loud when they argued, played music, or had company. PO Ponto stated he has texted PO Encarnacion three or four times regarding the noise that stemmed from his apartment. PO Ponto stated that he had no knowledge of officers ever responding to his building. PO Ponto also related that while he has never observed PO Encarnacion intoxicated, he recalled, on different occasions, beer bottles and alcohol bottles being in the building's recycle bin.

When shown Attachments 40-42, the pictures that Ms. [REDACTED] submitted with a bullet hole in the window, PO Ponto related that the awning in the picture could possibly be his neighbor's and he did recall, at one point, there were white work vans on his block. PO Ponto stated that he had no knowledge of a weapon being discharged inside of his building and has never repaired a window with a bullet hole.

⁵⁰ Att. 65

⁵¹ Att. 33, 64

⁵² Injured on Duty

COPA conducted a **canvass**.⁵³ As documented in an **Investigatory Report**⁵⁴ during the canvass, a neighbor of Ms. [REDACTED] who identified herself as Ms. [REDACTED], described a domestic related disturbance between a Hispanic female and a male, who she believed was a police officer or security officer because she had seen him in uniforms on prior occasions. She observed the female trying to get in the car as the male was driving away in an older black luxury vehicle. Ms. [REDACTED] stated that during another incident in the summer of 2017, she observed the male “passed out” on the front lawn while the female was yelling for him to get up. The female eventually went inside the building and the male slept on the lawn the entire night. Ms. [REDACTED] stated she believed she called the police on at least one occasion. No other witnesses were located.

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;
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

⁵³ Att. 34

⁵⁴ Att. 37

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. While some facts are consistent among the accounts of Ms. [REDACTED] and PO Encarnacion (i.e., that they were involved in an off and on relationship, and that they have been involved in physical altercations), other material facts are entirely divergent. Overall, COPA finds Ms. [REDACTED] more credible than PO Encarnacion.

Specifically, Ms. [REDACTED] reported a thorough account of the incidents and provided evidence to corroborate her accounts for nearly all the allegations mentioned. For example, Ms. [REDACTED] provided numerous photographs corroborating various physical injuries, as well as photographs and videos documenting PO Encarnacion's frequent intoxication. On the other hand, PO Encarnacion's lack of memory and inability to recall incidents diminishes his credibility. In fact, PO Encarnacion admitted that he suffered from a problem with alcohol during this period and that his memory was impacted by this. Furthermore, although PO Encarnacion denied several incidents, he generally failed to provide plausible explanations that might contradict Ms. [REDACTED] account.

For example, Ms. [REDACTED] related that PO Encarnacion called the police on her in Waukegan. PO Encarnacion stated that he did not recall calling 911 however, digital evidence submitted by Ms. [REDACTED] shows that PO Encarnacion appeared to be intoxicated and carrying a hammer in his hand. In addition to this, the Waukegan Police Department's digital evidence corroborates Ms. [REDACTED] account.

Moreover, PO Encarnacion lack of memory regarding an intimate relationship with Ms. [REDACTED] is not reasonable. He vaguely remembered arguments between them that caused him to separate himself from the incidents. Nevertheless, PO Encarnacion did recall one incident that occurred on May 25, 2017, in which he called the police because Ms. [REDACTED] got physical with him, though he cannot recollect why the situation escalated, but he knew he had scratches on his face and chest. COPA's investigation revealed that PO Encarnacion called the police on multiple occasions requesting the police during incidents with Ms. [REDACTED] and identified himself by name and star number.

When PO Encarnacion was asked how many weapons, he possessed during the time he and Ms. [REDACTED] were in a relationship, he said one. But when it was brought to his attention that he in fact won a gun from the Department, PO Encarnacion said, "Oh yes, yes, I did, yeah." He added, "I think it was a .38, if I recall." The question here leans towards the truthfulness of PO Encarnacion's response. PO Encarnacion did not have a cache' of weapons to recall, he had only two. The plausibility of a gun owner/police officer not remembering how many weapons they own is diminutive and borders on negligence.

Additionally, PO Encarnacion was asked if he ever allowed Ms. [REDACTED] to use his weapon to take photos when she dressed as a police officer around Halloween, or any other time. He said

he only recalled Ms. [REDACTED] dressing as a police officer, but he “did not recall” or said, “no, not to the best of my knowledge” that Ms. [REDACTED] was ever in possession of one of his weapons. A reasonable gun owner, and particularly a police officer should be responsible enough to answer the question with an unequivocal yes or no answer and not, “I do not recall” or “not to the best of my knowledge.” Therefore, reliance on PO Encarnacion’s recall is questionable at best.

In this case, PO Encarnacion’s inability to recall most of the incidents limits his ability to dispute Ms. [REDACTED] account.

COPA finds that a preponderance of the evidence demonstrates that Ms. [REDACTED] account of the incident is more credible than PO Encarnacion. COPA must question if PO Encarnacion’s level of intoxication impacted his ability to accurately recall his relationship with Ms. [REDACTED] or the incidents in question.

B. Allegations

COPA finds that **Allegations 1 and 2** that on various dates and times between June 2016 and November 2017 PO Encarnacion was intoxicated and was intoxicated while armed with his handgun are **Sustained**. Ms. [REDACTED] reported that when PO Encarnacion was intoxicated, he would often wave his gun around and point it at her and himself. Ms. [REDACTED] submitted several photos of PO Encarnacion apparently intoxicated and laying on the floor. She also submitted several videos she recorded in which she alleged that PO Encarnacion was intoxicated. In his statement, PO Encarnacion confirmed that he was the subject in the videos and pictures and was probably intoxicated at the time. Based on a preponderance of the evidence, the allegations are Sustained as alleged.

COPA finds that **Allegations #3-6** that on November 12, 2017 PO Encarnacion engaged in an unjustified physical altercation with Ms. [REDACTED] verbally abused her, placed his hands around her throat, and repeatedly called her after the incident are **Not Sustained**. Although witness Ms. [REDACTED] did not cooperate with the COPA investigation, she provided her account of the incident to detectives. She related that Ms. [REDACTED] entered PO Encarnacion’s and began attacking them when she saw them in the bed together. She stated that Ms. [REDACTED] pulled PO Encarnacion out of the bed and slapped him and repeatedly struck him when he tried to separate her and Ms. [REDACTED]. Ms. [REDACTED] stated that Ms. [REDACTED] grabbed her by the leg and hair and pulled her out of the bed, and repeatedly slapped her. Ms. [REDACTED] stated that she tried to block her strikes and could have possibly scratched Ms. [REDACTED] neck. Ms. [REDACTED] stated that she sustained rug burns to the knees and bruises on her left leg. Ms. [REDACTED] told detectives that she did not observe PO Encarnacion place his hands around Ms. [REDACTED] throat. PO Encarnacion provided a similar account of the incident. Both identified Ms. [REDACTED] as the aggressor and not the victim. However, COPA is unable to ascertain Ms. [REDACTED] credibility without being able to interview her. Additionally, all involved parties sustained injuries during the incident. Thus, there is insufficient evidence to prove or disprove the allegations and the allegations are Not Sustained .

COPA finds that **Allegations #7-13** are **Sustained**. Ms. [REDACTED] alleged that on October 18, 2017, PO Encarnacion pointed a firearm at her, pushed her to the ground, struck a vehicle, left the scene of a vehicle accident, drove a vehicle while intoxicated, put a gun in his mouth and pulled the trigger, and lost control of his weapon.

While PO Encarnacion was not able to recall the details of the events that transpired on October 18, 2017. Ms. ██████ was able to give a thorough account, which was credible. Additionally, Ms. ██████ account was corroborated, in part, by video. Ms. ██████ provided videos of her interaction with Officer Encarnacion. Officer Encarnacion, who appeared to be intoxicated in the videos, called the Waukegan Police on Ms. ██████ and stated that she refused to leave his property. Later that day, Ms. ██████ alleged that PO Encarnacion placed his weapon in his mouth. Ms. ██████ provided a video to support her allegations. The video depicted PO Encarnacion, drinking wine with his gun in his hand. He placed his gun in his mouth, racked it, and pulled the trigger. PO Encarnacion admitted to COPA that it was him in all four videos that Ms. ██████ presented. PO Encarnacion also admitted that he was intoxicated while in possession of his weapon which is in violation of the CPD Uniform and Property Order 04-02, which states, "While sworn members are permitted to carry firearms during non-duty hours, they are instructed to refrain from doing so when there is a likelihood that they will be consuming alcoholic beverages or medications which may impair their physical and/or mental abilities." While PO Encarnacion did not recall the events and denied striking a vehicle and pushing Ms. ██████ to the ground, Ms. ██████ account is more credible. PO Encarnacion's lack of memory regarding the incidents does not diminish Ms. ██████ credibility or combat her account. Based on a preponderance of the evidence, the allegations are Sustained.

COPA finds that **Allegations #14-17** are **Sustained**. Ms. ██████ alleged that on June 19, 2016, PO Encarnacion pointed a firearm at her, discharged his weapon in her direction, and failed to notify the Department. Ms. ██████ submitted photos of the window that the bullet struck. PO Encarnacion's landlord, PO Ponto, stated that he had no knowledge of a weapon being discharged in his building and has never repaired or replaced a window with a bullet hole. PO Ponto viewed the photo that Ms. ██████ provided and related that the awning that is captured in the picture could possibly be his neighbor's. PO Encarnacion denied the allegations but admitted the window in the photo could be either his bedroom or dining room window. PO Encarnacion suggested that it is possible that Ms. ██████ discharged the weapon. However, he did not recall or allege any specific details in support of that possibility nor claim that he witnessed her fire the weapon. PO Encarnacion's suggestion is unsupported by any evidence. Based on the preponderance of the evidence and Ms. ██████ credibility, these allegations are Sustained.

COPA finds that **Allegations #18 and 19** that on or about an unknown date and time in May 2017, PO Encarnacion pulled a blanket off ██████ causing her nails to break and/or slapped her about the face, and stated words to the effect of "Fuck you. You're a bitch," to her are **Sustained**. Ms. ██████ told COPA that PO Encarnacion pulled the cover off her, causing the injury to her nail, and slapped her. In his statement at COPA, PO Encarnacion stated that he did not recall much about the incident due to the amount of time that elapsed. He recalled that Ms. ██████ struck him on the chest, and he sustained a scratch on his chest and face. No visible injuries were observed to PO Encarnacion's in the ET photos. ET photos of Ms. ██████ depict what appears to be a broken artificial nail partially detached from her natural nail. Ms. ██████ account of the incident remained consistent. Even after COPA contacted her approximately a year and a half later, her account was the same. Based on Ms. ██████ consistency and credibility, the allegations are Sustained.

COPA finds that **Allegation #20** that on or about July 7, 2016 PO Encarnacion pushed Ms. ██████ to the ground and/or dragged her body is **Sustained**. Ms. ██████ submitted photographs of

her bruise on her thigh that she sustained when PO Encarnacion pushed her to the ground and drug her across the floor. PO Encarnacion denied the allegation and stated that he did not recall the incident. COPA finds Ms. [REDACTED] more credible, and her allegations are supported by the photograph, which depicts bruising to her thigh. Thus, COPA finds this allegation is Sustained.

COPA finds that **Allegation #21** that PO Encarnacion failed to secure his weapon in that he allowed Ms. [REDACTED] to possess his weapon is **Sustained**. Ms. [REDACTED] told COPA that PO Encarnacion allowed her to pose with his weapon when she was dressed as a police officer for Halloween. PO Encarnacion denied the allegation and stated that Ms. [REDACTED] has never been in possession of his weapon. In her interview to COPA, Ms. [REDACTED] had no knowledge that her possession of his weapon was a violation of Department policy, further demonstrating her credibility. While PO Encarnacion denied the allegation, based on Ms. [REDACTED] credibility and the photograph, it is more likely than not that PO Encarnacion allowed her to pose with his weapon. Thus, the allegation is Sustained.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Sammy Encarnacion

i. Complimentary and Disciplinary History

As of March 25, 2022, Officer Encarnacion's complimentary history consists of the following: (1) 2019 Crime Reduction Award, (5) Complimentary Letters), (2) Department Commendation, and (26) Honorable Mentions.

SPAR History: Log# 562886 August 5, 2021, Reprimand-Court Appearance Violation, Log# 562887 August 8, 2021, 1 Day Off-Court Appearance Violation and Log# 562965, August 30, 2021, Reprimand-Tardiness.

Sustained Complaints History: Case# C 1092579 February 4, 2019, 1 Day Suspension-05B Arrestee, After Arrest, Prior to Lock up.

ii. Recommended Penalty, by Allegation

1. **Allegation No. 1:** Separation
2. **Allegation No. 2:** Separation
3. **Allegation No. 7:** Separation
4. **Allegation No. 8:** Separation
5. **Allegation No. 9:** Separation
6. **Allegation No. 10:** Separation
7. **Allegation No. 11:** Separation

- 8. Allegation No. 12: Separation
- 9. Allegation No. 13: Separation
- 10. Allegation No. 14: Separation
- 11. Allegation No. 15: Separation
- 12. Allegation No. 16: Separation
- 13. Allegation No. 17: Separation
- 14. Allegation No. 18: Separation
- 15. Allegation No. 19: Separation
- 16. Allegation No. 20: Separation
- 17. Allegation No. 21: Separation

Officer Encarnacion’s misconduct is severe in nature. He physically and verbally abused an intimate partner on multiple occasions and caused bodily harm to her during several of those instances. Additionally, Officer Encarnacion was in possession of his firearm and intoxicated on multiple occasions. Most concerning, is Officer Encarnacion’s discharge of his firearm, which went unreported and endangered the safety of himself and others. Such misconduct, both individually and collectively, demonstrates a lack of judgement and self-control that cannot be tolerated. An officer who behaves in such a manner not only brings discredit upon the Department, but also is a risk to public safety. Thus, COPA recommends he be separated from the Department.

Approved:

 [Redacted Signature] _____
Shayday Jackson

 May 31, 2022
 Date

 [Redacted Signature] _____
Andrea Kersten
Chief Administrator

 May 31, 2022
 Date