

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	Between December 17, 2015, and November 9, 2017
Time of Incident:	Various
Location of Incident:	Facebook.com
Date of COPA Notification:	January 11, 2018
Time of COPA Notification:	12:30 PM

██████████ an employee in Alderman John Arena, reported that 31 Chicago Police Department Members posted racially charged language on Facebook regarding an announcement of a mixed income housing development in Alderman Arena’s Ward. ██████████ also contacted the Office of Inspector General (OIG). OIG provided COPA with the names of an additional 10 Department members identified as using racially charged language on social media. Of the names ██████████ provided, COPA served five with allegations. One of the individuals the OIG identified was served with allegations. The remaining individuals were either removed from COPA’s investigation due to a lack of jurisdiction or COPA could not identify any misconduct.

II. INVOLVED PARTIES

Involved Officer #1:	<b>Adam Criscione</b> , Star #20781, Employee ██████████, Date of Appointment: February 21, 2016, Police Officer as Detective, Unit 630 (Detective Area North), Date of Birth: ██████████ 1981, Male, White
Involved Officer #2:	<b>Anargyros Kereakes</b> , Star #1031, Employee ██████████, Date of Appointment: May 31, 1994, Sergeant of Police, 19 <sup>th</sup> District, Date of Birth: ██████████ 1968, Male, White
Involved Officer #3:	<b>Angel Avalos, Jr.</b> , Star #17953, Employee ██████████, Date of Appointment: September 5, 1995, Police Officer, 12 <sup>th</sup> District, Date of Birth: ██████████ 1971, Male, Hispanic
Involved Officer #4:	<b>Anne Belluomini</b> , Star #10296, Employee ██████████, Date of Appointment: March 25, 2002, Police Officer, Date of Birth: ██████████ 1967, Female, White
Involved Officer #5:	<b>Dallas Englehart</b> , Star #14904, Employee ██████████ 3, Date of Appointment: October 27, 2014, Police Officer as Field Training Officer, 15 <sup>th</sup> District, Date of Birth: ██████████ 1990, Male, White

Involved Officer #6: **Daniel Lardino**, Star #8212, Employee [REDACTED], Date of Appointment: March 17, 1997, Police Officer, 20<sup>th</sup> District, Date of Birth: [REDACTED] 1960, Male, White

Involved Officer #7: **Jason Boettcher**, Star #1360, Employee [REDACTED]; Date of Appointment: August 29, 2005; Sergeant of Police; 2<sup>nd</sup> District, Date of Birth: [REDACTED] 1979, Male, White

Involved Officer #8: **John Garrido III**, Star #633, Employee [REDACTED], Date of Appointment: January 2, 1991, Lieutenant of Police, 16<sup>th</sup> District, Date of Birth: [REDACTED] 1967, Male, Hispanic

Involved Officer #9: **Joseph Lipa**, Star #17321, Employee [REDACTED]4, Date of Appointment: October 25, 2004, Police Officer, 16<sup>th</sup> District, Date of Birth: [REDACTED] 1972, Male, White

Involved Officer #10: **Joseph Pekic**, Star #20799, Employee [REDACTED], Date of Appointment: September 27, 2004, Police Officer as Detective, Unit 610 (Detective Area Central), Date of Birth: [REDACTED] 1981, Male, White

Involved Officer #11: **Keith Olson**, Star #1560, Employee [REDACTED], Date of Appointment: August 5, 1996, Sergeant of Police, Unit 191 (Intelligence Section), Date of Birth: [REDACTED] 1970, Male, White

Involved Officer #12: **Michael Anderson**, Star #1445, Employee [REDACTED], Date of Appointment: August 27, 2001, Sergeant of Police, 17<sup>th</sup> District, Date of Birth: [REDACTED] 1977, Male, White

Involved Officer #13: **Michael Slowik**, Star #18315, Employee [REDACTED], Date of Appointment: November 27, 2006, Police Officer, Unit 213 (Bureau of Patrol – Area North) Date of Birth: [REDACTED] 1982, Male, White

Involved Officer #14: **Michael Nowacki**, Star #2373, Employee [REDACTED], Date of Appointment: June 19, 2000, Sergeant of Police, Unit 353 (Special Weapons and Tactics) Date of Birth: [REDACTED] 1972, Male, White

Involved Officer #15: **Nick Spencer**, Star #14835, Employee [REDACTED], Date of Appointment: December 13, 1993, Police Officer as Explosive Detection Canine Handler, Unit 50 (Airport Law Enforcement Section – North), Date of Birth: [REDACTED] 1965, Male, White

Involved Officer #16:	<b>Oswaldo Maldonado</b> , Star #18563, Employee [REDACTED], Date of Appointment: October 13, 1998, Police Officer, 20 <sup>th</sup> District, Date of Birth: [REDACTED] 1972, Male; Hispanic
Involved Officer #17:	<b>Scott Kniaz</b> , Star #13217, Employee [REDACTED], Date of Appointment: February 28, 2000, Police Officer, 25 <sup>th</sup> District, Date of Birth: [REDACTED] 1972, Male, White
Involved Officer #18:	<b>Stephen Krause</b> , Star #9444, Employee [REDACTED], Date of Appointment: June 5, 1995, Police Officer, 19 <sup>th</sup> District, Date of Birth: [REDACTED] 1962, Male, White
Involved Individual #1:	[REDACTED] Date of Birth: [REDACTED] 1985, Female, White

**III. ALLEGATIONS**

Officer	Allegation	Finding
Officer Adam Criscione	1. The reporting party alleges that the accused used racially charged language on Facebook regarding Alderman Arena's office announcing that a mixed income housing development being built in the 45th Ward, in violation of Rule 2, Rule 6, and Rule 8.	Unfounded.
Sergeant Anargyros Kereakes	It is alleged that on the following dates, Sergeant Kereakes posted the following content on the website <a href="http://www.facebook.com">www.facebook.com</a> , which discredited or reflected poorly on the Department and/or disparaged a person or persons of a protected class, in violation of Rule 2, Rule 6, and Rule 8:  1. On or around March 8, 2017, he wrote about black communities;  2. On or around February 14, 2016, he wrote in part about Black Lives Matter;	Sustained.  Sustained.

	<p>3. On or around October 23, 2015, he posted a USA Today article and commented on it;</p> <p>4. On or around November 14, 2015, he commented on a video posted by [REDACTED];</p> <p>5. On or around August 11, 2017, he commented on a post from [REDACTED];</p> <p>6. On or around January 15, 2017, he commented on a post from teleSUR English;</p> <p>7. On or around November 7, 2016, he commented on a video about a police shooting;</p> <p>8. On or around August 25, 2015, he commented on a video posted by [REDACTED].</p>	<p>Sustained.</p> <p>Sustained.</p> <p>Sustained.</p> <p>Sustained.</p> <p>Sustained.</p> <p>Not Sustained.</p>
<p>Officer Angel Avalos, Jr.</p>	<p>It is alleged that on the following dates, Officer Avalos posted the following content on the website <a href="http://www.facebook.com">www.facebook.com</a>, which discredited or reflected poorly on the Department and/or disparaged a person or persons of a protected class, in violation of Rule 2, Rule 6, Rule 8, and Rule 32:</p> <p>1. On a date in 2017, he commented “Work will set you free!”;</p> <p>2. On or around September 1, 2016, he commented on a video about murders in Chicago;</p> <p>3. On or around April 13, 2016, he commented on a video of two women fighting;</p> <p>4. On or around November 25, 2016, he commented on a WGN TV post about protestors in Chicago;</p>	<p>Sustained.</p> <p>Sustained.</p> <p>Sustained.</p> <p>Sustained.</p>

	<p>5. On or around June 18, 2017, he commented on a Fox 35 WOFL post about terrorism in France;</p> <p>6. On or around May 18, 2016, he commented on a video regarding terrorism in Paris;</p> <p>7. On or around May 30, 2017, he commented on a WGN TV post about shootings;</p> <p>8. On or around November 6, 2016, he commented on a video about a fatal police shooting.</p>	<p>Sustained.</p> <p>Sustained.</p> <p>Not Sustained.</p> <p>Not Sustained.</p>
<p>Officer Anne Belluomini</p>	<p>1. The reporting party alleges that the accused used racially charged language on Facebook regarding Alderman Arena's office announcing that a mixed income housing development being built in the 45th Ward, in violation of Rule 2, Rule 6, Rule 8, and Rule 32.</p>	<p>Unfounded.</p>
<p>Officer Dallas Englehart</p>	<p>It is alleged that on the following dates, Officer Englehart posted the following content on the website <a href="http://www.facebook.com">www.facebook.com</a>, which discredited or reflected poorly on the Department and/or disparaged a person or persons of a protected class, in violation of Rule 2, Rule 6, Rule 8, and Rule 32:</p> <p>1. On or around April 13, 2016, he shared a news article;</p> <p>2. On or around May 25, 2016, he shared a Fox News post;</p> <p>3. On or around June 4, 2016, he posted a photo;</p> <p>4. On or around July 10, 2016, he shared an article;</p>	<p>Not Sustained.</p> <p>Not Sustained.</p> <p>Not Sustained.</p> <p>Not Sustained.</p>

	<p>5. On or around July 28, 2016, he shared a photo;</p> <p>6. On or around August 15, 2016, he shared a photo;</p> <p>7. On or around August 31, 2016, he shared an article;</p> <p>8. On or around September 17, 2016, he shared a cartoon;</p> <p>9. On or around October 11, 2016, he shared a photo;</p> <p>10. On or around October 15, 2016, he shared a photo;</p> <p>11. On or around November 9, 2016, he posted about a wall between USA and Mexico;</p> <p>12. On or around December 6, 2016, he shared an article;</p> <p>13. On or around January 21, 2017, he shared a photo;</p> <p>14. On or around May 19, 2017, he shared a cartoon.</p>	<p>Sustained.</p> <p>Sustained.</p> <p>Sustained.</p> <p>Sustained.</p> <p>Sustained.</p> <p>Sustained.</p> <p>Sustained.</p> <p>Not Sustained.</p> <p>Sustained.</p> <p>Sustained.</p>
Officer Daniel Lardino	<p>1. The reporting party alleges that the accused used racially charged language on Facebook regarding Alderman Arena's office announcing that a mixed income housing development being built in the 45th Ward, in violation of Rule 2, Rule 6, Rule 8, and Rule 32.</p>	<p>Unfounded.</p>
Lieutenant John Garrido III	<p>1. The reporting party alleges that the accused used racially charged language on Facebook regarding Alderman Arena's office announcing that a mixed income housing development being built in the 45th Ward, in violation of Rule 2, Rule 6, Rule 8, and Rule 32.</p>	<p>Unfounded.</p>

Sergeant Jason Boettcher	1. The reporting party alleges that the accused used racially charged language on Facebook regarding Alderman Arena’s office announcing that a mixed income housing development being built in the 45th Ward, in violation of Rule 2, Rule 6, Rule 8, and Rule 32.	Unfounded.
Officer Joseph Lipa	1. The reporting party alleges that the accused used racially charged language on Facebook regarding Alderman Arena’s office announcing that a mixed income housing development being built in the 45th Ward, in violation of Rule 2, Rule 6, Rule 8, and Rule 32.	Unfounded.
Officer Joseph Pekic	<p>It is alleged that on the following dates, Officer Pekic posted the following content on the website www.facebook.com., which discredited or reflected poorly on the Department and/or disparaged a person or persons of a protected class, in violation of Rule 2, Rule 6, Rule 8, and Rule 32:</p> <ol style="list-style-type: none"> <li>1. On or around February 4, 2014, he commented on a circa 1972 photo of flight attendants stating, “American was great back in the day. They only hired hot white chicks. Ha;”</li> <li>2. On or around February 21, 2014, he commented on a photo of a sleeping CTA employee stating, “He’s black. They’ll give him a pass;”</li> <li>3. On or around November 20, 2013, he commented on a black and white photo of a line of African American adults stating, “New Jordan’s came out?”;</li> <li>4. On or around June 29, 2015, he commented on a photo of four pregnant African American woman that was captioned, “Is this racist?” and “Real Housewives of Public Housing,” and</li> </ol>	<p>Unfounded.</p> <p>Unfounded.</p> <p>Unfounded.</p> <p>Unfounded.</p>

	wrote, "Not racist at all.. It's beautiful [...] I don't think you know what Sarcasm means... Ha."	
Sergeant Keith Olson	<p>It is alleged that in 2017, Sergeant Olson posted the following content on the website <a href="http://www.facebook.com">www.facebook.com</a>, which discredited or reflected poorly on the Department and/or disparaged a person or persons of a protected class, in violation of Rule 2, Rule 6, and Rule 8:</p> <p>1. "CPD is far from the problem, these little animal fucks have no respect for anything. At least the ghetto building on nw hwy is stalled."</p>	Sustained.
Sergeant Michael Anderson	1. The reporting party alleges that the accused used racially charged language on Facebook regarding Alderman Arena's office announcing that a mixed income housing development being built in the 45th Ward, in violation of Rule 2, Rule 6, Rule 8, and Rule 32.	Unfounded.
Officer Michael Slowik	1. The reporting party alleges that the accused used racially charged language on Facebook regarding Alderman Arena's office announcing that a mixed income housing development being built in the 45th Ward, in violation of Rule 2, Rule 6, Rule 8, and Rule 32.	Unfounded.
Sergeant Michael Nowacki	1. The reporting party alleges that the accused used racially charged language on Facebook regarding Alderman Arena's office announcing that a mixed income housing development being built in the 45th Ward, in violation of Rule 2, Rule 6, Rule 8, and Rule 32.	Unfounded.
Officer Nick Spencer	1. The reporting party alleges that the accused used racially charged language on Facebook regarding Alderman Arena's office announcing that a mixed income housing development being built	Unfounded.



	<p>in the 45th Ward, in violation of Rule 2, Rule 6, Rule 8, and Rule 32.</p>	
<p>Officer Oswaldo Maldonado</p>	<p>1. The reporting party alleges that the accused used racially charged language on Facebook regarding Alderman Arena’s office announcing that a mixed income housing development being built in the 45th Ward, in violation of Rule 2, Rule 6, Rule 8, and Rule 32.</p>	<p>Unfounded.</p>
<p>Officer Scott Kniaz</p>	<p>It is alleged that on the following dates, Officer Kniaz posted the following content on the website www.facebook.com., which discredited or reflected poorly on the Department and/or disparaged a person or persons of a protected class, in violation of Rule 2, Rule 6, Rule 8, and Rule 32:</p> <p>1. On or around April 30, 2017, you responded to an article about a break-in on Superintendent Eddie Johnson’s vehicle with, “next week we’ll see [REDACTED] wearing the boss’s hat!”;</p> <p>2. On or around November 29, 2015, you commented on a video of an African American male protesting Laquan McDonald’s death and African American police officer with, “well, lets just hope this case goes before a black judge, because if it goes before a white judge, then when the officer gets found not guilty, the city will burn;”</p> <p>3. On or around November 25, 2015, you commented on a video about Chicago protests stating in part, “Oh, its better then that. An officer got punched yesterday [...] Alderman Sawyer, and other members of the Black Caucus [...] protesting the arrest, and demanded the offender be released [...] It will not be long now until the war starts.” Then went</p>	<p>Not Sustained.</p> <p>Sustained.</p> <p>Sustained.</p>

	on to state, “its illegal for use to strike. if it wasn't.....”	
Officer Stephen Krause	1. The reporting party alleges that the accused used racially charged language on Facebook regarding Alderman Arena’s office announcing that a mixed income housing development being built in the 45th Ward, in violation of Rule 2, Rule 6, Rule 8, and Rule 32.	Unfounded.

**IV. APPLICABLE RULES AND LAWS**

Rules

1. **Rule 2:** Prohibits any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
2. **Rule 3:** Prohibits any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
3. **Rule 6:** Prohibits disobedience of an order or directive, whether written or oral.
4. **Rule 8:** Prohibits disrespect to or maltreatment of any person, while on or off duty.
5. **Rule 32:** Prohibits engaging in any public statements, interviews, activity, deliberation or discussion pertaining to the Police Department which reasonably can be foreseen to impair the discipline, efficiency, public service, or public confidence in the Department or its personnel by:
  - (a) false statements, or reckless, unsupported accusations.
  - (b) the use of defamatory language, abusive language, invective or epithets.

General Orders

1. **G02-1:** Human Rights and Human Resources (effective July 4, 1992 – October 5, 2017)
2. **G09-01-06:** Use of Social Media Outlets (effective August 7, 2014 – February 29, 2020)<sup>1</sup>

Federal Law

1. First Amendment to the United States Constitution

**V. INVESTIGATION<sup>2</sup>**

<sup>1</sup> Att. 68.

<sup>2</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

### a. Interviews

**COPA interview of the complainant, ██████████ on January 18, 2018.**<sup>3</sup> ██████████ stated that Chicago Police Department members made racially insensitive comments on Facebook that she shared with COPA.<sup>4</sup> Per ██████████ on January 26, 2017, Alderman Arena's office proposed a mixed-income/mixed-use housing development at 5150 N. Northwest Highway that would include 20 Chicago Housing Authority (CHA) vouchers, 60 income-based units, and 20 units at market rate. ██████████ related this development would be geared towards those with disabilities and veterans, not towards families. The proposal was announced on social media the same day. The project was to be built by a private developer.

On February 9, 2017, Alderman Arena's office held a community meeting where, according to ██████████ a "large angry mob of white people" brought "racially charged signs." On February 10, 2017, Arena held a ward meeting and protesters responded in a way that ██████████ described as racist. ██████████ knew Lieutenant John Garrido was at the community meeting, but she was uncertain if any other Department members were at either event.

██████████ stated there were also racially charged comments on Facebook. Employees in Alderman Arena's office noticed a large number of city employees, including police officers, making these comments. ██████████ also received complaints from community members about racial/discriminatory comments made by police officers on Facebook.

██████████ began going through and collecting the comments on Alderman Arena's Facebook page over the course of several months. ██████████ noted that even where a person uses a pseudonym for their account profile, the individual's actual name is visible in the web address. ██████████ then identified the city employees through an online City of Chicago database. ██████████ did not provide links to specific comments but provided screenshots to OIG. At the time of her COPA interview, ██████████ stated the comments had slowed down.

When asked for specific examples, ██████████ referenced the following: a post from Officer Angel Avalos stating, "Work Will Set You Free," which was also a slogan inscribed on the gates of the Nazi concentration camp Auschwitz. Officer Daniel Lombard's comments on January 31, 2017, about "ghetto rats," and his reference to the proposed development as a "half-way house." Officer Erin Jones, who had been very vocal, called the proposed development an "overpriced, overcrowded slum." ██████████ further stated that Officer Joseph Pekic had an iron cross on his Facebook page, which resembled Nazi iconography. ██████████ also stated that on a now deleted WGN post, Lieutenant Garrido replied to a citizen asking about the "Work Will Set You Free," comment by stating that if that person knew about the General Orders, they should initiate a complaint but "that won't further your victim agenda." When asked why the lieutenant would not condemn Nazi rhetoric, Lieutenant Garrido stated "[y]ou truly are a special kind of stupid. Make a complaint, if you want to make a complaint. Facebook is not the place to do it or are you just too lazy to pick up the phone and call it in."

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<sup>3</sup> Att. 7

<sup>4</sup> Att. 8

██████████ was also concerned that officers were making racial comments on Lieutenant Garrido’s personal Facebook profile. ██████████ stated that Lieutenant Garrido was “fanning the flames” and has been “instrumental” in the opposition to the proposed development instead of having a productive dialogue.

**COPA interview of Sergeant Anargyros Kereakes on October 4, 2018.**<sup>5</sup> Sergeant Kereakes was asked about each separate allegation.

#### Allegation 1<sup>6</sup>

Allegation 1 against Sergeant Kereakes relates to a series of posts he made on Facebook on [March 8<sup>th</sup>, YEAR] as shown more fully in Appendix 1. In those posts, Sergeant Kereakes identifies himself as a sergeant and member of the police. He states that he does not represent CPD.

With regards to Allegation 1, as seen in the associated screen captures, Sergeant Kereakes related he was in an exchange on Alderman Arena’s Facebook where the account referred to Trump supporters as “uneducated redneck Trump supporters.”<sup>7,8</sup> Sergeant Kereakes found this offensive. Sergeant Kereakes denied saying anything about African American or transgendered individuals. Sergeant Kereakes said he was calling attention to how different political beliefs shape who people think are heroes. Sergeant Kereakes further related there are conservative African Americans whom he admires, such as Ben Carson. Sergeant Kereakes stated that Chicago is a Democratic city and Chicago Public Housing has worse conditions than he saw when deployed to a war-torn country. Sergeant Kereakes asserted that Chicago is a Democratic city with programs put in place by Democrats, but violence, education, and economics are bad in black communities. Sergeant Kereakes believes Black Lives Matter (BLM) wants to remove police officers and he questioned how BLM can organize large protests but cannot organize improvements and information in black communities. When asked if he believes the Democrats are associated with the Ku Klux Klan (KKK), Sergeant Kereakes stated that the Democrat party initially founded the KKK after the Civil War. Sergeant Kereakes stated he was making a historical reference.

#### Allegation 2<sup>9</sup>

In reference to Allegation 2, Sergeant Kereakes stated he was exchanging with African American law enforcement officials with whom he previously worked. Sergeant Kereakes was having a political discussion about BLM, the Black Panthers, Beyoncé, and the Super Bowl.

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<sup>5</sup> Att. 47

<sup>6</sup> See Appendix 1, Figure 1

<sup>7</sup> Approximately 11:22 minute mark of Att. 47.

<sup>8</sup> COPA identified several blogs referencing a Facebook post Alderman Arena allegedly made calling Indiana a third-world country and referring to Trump supporters as a “racist, classist, knuckle-dragging and generally subhuman puddle of DNA [...]” Sources: <https://nwsgop.com/knuckle-dragging-generally-subhuman-northwest-side-chicago-alderman-fires-insults-constituents/>; <https://www.wirepoints.com/knuckle-dragging-and-generally-subhuman-northwest-side-chicago-alderman-fires-insults-at-constituents-on-social-media-chicago-city-wire/>; [https://www.reddit.com/r/chicago/comments/5z4rvg/knuckledragging\\_and\\_generally\\_subhuman\\_northwest/](https://www.reddit.com/r/chicago/comments/5z4rvg/knuckledragging_and_generally_subhuman_northwest/); [https://chicagocitywire.com/stories/511091996-knuckle-dragging-and-generally-subhuman-northwest-side-chicago-alderman-fires-insults-at-constituents-on-soc?fbclid=IwAR1UFyb1EQce4F0Iu-e\\_0Ilc41O9f3PsCN9t\\_1yEjSmS7XIY\\_mHIMT12Bp0](https://chicagocitywire.com/stories/511091996-knuckle-dragging-and-generally-subhuman-northwest-side-chicago-alderman-fires-insults-at-constituents-on-soc?fbclid=IwAR1UFyb1EQce4F0Iu-e_0Ilc41O9f3PsCN9t_1yEjSmS7XIY_mHIMT12Bp0)

<sup>9</sup> See Appendix 1, Figure 2

Sergeant Kereakes also believed his Facebook settings were private so only his friends could see his content. Sergeant Kereakes related he was not representing CPD in his posts. Sergeant Kereakes denied being insensitive in this post. Sergeant Kereakes related he was injecting humor and also talking about a police shooting. Sergeant Kereakes did not believe he wrote anything disparaging towards any racial and ethnic group in this post. Sergeant Kereakes wrote that he is against any organization that promotes hate, including BLM. Sergeant Kereakes stated BLM has publicly made hateful comments about whites and the police. Sergeant Kereakes referenced Kool-Aid because it was his childhood beverage of choice.

#### Allegation 3<sup>10</sup>

With regards to Allegation 3, Sergeant Kereakes stated he was conversing with former colleagues from the Chicago Housing Authority Police Department. Sergeant Kereakes related he and friends were discussing issues in what Sergeant Kereakes considered a private setting. Sergeant Kereakes related he told ██████████ to get his “black ass” to Chicago because he is friends with ██████████ and made a joke. Sergeant Kereakes elaborated that it is how he and ██████████ talk to each other.

#### Allegation 4<sup>11</sup>

With regards to Allegation 4, Sergeant Kereakes stated he did not say anything insensitive. Sergeant Kereakes denied that the word thug is insensitive or disparaging. He asserted thug is a synonym for criminal. Sergeant Kereakes related he was offended that ██████████ called his police badge a slave patrol badge. Sergeant Kereakes recalled ██████████ profile picture was at a fast-food place, which was why Sergeant Kereakes commented about ketchup bottles. Sergeant Kereakes recalled ██████████ had graffiti on his profile, which was why Sergeant Kereakes commented ██████████ was a gangster. Sergeant Kereakes stated he referred to county jail because ██████████ insulted the police, which offended the sergeant. Sergeant Kereakes acknowledged it may have been a “smart-ass” comment.<sup>12</sup> Sergeant Kereakes reported he told ██████████ not to speak to his “daddy like that,” as written in the post, as a common expression and was not calling himself ██████████ daddy.

#### Allegation 5<sup>13</sup>

With regards to Allegation 5, Sergeant Kereakes denied that he wrote anything disparaging towards a racial or ethnic group. Sergeant Kereakes stated the statistics he referenced came from the Department of Justice and from private studies.

#### Allegation 6<sup>14</sup>

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<sup>10</sup> See Appendix 1, Figure 3

<sup>11</sup> See Appendix 1, Figure 4

<sup>12</sup> Approximately 53:00 minute mark of Att. 47.

<sup>13</sup> See Appendix 1, Figure 5

<sup>14</sup> See Appendix 1, Figure 6

For the post referenced in Allegation 6, Sergeant Kereakes stated he was responding to a comment that was alleging Cuba has superior healthcare and promoting famous Cuban communists. Sergeant Kereakes did not think he was insensitive. Rather, he thought it was insensitive for this person to promote communist Cuban dictators who killed people. Sergeant Kereakes questioned why people want to come to America from Cuba instead of going to communist countries.

#### Allegation 7<sup>15</sup>

Sergeant Kereakes reported that in his comments from Allegation 7, he was talking to an African American police officer about race and policing. Sergeant Kereakes related he believes racism is wrong whether the perpetrator is white or black, which he stated in this post. With regards to the photo of a CPD sergeant and a protestor, Sergeant Kereakes stated he was speculating what the parties may have been thinking. Sergeant Kereakes asserted that he tries to use CPD to build good relationships among the community. Sergeant Kereakes elaborated that race and political parties do not matter to police officers and officers hold society together. Sergeant Kereakes stated the “tan clan” is a hate group of people of color, like the KKK but made of minorities.

#### Allegation 8<sup>16</sup>

In reference to Sergeant Kereakes’ comment on the associated video, Sergeant Kereakes did not know why this was an allegation. When asked if this could be perceived as offensive to Native Americans, Sergeant Kereakes stated [REDACTED] owns a t-shirt company that uses Native American warriors on the shirts. Sergeant Kereakes believed [REDACTED] comment of “savages” was a reference to Native Americans as warriors.

**COPA interview of Officer Angel Avalos, Jr. on November 6, 2018.**<sup>17</sup> Officer Avalos was asked about each separate allegation. Officer Avalos Facebook display name in associated posts was [REDACTED]

#### Allegation 1<sup>18</sup>

With regards to Allegation 1, Officer Avalos stated he wrote “Work will set you free!” as a reference to a Spanish phrase his grandfather taught him about working hard to leave poverty. Officer Avalos related that the night before his COPA interview, he learned this phrase was similar to something used during World War II.<sup>19</sup> Officer Avalos claims at the time he wrote it he was not aware this phrase was on the gates of Auschwitz. Officer Avalos denied any affiliation with the Nazi party.

#### Allegation 2<sup>20</sup>

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<sup>15</sup> See Appendix 1, Figure 7

<sup>16</sup> See Appendix 1, Figure 8

<sup>17</sup> Att. 56

<sup>18</sup> See Appendix 2, Figure 9

<sup>19</sup> “Work will set you free,” is an English translation of a German slogan used by Nazi’s during World War II. The phrase appeared on the gates of Auschwitz. Source: [https://en.wikipedia.org/wiki/Arbeit\\_macht\\_frei](https://en.wikipedia.org/wiki/Arbeit_macht_frei).

<sup>20</sup> See Appendix 2, Figure 10

Officer Avalos related his comment “BLM!” on the above post was “neutral and the comment reflects the lack of community efforts in stopping the violence in Chicago.”<sup>21</sup> Officer Avalos elaborated that Black Lives Matter is not doing enough to help Chicago. Officer Avalos denied that he was blaming BLM for Chicago homicides.

#### Allegation 3<sup>22</sup>

Officer Avalos related that he commented “(h)ood rats doing hood stuff!” on the associated post because, according to Officer Avalos, “hood rat is commonly used in the type of activity of two people involved in criminal activity. Slang term is non-specific to race, religion, or creed.”<sup>23</sup> Officer Avalos related that a criminal involved in criminal activity is a hood rat, regardless of gender. Officer Avalos related he uses the term with friends, not among CPD. Officer Avalos stated the comment was not race specific.

#### Allegation 4<sup>24</sup>

Officer Avalos related that with regards to the above seen comment of a cap and gown, he was referring to “how media portrays the aftermath of the police shooting and the assailants.”<sup>25</sup> Officer Avalos related that photos exist of an offender showing off gang membership and/or guns, but media chooses to show the subject’s graduation photo. Officer Avalos denied that the comment was race specific.

#### Allegation 5<sup>26</sup>

Officer Avalos related that he commented on Islam being the “Religion of peace?” as a “comment to the contradictions of Muslim extremist who portray the religion as based upon peace.”<sup>27</sup> Officer Avalos elaborated that he was calling attention to the need to address the small percentage of Muslims who are extremists.

#### Allegation 6<sup>28</sup>

Officer Avalos stated he wrote “Those wacky peaceful Muslims!” in reference to the contradiction of Muslim extremists who portray their religion as peaceful while engaging in violence. Officer Avalos acknowledged that the comment could be seen as degrading towards Muslims. With regards to Allegations 5 & 6, Officer Avalos denied that he was referring to all of Islam.

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<sup>21</sup> Approximately 5:20 minute mark of Att. 56.

<sup>22</sup> See Appendix 2, Figure 11

<sup>23</sup> Approximately 6:20 minute mark of Att. 56.

<sup>24</sup> See Appendix 2, Figure 12

<sup>25</sup> Approximately 8:15 minute mark of Att. 56.

<sup>26</sup> See Appendix 2, Figure 13

<sup>27</sup> Approximately 9:27 minute mark of Att. 56.

<sup>28</sup> See Appendix 2, Figure 14

Allegation 7<sup>29</sup>

Officer Avalos related that the meme referenced was in “poor taste and inappropriate.”<sup>30</sup> Officer Avalos acknowledged it was a joke in poor taste and he wanted to indicate that even though homicides were down, there were still too many. Officer Avalos denied that he was advocating for increased homicides in Chicago.

Allegation 8<sup>31</sup>

Officer Avalos related that he posted the referenced photo for the same reasons as Allegation 4, to highlight how the media shows assailants involved in police shootings. Officer Avalos acknowledged it was dark humor.

**COPA interview of Officer Dallas Englehart on October 9, 2018.**<sup>32</sup> Officer Englehart was asked about each separate allegation. At the time Officer Englehart made the attached posts, his Facebook username was [REDACTED]

Allegation 1<sup>33</sup>

With regards to the post shared by Officer Englehart in Allegation 1, Officer Englehart stated he shared this post to demonstrate, “how anti-police groups are doing more harm than good.”<sup>34</sup> Officer Englehart asserted the post, “was non-rationally motivated.”<sup>35</sup> Officer Englehart, stated he does not know if BLM has led to an increase in homicide but it is an “interesting conversation.”<sup>36</sup> Officer Englehart related that he thinks BLM is anti-police. When asked how a post about BLM is non-racial, Officer Englehart stated BLM is anti-police.

Allegation 2<sup>37</sup>

Officer Englehart stated he shared the associated post because he thought it was a comment on “how more resources need to be pumped into underserved communities.”<sup>38</sup> Officer Englehart denied the post was racially motivated because he had read the statistics and works in Austin, an underserved community. Officer Englehart believes more resources need to go to the Austin district and stated the Austin district is a majority African American.

Allegation 3<sup>39</sup>

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<sup>29</sup> See Appendix 2, Figure 15

<sup>30</sup> Approximately 11:25 minute mark of Att. 56.

<sup>31</sup> See Appendix 2, Figure 16

<sup>32</sup> Att. 50

<sup>33</sup> See Appendix 3, Figure 17

<sup>34</sup> Approximately 9:58 minute mark of Att. 50.

<sup>35</sup> Approximately 10:44 minute mark of Att. 50.

<sup>36</sup> Approximately 28:30 minute mark of Att. 50.

<sup>37</sup> See Appendix 3, Figure 18

<sup>38</sup> Approximately 11:49 minute mark of Att. 50.

<sup>39</sup> See Appendix 3, Figure 19



Officer Englehart related he shared the post in Allegation 3 as a “commentary on how the media has slanted in [...] they don’t report the news evenly.”<sup>40</sup> Officer Englehart denied there were any racial tones to the post and stated he was only talking about the media, not race. When asked for the source of the statistics above, Officer Englehart stated that he did not know where the O’Reilly Factor obtained the statistics from. When asked to explain the connection between this post and areas needing more resources, Officer Englehart reiterated that he works in Austin, which is an underserved community that needs better services. Officer Englehart related he primarily works in a black community which is underserved, and that may be why Austin has higher homicide rates.<sup>41</sup>

#### Allegation 4<sup>42</sup>

Officer Englehart stated he shared the referenced petition because political groups, such as Black Lives Matter, purport to help communities but may actually be terrorist organizations. Officer Englehart stated it was just political commentary from the White House and was not racial. Officer Englehart does not personally have an opinion as to whether BLM is a terrorist organization, he just reposted something.

#### Allegation 5<sup>43</sup>

Per Officer Englehart, he shared the associated photo as commentary on the United States Constitution, “which says only a US citizen can vote.”<sup>44</sup> When asked why he did not believe this comment to be racial when the individuals pictured appear to be Hispanic, Officer Englehart related “it could be anybody from any country, it doesn’t have to be just Hispanic.”<sup>45</sup> When asked about those pictured, Officer Englehart stated he was commenting that only citizens can vote and did not know whether the people pictured were citizens. He did not know whether those depicted are Hispanic and related they may be Italians, who can be of darker complexion.

#### Allegation 6<sup>46</sup>

Officer Englehart related he shared the post from Allegation 6 to comment on “communities that are underserved and resources need to be [...] put in these neighborhoods.”<sup>47</sup> Officer Englehart stated he did not intend to be disparaging towards African Americans in this post. Officer Englehart related that with regards to government aid, “a lot of different communities get the same stuff,” not just African Americans.<sup>48</sup> Officer Englehart related he did not comment on whether he agreed or disagreed with the post, he just shared it. When asked how this post is a commentary on resources, Officer Englehart reiterated that he works in an underserved African

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<sup>40</sup> Approximately 13:29 minute mark of Att. 50.

<sup>41</sup> When asked again how this post makes this commentary on Austin needing better resources, Officer Englehart’s attorney answered for the officer and tried to prevent the officer from answering.

<sup>42</sup> See Appendix 3, Figure 20

<sup>43</sup> See Appendix 3, Figure 21

<sup>44</sup> Approximately 15:41 minute mark of Att. 50.

<sup>45</sup> Approximately 16:00 minute mark of Att. 50.

<sup>46</sup> See Appendix 3, Figure 22

<sup>47</sup> Approximately 16:49 minute mark of Att. 50.

<sup>48</sup> Approximately 17:20 minute mark of Att. 50.

American community. When asked if this post may be a commentary against government aide, Officer Englehart did not believe so.

#### Allegation 7<sup>49</sup>

Officer Englehart stated he shared the associated post because “You can’t have one group and not the other. Black Lives Matter, White Lives Matter – it’s hypocrisy. It’s the slanted media. But I don’t agree. I don’t disagree. I just reposted it [...]”<sup>50</sup> Officer Englehart stated he reposted to comment on the slanted media, not race. Officer Englehart did not know what “14 Words” referred to in the picture.<sup>51</sup> Officer Englehart stated he does not have enough information to say if BLM is a hate group. Officer Englehart related he does not support White Lives Matter, he was just calling attention to a double standard.

#### Allegation 8<sup>52</sup>

Per Officer Englehart, he shared this post as a “commentary on misinterpretation of racism.”<sup>53</sup> The officer further stated this post was about media misinterpretation. Officer Englehart stated he did not agree or disagree with the post and did not fact check it. When asked how this post commented on a media misinterpretation, Officer Englehart related the media always blames one side over the other.

#### Allegation 9<sup>54</sup>

Officer Englehart stated that with regards to Allegation 9, he tried to “show that Black Lives Matter’s not going down to help the people that need help.”<sup>55</sup> Officer Englehart did not know if the people depicted were involved in BLM. Officer Englehart stated he did not agree or disagree with the post and had no racial undertones by sharing it.

#### Allegation 10<sup>56</sup>

Officer Englehart related he shared the photo from Allegation 10 as “a joke about Trump.”<sup>57</sup> The officer elaborated that President Trump referenced making America great again and grabbing a woman’s genitals.

#### Allegation 11<sup>58</sup>

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<sup>49</sup> See Appendix 3, Figure 23

<sup>50</sup> Approximately 19:00 minute mark of Att. 50.

<sup>51</sup> 14 Words is a slogan used by white supremacists. Source: <https://www.adl.org/education/references/hate-symbols/14-words>.

<sup>52</sup> See Appendix 3, Figure 24

<sup>53</sup> Approximately 20:48 minute mark of Att. 50.

<sup>54</sup> See Appendix 3, Figure 25

<sup>55</sup> Approximately 22:00 minute mark of Att. 50.

<sup>56</sup> See Appendix 3, Figure 26

<sup>57</sup> Approximately 23:00 minute mark of Att. 50.

<sup>58</sup> See Appendix 3, Figure 27

Officer Englehart stated that with regards to his post and comments in Allegation 11, he commented on whether President Trump would “fulfil his campaign contributions, the anti-aircraft gun was a little joke [...]”<sup>59</sup> Officer Englehart stated the comment was about protecting the United States’ borders and it was not anti-Hispanic. Officer Englehart denied he was endorsing violence against immigrants.

#### Allegation 12<sup>60</sup>

Officer Englehart stated he shared the article above as “commentary on policing and hiring of guilty applicants.”<sup>61</sup> Officer Englehart stated he shared the article without confirming its contents.

#### Allegation 13<sup>62</sup>

Officer Englehart told COPA that he shared the photo in Allegation 13 to show how “people that don’t support Trump, saying he’s gunna destroy America, while the non-Trump supports actually do.”<sup>63</sup> Officer Englehart denied the post was racial and he did not post it based on race, only on “non-Trump supports destroying America.”<sup>64</sup> Officer Englehart related he did not confirm those depicted were non-Trump supporters, but the post was originally from around the election time in 2017 and he reposted it.

#### Allegation 14<sup>65</sup>

Officer Englehart stated he shared the alleged cartoon as, “commentary on the cost of illegal immigration.”<sup>66</sup> Office Englehart denied that cartoon had any racial or ethnic undertones. Officer Englehart denied there was any significance to the illegal family having a darker complexion. Officer Englehart stated he was just commenting on the cost of illegal immigration.

At the close of his COPA interview, Officer Englehart stated how in totality, he could see people being offended at some of his posts. Officer Englehart denied any harm, relating he was not promoting any opinion, was not on duty during his posts, used a pseudonym, and distanced himself from CPD in his posts.

**COPA interviewed Detective Joseph Pekic on October 7, 2018.**<sup>67</sup> Detective Pekic related that the Facebook posts presented in his allegations were attributed to his brother, [REDACTED]. Detective Pekic related [REDACTED] was his brother’s account. Detective Pekic denied having access to his brother’s account or making the alleged posts. Detective Pekic related his

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<sup>59</sup> Approximately 24:30 minute mark of Att. 50.

<sup>60</sup> See Appendix 3, Figure 28

<sup>61</sup> Approximately 25:45 minute mark of Att. 50.

<sup>62</sup> See Appendix 3, Figure 29

<sup>63</sup> Approximately 26:55 minute mark of Att. 50.

<sup>64</sup> Approximately 27:17 minute mark of Att. 50.

<sup>65</sup> See Appendix 3, Figure 30

<sup>66</sup> Approximately 27:49 minute mark of Att. 50.

<sup>67</sup> Att. 59

brother is not a CPD employee. Detective Pekic related Joe can be an Americanized version of [REDACTED] and his brother goes by [REDACTED]

**COPA interview of Sergeant Keith Olson on October 24, 2018.**<sup>68</sup> Sergeant Olson was served with one allegation.<sup>69</sup> At the time Sergeant Olson made the alleged post, his Facebook username was [REDACTED]. Per Sergeant Olson, he made the comment on a Facebook post from Alderman Arena's Facebook page. Sergeant Olson elaborated that the comment was related to William Howard Taft High School students causing problems at a gas station on Northwest Highway. Someone else commented on the thread insulting police and Sergeant Olson responded that the police are not the problem, the problem was the young people lacking respect. Sergeant Olson related he did not identify himself as a CPD officer, was not speaking on behalf of CPD, and did not target his comment towards any specific individuals. Sergeant Olson did not recall the specific comment(s) he responded to.

**COPA interviewed Officer Scott Kniaz on October 30, 2018.**<sup>70</sup> Officer Kniaz was asked about each allegation separately, as detailed below.

#### Allegation 1<sup>71</sup>

Officer Kniaz related that he posted the alleged comment in reference to Superintendent Eddie Johnson's vehicle being broken into. Officer Kniaz stated he was talking about [REDACTED], who is running for mayor of Chicago. Officer Kniaz related [REDACTED] had been bragging and telling media he has influence over Superintendent Johnson. Officer Kniaz reported he was making a "tongue in cheek statement," and it was sarcastic.<sup>72</sup>

#### Allegation 2<sup>73</sup>

Officer Kniaz reported he made the alleged comment in reference to "how the media polarizes everything and wants to make everything about race."<sup>74</sup> Officer Kniaz elaborated he was being satirical and did not intend to be taken literally.

#### Allegation 3<sup>75</sup>

Per Officer Kniaz, with the referenced comments in Allegation 3, he was providing information about protests in Chicago. Officer Kniaz was referring to a war between police officers and those opposed to the police. Officer Kniaz related he was providing information that CPD cannot strike. Officer Kniaz denied insinuating CPD would be protesting if they could, and he did not intend to be taken literally. Officer Kniaz stated he was providing information about the Black Caucus and was not giving any opinion.

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<sup>68</sup> Att. 52

<sup>69</sup> See Appendix 4, Figure 31

<sup>70</sup> Att. 54

<sup>71</sup> See Appendix 5, Figure 32

<sup>72</sup> Approximately 3:10 minute mark of Att. 54.

<sup>73</sup> See Appendix 5, Figure 33

<sup>74</sup> Approximately 4:45 minute mark of Att. 54.

<sup>75</sup> See Appendix 5, Figure 34

### b. Digital Evidence

██████████ provided Facebook content for the following reported Department members: Adam Criscione, Anargyros Kereakes, Angel Avalos, Anne Belluomini, Daniel Lombard, Daniel Lardino, Erin Jones, Gisell Pikor, Greg Giuliana, James Butzen, James Moriarty, Jason Boettcher, John Garrido, John Scalise, John Nichols, Joseph Lipa, Keith Olson, Kevin Rasmussen, Mark Van Gisen, Michael Anderson, Michael K. Lappe, Michael Slowik, Michael Nowacki, Nick Spencer, Oswaldo Maldonado, Sandra Walter, Scott Kniaz, Stephen Krause, and Timothy Duggan.<sup>76</sup>

COPA independently identified Facebook content for Alderman John Arena, community pages discussing the proposed building on the Northwest Hwy, and the following Department members: Adam Criscione, Amelia Kessem, Anargyros Kereakes, Angel Avalos, Anne Belluomini, Dallas Englehart, Daniel Lardino, Daniel Lombard, Edwin Figueroa, Erin Jones, Jason Boettcher, Jesse Vazquez, John Garrido, Joseph Lipa, Joseph Pekic, Kevin Rasmussen, Matthew Stojack, Stephen Krause, Michael Anderson, Michael Nowacki, Michael Slowik, Nicholas Spencer, Sandra Walter, Shawn Flether, Timothy Duggan, Paul Santangelo, and Scott Kniaz.<sup>77</sup>

COPA was unable to independently locate Facebook content for Department members John Nichols and Keith Olson.<sup>78</sup>

### c. Documentary Evidence

In addition to the names provided by ██████████ the OIG's investigation included the following Department members: Amelia Kessem, Carolyn Davis, Dallas Englehart, Jesus Vazquez, John Wilson, Michael Collins, Paul Santangelo, Shaun Fletcher, Mark Wiktorek, and Matthew Stojack.<sup>79 80</sup>

### d. Additional Evidence

Upon completion of Detective Pekic's COPA interview, additional research was conducted. The originally identified Facebook account under ██████████ was re-examined.<sup>81</sup> As of this report, the display name was changed to ██████████ and the handle is ██████████. A Facebook profile was identified as maintained by Detective Pekic, with posts going as far back as January 2014, suggesting that is the approximate date it was created. The existence of two profiles indicates that ██████████ and Detective Pekic are two separate individuals with different Facebook

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<sup>76</sup> Att. 8

<sup>77</sup> Atts. 12 -26, 28, 29, 31-46, 57

<sup>78</sup> Atts. 27, 30

<sup>79</sup> Att. 11

<sup>80</sup> COPA notes that the IG's investigation apparently did not include the Department members Anne Belluomini or Keith Olson, who were provided by ██████████

<sup>81</sup> <https://www.facebook.com/██████████>

accounts, both containing photos and posts confirming such.<sup>82</sup> No misconduct was located on the identified Facebook profile for Detective Pekic.

## 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;<sup>83</sup>
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;<sup>84</sup> 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.

## VII. ANALYSIS AND CONCLUSION

### a. Applicable Department Directives.

#### i. Human Rights

General Order G02-01, Human Rights and Human Resources sets forth the Department policy, procedure, and guidelines governing the human rights of all individuals. The policy recognizes that Chicago's cosmopolitan nature is manifested by the diverse ethnic and sociological background of its people and encompasses a variety of communities, each with its own distinctive cultures, lifestyles, customs and problems. All persons in each area of the city share the common need for protection and service through objective and impartial law enforcement. Moreover, the policy reflects the recognition of individual dignity as vital in a free society and states that:

Since all persons are subject to the law, all persons have the right to dignified treatment under the law. The protection of this right is a fundamental responsibility of the Department and its members. Every Department member is responsible for

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<sup>82</sup> <https://www.facebook.com/██████████>

<sup>83</sup> A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy. See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

<sup>84</sup> **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.

treating each person with respect, mindful that the person possesses human emotions and needs.<sup>85</sup>

In all contacts with the public, Department members must inspire respect for themselves as individuals and as representatives of the Department by respecting the human rights of the members of the community. In addition to respect for those human rights prescribed by law, Department members will treat all persons with the courtesy and dignity that is inherently due every person as a human being. Department members will act, speak and conduct themselves in a professional manner, recognizing their obligation to safeguard life and property, and maintain a courteous, professional attitude in all contacts with the public.

## **ii. Use of Social Media**

General Order G09-01-06, Use of Social Media Outlets, establishes guidelines and responsibilities of Department members using social media outlets. That order provides:

Social media outlets,<sup>86</sup> when used in a proper manner, can reinforce the Department's relationship with the public, build community support, and assist in solving crime. Department members have a constitutional right to express their views under the First Amendment. However, Department members may be subject to discipline for violating the provisions of this directive. Any social media participation made pursuant to a Department member's official duties is not considered protected speech under the First Amendment.<sup>87</sup>

The directive informs officers that materials they post to a public forum may be accessed by the Department at any time, and cautions officers about use of public domains:

Department members should be mindful that their communications become part of the worldwide electronic public domain. Department members should be aware that privacy settings and social media sites are subject to constant modifications, and they should never assume that personal information posted on such sites is protected or secure.<sup>88</sup>

When using social media, Department members are prohibited from posting, displaying, or transmitting, information including:

1. Any communications that discredit or reflect poorly on the Department, its missions, or goals; or
2. Content that is disparaging to a person or group based on race, religion, sexual orientation, or any other protected class.

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<sup>86</sup> The policy defines "social media outlets" to include all electronic communications through which participants can share information, ideas, messages including but not limited to text, video, and photographs.

<sup>87</sup>

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## ii. Supervisor Responsibilities

The Department's Regulations Establishing the Duties of Members provides that supervisors have the following responsibilities.<sup>89</sup> They will:

- a. Be "responsible and accountable for the maintenance of discipline and will provide leadership, supervision and continuing training and example to ensure the efficiency of unit operations."
- b. Provide leadership and guidance in developing loyalty and dedication to the police profession.
- c. [D]eal fairly and equitably with all members
- d. Ensure that all Policy, Rules, Regulations, Orders and Directives of the Department are enforced and implemented by their subordinates.

## b. Police Officers' First Amendment Rights.

### iii. Three primary elements to determine whether a public employee's speech is constitutionally protected.

COPA evaluates an officer's speech under both Department policy and under the First Amendment to the United States Constitution. Governmental entities may regulate their employees' speech, by establishing rules such as the Department's directives, without violating the First Amendment to the United States Constitution only under certain conditions. Courts recognize that "[w]hen a citizen enters government service, the citizen by necessity must accept certain limitations on [their] freedom."<sup>90</sup> As articulated by the Supreme Court, governmental employers may need to restrain their employees' First Amendment rights for several reasons including the need to control their employees' words and conduct to provide public services efficiently and to control the fact that public employees "often occupy trusted positions in society. When they speak out, they can express views that contravene governmental policies or impair the proper performance of governmental functions."<sup>91</sup>

However, a public employee's speech may be constitutionally protected under certain conditions. First, the employee must have been speaking as a private citizen.<sup>92</sup> Second, that speech must address a matter of public concern.<sup>93</sup> Third, the public employee's interest in expressing that speech is not outweighed by the governmental entity's interest in "promoting effective and efficient public service."<sup>94</sup>

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<sup>89</sup> Rules and Regulations of the Chicago Police Department, section IV.B. This list includes duties relevant to COPA's analysis.

<sup>90</sup> *Garcetti v. Ceballos*, 547 U.S. 410, 418 (2006).

<sup>91</sup> *Garcetti v. Ceballos*, 547 U.S. 410, 418-19 (2006).

<sup>92</sup> *Swetlik v. Crawford*, 738 F.3d 818, 825 (7th Cir. 2013); *Schmidt v. Vill. Of Glenwood*, 2015 U.S. Dist. LEXIS 81776, at \*9 (N.D. Ill. 2015).

<sup>93</sup> *Swetlik*, 738 F.3d at 825.

<sup>94</sup> See *Swetlik*, 738 F.3d at 825; see also *Pickering v. Board of Education*, 391 U.S. 563, 568 (1968).



A public employee that speaks “pursuant to their official duties” is not speaking as private citizen.<sup>95</sup> “In determining whether a public employee is speaking as an employee or as a citizen, the proper inquiry must be a practical one that considers whether the speech is part of the employee’s daily professional activities.”<sup>96</sup>

Police officers, speaking as a private citizen, retain a First Amendment right to comment on matters of public concern.<sup>97</sup> Speech addresses a matter of public concern if it can be “fairly considered as relating to any matter of political, social, or other concern to the community.”<sup>98</sup> “Whether an employee’s speech addresses a matter of public concern must be determined by the content, form, and context of a given statement, as revealed by the whole record.”<sup>99</sup> “Public concern is something that is a subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public at the time of publication.”<sup>100</sup>

Even where officers are speaking about matters of public concern, they may still be disciplined or terminated where the employer’s interests in promoting the efficiency of its public service outweigh the officer’s interest in commenting upon the matter of public concern.<sup>101</sup>

#### **iv. Factors to determine whether a public employer’s interests outweigh a public employee’s interests.**

In balancing the employer’s interests against those of the employee’s, the analysis depends on the following factors: (1) whether the speech would create problems in maintaining discipline or harmony among co-workers; (2) whether the employment relationship is one in which personal loyalty and confidence are necessary; (3) whether the speech impeded the employee’s ability to perform their responsibilities; (4) the time, place, and manner of the speech; (5) the context within which the underlying dispute arose; (6) whether the matter was one on which debate was vital to informed decision-making; and (7) whether the speaker should be regarded as a member of the general public.<sup>102</sup>

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<sup>95</sup> *Schmidt*, 2015 U.S. Dist. 81776, at \*9.

<sup>96</sup> *Schmidt*, 2015 U.S. Dist. 81776, at \*10 (citing *Chraznowski v. Bianchi*, 725 F.3d 734, 738-39 (7th Cir. 2014) (quotations omitted).

<sup>97</sup> *Connick v. Myers*, 461 U.S. 138, 140 (1983). Typically, the First Amendment does not protect the speech of a government employee when the government “employee speaks not as a citizen upon matters of public concern, but instead as an employee upon matters only of personal interest.” *Connick*, 461 U.S. at 147.

<sup>98</sup> *Connick*, 461 U.S. at 146.

<sup>99</sup> *Id.* at 147.

<sup>100</sup> *City of San Diego v. Roe*, 543 U.S. 77, 83-84 (2004).

<sup>101</sup> *Pickering v Board of Education*, 391 U.S. 563 (1968).

<sup>102</sup> *Gustafson v. Jones*, 290F.3d 895, 909 (7th Cir. 2002) (citing *Greer v. Amesqua*, 212 F.3d 358 (7th Cir. 2000).

Under the first prong, police departments have wide latitude to discipline officers for disruption to the hierarchal structure of police departments.<sup>103</sup> A government employer need not wait for an actual disruption before taking action.<sup>104</sup>

With respect to the second prong, courts recognize that “there is a particularly urgent need for close teamwork among those involved in the high stakes field of law enforcement.”<sup>105</sup> “Speech that might not interfere with work in an environment less dependent on order, discipline, and *esprit de corps* could be debilitating to a police force.”<sup>106</sup>

Under the third prong, the Department possesses a strong interest in regulating officer speech:

Police officers ... are quintessentially public servants. As such, part of their job is to safeguard the public’s opinion of them, particularly with regard to a community’s view of the respect that police officers ... accord the members of that community. The effectiveness of a city’s police department depends importantly on the respect and trust of the community and on the perception in the community that it enforces the law fairly, even-handedly, and without bias.<sup>107</sup>

Accordingly, an officer’s speech that jeopardizes the public’s trust in impartial law enforcement renders that officer incapable of effectively performing their responsibilities.

Likewise, the Department has a strong interest in regulating the speech of supervisory officers, as that speech will be more disruptive to the operation of the Department and can have a negative impact on their fitness as a supervisor and role model.<sup>108</sup>

In evaluating the fourth prong, courts consider whether the public employee used available internal dispute mechanisms or instead broadcasted their views to the wider public.<sup>109</sup> Courts also

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<sup>103</sup> *Lalowski v. City of Des Plaines*, 789 F.3d 784 (7th Cir. 2015) (affirming the dismissal of an officer’s Section 1983 lawsuit and finding that the government’s “interests in running an efficient and effective police department outweighed [the officer’s] speech interests, even in relation to his statements that directly addressed matters of public concern.”); *Pappas v. Giuliani*, 290 F.3d 143 (2d Cir. 2002) (affirming the dismissal of an officer’s Section 1983 lawsuit and finding that the officer’s racist diatribes, although anonymous, had a high capacity to impair the effective functioning of the police department and to incite anger and discord among other police officers).

<sup>104</sup> *Greer v. Amesqua*, 212 F.3d 358, 372-73 (7th Cir. 2000) (citing cases).

<sup>105</sup> *Lalowski v. City of Des Plaines*, 789 F.3d 784, 792 (7th Cir. 2015); *see also Gustafson v. Jones*, 290 F.3d 895, 910 (7th Cir. 2002) (accepting the proposition that “a police department is a paramilitary organization built on relationships of trust and loyalty . . .”).

<sup>106</sup> *Breuer v. Hart*, 909 F.2d 1035, 1041 (7th Cir. 1990). *Espirit de corps* means a feeling of pride, fellowship, and common loyalty shared by members of a particular group.

<sup>107</sup> *Lalowski v. City of Des Plaines*, 789 F.3d 784, 792 (7th Cir. 2015). *See also, Locurto v. Giuliani*, 447 F.3d 159, 179–80 (2d Cir. 2006) (“[O]ne’s right to be a police officer or firefighter who publicly ridicules those he is commissioned to protect and serve is far from absolute. Rather, it is tempered by the reasonable judgment of his employer as to the potential disruptive effects of the employee’s conduct on the public mission of the police and fire departments.”).

<sup>108</sup> *Grutzmacher v. Howard County*, 851 F.3d 332, 346 (4th Cir. 2017) (finding that a fire department battalion chief’s supervisory role factored towards the department’s interest in regulating his “like” on Facebook of a picture of a woman giving the middle finger and directed as his Chief).

<sup>109</sup> *See Greer v. Amesqua*, 212 F.3d 358, 371-72 (7th Cir. 2000).

consider whether the speech is abusive or degrading and whether it falls “below the standard of conduct the public expects from police officers, even while off duty.”<sup>110</sup>

The fifth factor considers the context in which the underlying dispute arose. As acknowledged by one court, police departments are generally given greater latitude in their decisions regarding employee discipline than other governmental employers because they are “paramilitary organizations charged with maintaining public safety and order.”<sup>111</sup>

The sixth factor considers whether the expressed statements add to informed decision making.<sup>112</sup>

The final factor considers, in this context, whether the officer represented themselves as an officer when speaking, even when off duty.<sup>113</sup>

There is no requirement to analyze each factor in every case.<sup>114</sup> However, “[t]he initial, and often determinative, question is whether the speech interferes with the employee’s work or with the efficient and successful operation of the office.”<sup>115</sup> And “one factor of great weight may offset several which lean slightly in the other direction.”<sup>116</sup>

## b. Analysis

### i. Sergeant Anargyros Kereakes

COPA finds Allegation #1 against Sergeant Kereakes, that he wrote about black communities, is **sustained**. The complainant, [REDACTED] provided COPA with this comment. In the comments, Sergeant Kereakes confirmed he was a sergeant with the Dpartment. Sergeant Kereakes’ profile was under his real name. Sergeant Kereakes told COPA he was responding to a comment from Alderman Arena calling Trump supporters “uneducated redneck[s],” which he had found offensive.<sup>117</sup> Sergeant Kereakes denied saying anything about African American or transgendered individuals and asserted he was making historical references.<sup>118</sup>

Sergeant Kereakes’ statements were unprofessional and disrespectful, in violation Department policy because Sergeant Kereakes identified himself as a police sergeant and then proceeded to interact on a public platform with members of the public, his conduct falls within the parameters of the general order governing police interactions with the public. In his comments, Sergeant Kereakes referred to people as “liberal lap dog,” “LIBTARDS,” and “ignorant Socialist trailer trash,” and “liberal scum.” Resorting to name calling, especially names which aim to

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<sup>110</sup> *Lalowski*, 789 F.3d at 792.

<sup>111</sup> *Volkman v. Ryker*, 736 F.3d 1084, 1092 (7th Cir. 2013) (citing *Kokkinis v. Ivkovich*, 185 F.3d 840, 845 (7th Cir. 1999)).

<sup>112</sup> See *Pickering*, 391 U.S. at 571-72.

<sup>113</sup> See *Lalowski*, 789 F.3d at 792-93.

<sup>114</sup> See *Harnishfeger v. U.S.*, 943 F.3d 1105, 1115 (7th Cir. 2019) (citing cases).

<sup>115</sup> *Knapp v. Whitaker*, 757 F.2d 827, 842 (7th Cir. 1985).

<sup>116</sup> *Volkman v. Ryker*, 736 F.3d 1084, 1092 (7th Cir. 2013).

<sup>117</sup> Att. 47

<sup>118</sup> Att. 11

disparage a member of the public does not promote the level of professionalism required by the general directive.<sup>119</sup> Furthermore, his statement that “you as blacks say some of the most hateful, bigoted, prejudicial ignorant comments but your clueless asses allow the liberal LEFT whites to say such racist comments. . .” can fairly be construed as racially biased.

Sergeant Kereakes’ statements were of a political nature and directed at the impact of “liberal” policies on Black communities, among other things. Political conversations are inherently on matters of public concern and are given strong protections under the first amendment.<sup>120</sup>

In examining the factors detailed above, courts strike a balance between the interest of the employer and the employee’s interest in speech, it is evident that Sergeant Kereakes can be reprimanded for his online speech. It is not the content, but rather the form of the speech that the directive seeks to control. Government offices, much like private offices, can take measures to promote professionalism in public interactions.<sup>121</sup>

Sergeant Kereakes’ language, although offensive at times, does not affect whether the issue was one of public concern, but his self-identification as a sergeant does make the speech a Departmental concern.<sup>122</sup> His self-identification as a sergeant affects how the public perceives his speech, which implicates Departmental interests. Sergeant Kereakes’ public derision of others violates Department policy,<sup>123</sup> and Rules 2, 3, 6, and 32.

COPA finds Allegation #2, against Sergeant Kereakes, that he wrote in part about Black Lives Matter, is **sustained**. COPA identified this post on his publicly visible Facebook page, which included the sergeant’s real name and a photo of Sergeant Kereakes in uniform as his profile picture.<sup>124</sup> Sergeant Kereakes responded to the allegation and related he was having a friendly exchange with black law enforcement officials with whom he previously worked. Sergeant Kereakes added that he thought the exchange was private and denied that he was representing the Department with the comments, although COPA notes that he referenced being in law enforcement in the posts.

Sergeant Kereakes’ posts contain several concerning statements including: “do Black Lives really Matter to black people?” and “Michael Brown was a thug who got shot being a thug.”<sup>125</sup> Sergeant Kereakes equates, on several occasion, the Black Lives Matter movement, the National Football League, as well as black entertainers with the Ku Klux Klan. The posts touch on a matter of public concern as they relate to race relations during a time of racial turmoil across the country.

COPA finds that Sergeant Kereakes’ statements violate Department policy for several reasons. First, questioning whether black people care about other black people is derogatory towards black people. Black Chicagoans could justifiably question whether Sergeant Kereakes can apply the law fairly and equitably. Second, his comment regarding Michael Brown suggests he

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<sup>119</sup> G02-1(III)(B)

<sup>120</sup> *Rankin v. McPherson*, 483 U.S. 378, 387 (1987).

<sup>121</sup> *Waters v. Churchill*, 511 U.S. 661, 675 (1994)

<sup>122</sup> *Rankin*, 483 U.S. at 387.

<sup>123</sup> See General Order G09-01-06, § V.C.

<sup>124</sup> Att. 15: Pgs. 3 – 14

<sup>125</sup>

believes officers may use deadly force against a person because that person is, in an officer's view, a "thug." Such a perspective is at odds with Department use of force policy and undermines that policy. As a supervisor, Sergeant Kereakes is tasked with ensuring that his subordinates follow Department policy, his statements compromise the order and discipline necessary to implement Department policies within his unit. The Department's interests in promoting public trust and maintaining internal discipline outweigh Sergeant Kereakes' interest in making the posts. For these reasons, COPA finds that Sergeant Kereakes' posting violate Department policy<sup>126</sup> and Rules 2, 3, 6, and 32.

COPA finds Allegation #3, against Sergeant Kereakes, that he posted a USA Today article and commented on it, is **sustained**. COPA identified this post on his publicly visible Facebook page, which included the sergeant's real name and a photo of Sergeant Kereakes in uniform as his profile picture.<sup>127</sup> Sergeant Kereakes responded to the allegation that he thought he was having a private conversation with friends. In the post, Sergeant Kereakes related he was in law enforcement for about 25 years and stated that his career was in Chicago.

Sergeant Kereakes' comment stating he and a former Department member(s) should "rob some mother fuckers like the gangsters we were," was made in relation to his employment as a Department member and was an inappropriate characterization of the work he purports to do as a Department member and reflects poorly on the Department. Although the comments were likely made in jest, they were made on a public platform, were visible to the public, and reflect negatively on the Department and impaired its mission.

The comments are not on an issue of public concern and directly implicate his actions as a Department member. Further, even if the comment was not intended for a public audience, it was visible by a public audience and reflected poorly on the Department. For these reasons, the balancing does not apply to this analysis. Consequently, Sergeant Kereakes' comments about committing crimes while on duty violate Department policy and Rules 2, 3, 6, and 32.

COPA finds Allegation #4 against Sergeant Kereakes, that he inappropriately commented on a video posted by [REDACTED], is **sustained**. The sergeant made this comment on [REDACTED] publicly visible account, which was seemingly viewable to all Facebook users. When COPA identified the post, it was under Sergeant Kereakes' real name, with the sergeant's profile picture being a photograph of himself in uniform.<sup>128</sup> Sergeant Kereakes denied to COPA that he said anything insensitive and asserted "thug" is a synonym for criminal. In his comments, Sergeant Kereakes again related that he had worked in law enforcement for approximately 25 years.

When discussing the death of Michael Brown, Sergeant Kereakes was expressing his opinion on a matter of public concern that had been widely reported upon. His opinion on the activity leading up to the death of Michael Brown is not indicative of a bias or animus that would give the impression that police officers would treat people of different races or communities differently.

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<sup>126</sup> See General Order G09-01-06, § V.C.

<sup>127</sup> *Id* at Pgs. 25 – 27

<sup>128</sup> *Id* at Pgs. 31 – 33

Sergeant Kereakes' recommendation of the book *Race Pimping* was in response to a comment about subjecting police officer to civil liability. Sergeant Kereakes was expressing his view on the use of civil suits to reprimand police officers for misbehavior. In the same comment, Sergeant Kereakes expressed the view that police who act outside the law should be punished criminally rather than civilly. These comments did not reflect the Department in a negative manner or disparage anyone based on their race or other protected class.

Sergeant Kereakes' comments directed toward ██████████ that ██████████ "profile picture says a lot about the pretend gangster you are. Go fill up some ketchup bottles and let the grown-ups talk" were disrespectful and reflected poorly upon Department by failing act, speak in a professional and courteous manner in all contacts with the public.<sup>129</sup> Furthermore the comment ss clearly an attempt to disparage Mr. ██████████ and indicate that he is not qualified to have a conversation and is more qualified to engage in manual labor.

Sergeant Kereakes' comments were objectively disrespectful, personally directed, and not on a matter of public concern. As a result, the comments are not protected by the balancing test requirements<sup>130</sup> and were in violation of Department policy and Rules 2, 3 and 6.

COPA finds Allegation #5 against Sergeant Kereakes, that he inappropriately commented on a post from ██████████, is **sustained**. Sergeant Kereakes made this comment on ██████████ publicly visible page, which was seemingly viewable to all Facebook users. When COPA identified the post, it was under Sergeant Kereakes' real name, with the sergeant's profile picture being a photograph of himself in uniform.<sup>131</sup> Sergeant Kereakes denied that he wrote anything disparaging towards a racial or ethnic group. Sergeant Kereakes stated the statistics he referenced came from the Department of Justice and from private studies.

Sergeant Kereakes' comment about whites being shot by police 30 to 40 percent higher rate than black people are not clearly indicative of racial animus, but rather a recitation of perceived criminal statistics.<sup>132</sup> Furthermore, Sergeant Kereakes show of support for ██████████ can be considered an endorsement of his viewpoints. However, ██████████ comments were about the need for better training and equipment to protect police officers, and although the post dealt with the topic of race, its message was that people should not be treated differently because of their race, which does not clearly show racial animus.

COPA finds Allegation #6 against Sergeant Kereakes, that relates to an inappropriate comment by on a Facebook post from teleSUR English, is **sustained**. Sergeant Kereakes made this comment on teleSUR English's publicly visible page, which was seemingly viewable to all Facebook users. When COPA identified the post, it was under Sergeant Kereakes' real name, with the sergeant's profile picture being a photograph of himself in uniform.<sup>133</sup> Sergeant Kereakes denied to COPA that his comment was insensitive.

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<sup>129</sup> General Order G02-1 § III.B.

<sup>130</sup> *City of San Diego v. Roe*, 543 U.S. 77, 84 (2004).

<sup>131</sup> Att. 15: Pgs. 34 – 35

<sup>132</sup> COPA notes that it searched for but could not find any statistics supporting Sergeant Kereakes' assertion, from the Department of Justice or otherwise.

<sup>133</sup> *Id* at Pgs. 35 – 36

Sergeant Kereakes commented that Cuban doctors should “float their asses to China or North Korea.” This comment is disparaging based on the doctor’s national origins in violation of Department policy.<sup>134</sup> By stating that the Cuban doctors should float to China or North Korea, Sergeant Kereakes is invoking a stereotype based on a method that Cuban refugees use to flee Cuba. Further, he is stating his desire to send away community aid because of the national origin of its providers. This issue implicates his work as a Department member who must go into areas where gang violence is prevalent and deal with citizens who experience violence.

However, because Sergeant Kereakes’ comments were not made in his capacity as a Department member and were on a matter of public concern, the a balancing analysis is needed to determine if his interest in making the comment outweighs the Department’s interest in reprimanding him for doing so.<sup>135</sup> Sergeant Kereakes’ comments were disparaging to people of Cuban descent, and his interest in being able to use disparaging language does not outweigh the Departments interest in maintaining public trust. Sergeant Kereakes was identifiable as a Department member at the time he made the post, and his comments were somewhat related to his work. For these reasons, the Department has a strong interest in preventing inflammatory speech that outweighs Sergeant Kereakes interest in self-expression. Sergeant Kereakes is not prevented from discussing issues of public interest, only from doing so in a manner that disparages people based on their national origin or other protected class. Thus, Sergeant Kereakes’ comment violated Department policy and Rules 2, 3, 6, and 32.

COPA finds Allegation #7 against Sergeant Kereakes, that he inappropriately commented on a video about a police shooting, is **sustained**. Sergeant Kereakes made the comments on a profile for a user identified as [REDACTED], a profile which was presumably public to all Facebook users. When COPA identified the post, it was under Sergeant Kereakes’ real name, with the sergeant’s profile picture being a photograph of himself in uniform.<sup>136</sup> Sergeant Kereakes related to COPA that he was talking to an African American police officer about race and policing, and Sergeant Kereakes believes racism is wrong in all forms. Sergeant Kereakes stated the “tan clan” is a hate group of people of color, like the KKK but made of minorities.

COPA finds that Sergeant Kereakes’ posts violate Departmental rules because it contains derogatory language directed at members of the public. His posts reflect negatively on the Department and its mission by suggesting. Police officers are expected to act at all times professionally. Posting images that suggest protestors are “morons” and calling a citizen a “pussy” does not reflect that standard. The posts touch on matters of public concern as they involve discussions on race and policing.

The Department’s interest in promoting public service and discipline outweigh Sergeant Kereakes’ interests in commenting on these matters. Sergeant Kereakes is a supervisor and tasked with ensuring that his subordinates follow Department policy. His disparaging treatment of those he disagrees with compromise his ability to treat his subordinates fairly and to ensure that his subordinates apply the law equally to all. Thus, Sergeant Kereakes’ s comments violated Department policy and Rules 2, 3, 6, and 32.

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<sup>134</sup> G09-01-06 § II.a.C.2.

<sup>135</sup> *Harnishfeger*, 943 F.3d at 1113

<sup>136</sup> Att. 15: Pgs. 38 – 46

COPA finds Allegation #8 against Sergeant Kereakes, that he inappropriately commented on a video posted by [REDACTED], is **not sustained**. Sergeant Kereakes made this comment on [REDACTED] publicly visible page, which was seemingly viewable to all Facebook users. When COPA identified the post, it was under Sergeant Kereakes' real name, with the sergeant's profile picture depicting him in uniform.<sup>137</sup> Sergeant Kereakes related to COPA that he did not understand why this was an allegation.

[REDACTED] original post used an offensive slur in relation to Native Americans, the context surrounding the post and comment are unknown. The race of the original poster is unknown, the content of the video is unknown and the context of the "bad ass" comment is unknown. It is for these reasons that COPA does not have a sufficient information to determine if Sergeant Kereakes' comment violated Department policy.

## ii. Officer Angel Avalos, Jr.

At the time COPA reviewed Officer Avalos' publicly visible Facebook page, he was using an alias, with his last name shown as [REDACTED]. On February 13, 2018, Officer Avalos' Facebook profile picture was of a Department patch, covered by mourning band. However, this was no longer his profile picture at the time COPA performed its review, although it was still visible on his public account.

COPA finds Allegation #1 against Officer Avalos, that he inappropriately commented "Work will set you free!" is **sustained**. At the time Officer Avalos' identified the comment, Officer Avalos was using his real name, but COPA does not know if this post was available to everyone viewing the page, nor can COPA confirm its source.<sup>138</sup> However, Officer Avalos admitted the comment was his, and explained that at the time he posted the comment, he did not know it was a reference to Auschwitz.

Officer Avalos Jr. commented "Work will set you free!" to an unknown post or comment. The phrase "work will set you free" is most commonly associated with the words on the gates of the Auschwitz concentration camp used during World War II.<sup>139</sup> Not knowing the original context of the comment makes it difficult to discern whether Officer Avalos was making the comment in reference to the Holocaust, or an expression he claims to have heard from his grandfather. However, Officer Avalos' purported intention is irrelevant. Regardless of whether he was aware that his comment was associated with a Nazi Concentration Camp, it could reasonably be perceived as such, especially in light of his other derogatory and discriminatory comments detailed below. Furthermore, it cannot be overstated how violative of Department policy and basic human decency it is to parrot Nazi slogans. COPA acknowledges that there is little context associated with this comment and will apply the balancing test afforded to comments on matters of public concern.

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<sup>137</sup> *Id* at Pgs. 29 – 30.

<sup>138</sup> Att. 11

<sup>139</sup> A search using the words "work will set you free" on google.com returned exclusively content pertaining to the words on the gates of Auschwitz and other Nazi concentration camps.



The Department's interest in maintaining workplace efficiency far outweighs that of Officer Avalos' interest in expressing himself, especially with Nazi slogans. It should go without saying that the impact of such language is profoundly destructive to the Department's goal and missions. Thus, Officer Avalos' comment violated Department policy and Rules 2, 3, 6, and 32.

COPA finds Allegation #2 against Officer Avalos, that he inappropriately commented on a video about murders in Chicago, is **sustained**. In response to a video from WGN TV accompanied by the caption "Chicago reached another grim milestone this week: more people have been killed so far in 2016 than in all of last year." Officer Avalos replied "BLM!" Officer Avalos' comment was on a public post from WGN TV, presumably making his commentary visible to all Facebook users. Officer Avalos was using the name [REDACTED] and COPA found nothing that made it obvious Officer Avalos was a police officer or associated with the Department.<sup>140</sup> According to Officer Avalos, the post was "neutral and the comment reflects the lack of community efforts in stopping the violence in Chicago."

BLM is a common acronym for the Black Lives Matter movement. Black Lives Matter is a social and political movement advocating for, among other things, a reformation in the policing of black communities. Officer Avalos comment of "BLM!" does not clearly on its face violate any Department social media rules. In context, the comment seems to criticize the Black Lives Matter movement and its mission in relation to violent crime in the city of Chicago. Although the comment can be interpreted as a slight towards the black community, it is not clear whether the comment was meant to criticize BLM's effectiveness or its mission. Officer Avalos' statement implies he did not intend the statement to reflect racial animus. However, the original post made no reference to the race of those killed in Chicago. Officer Avalos therefore inserted a racial element into the discussion. Furthermore, in his statement, Officer Avalos explained that he made the statement to reflect the lack of community efforts to stop violence in Chicago. By referencing the BLM movement, COPA can only conclude that Officer Avalos believes the black community in Chicago does not take efforts to end violence in Chicago. COPA finds that belief reflects racial animus as it generalizes the beliefs of black Chicagoans and could reasonably be construed as disparaging the black community in Chicago.

Violence in Chicago is a matter of public concern. Nevertheless, the Department's interest in building trust among all communities outweighs Officer Avalos' interest in making the statement. Thus, Officer Avalos' comment violated Department policy and Rules 2, 3, 6, and 32.

COPA finds Allegation #3 against Officer Avalos, that he inappropriately commented on a video of two women fighting, is **sustained**. Officer Avalos made this comment on the publicly visible page of a user named [REDACTED] which was seemingly viewable to all Facebook users. Officer Avalos related to COPA that his comment "hood rat" "is commonly used in the type of activity of two people involved in criminal activity. Slang term is non-specific to race, religion, or creed."

The common definition of "hood rat" is "[a] derogatory term for a girl or young woman who is considered promiscuous and who lives in or frequents 'the hood' (an urban neighborhood,

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<sup>140</sup> Att. 16: Pg. 4

especially an impoverished one).”<sup>141</sup> Officer Avalos’ use of this term is unprofessional and derogatory towards women and those who live in impoverished areas.

The post debatably addresses a matter of public concern. It is therefore unclear whether it is constitutionally protected. Although the post may be constitutionally protected, COPA nevertheless finds the Department’s interests in ensuring that members of the public trust that Department members will enforce the law fairly, even-handedly, and without bias outweigh Officer Avalos’ interest in making the speech. A Department member’s failure to act professionally in public interactions can create the perception that Department members will not act fairly in everyday interactions. Thus, Officer Avalos’ comment violated Department policy and Rules 2, 3, 6, and 32.

COPA finds Allegation #4 against Officer Avalos, that inappropriately commented on a WGN TV post about protestors in Chicago, is **sustained**. In response to a post from WGN TV stating “Protesters are marching down Chicago’s Michigan Avenue on the busiest shopping day of the year to draw attention to gun violence, racism, and police brutality,” Officer Avalos replied by posting a picture of a graduation cap and gown on a black background accompanied by the words “the police shot my son for no reason kit, Insert face here for the press.” Officer Avalos made this comment on the publicly visible page for WGN TV, which was seemingly viewable to all Facebook users. Officer Avalos asserted that he was referring to “how media portrays the aftermath of the police shooting and the assailants.”

Officer Avalos Jr’s comments were insensitive to victims of police violence and undermine the public’s trust in law enforcement and specifically call into question Officer Avalos’ objectivity in law enforcement matters. Officer involved shootings are matters of public concern. Nevertheless, the Department’s interest in maintaining public trust outweighs Officer Avalos’ interest in making the statement. Thus, Officer Avalos’ comment violated Department policy and Rules 2, 3, 6, and 32.

COPA finds Allegation #5 against Officer Avalos, that he inappropriately commented on a Fox 35 WOFL post about terrorism in France, is **sustained**. In response to a post from Fox 35 WOFL stating “BREAKING NEWS: #London police say a vehicle has struck several pedestrians causing a ‘number of casualties.’ Officials say one person has been arrested...” Officer Avalos replied, “Religion of peace?” Officer Avalos made this comment on the public Facebook page for Fox 35 WOFL, suggesting this post was visible to all Facebook users. Officer Avalos was using the name “Angel Tengu” and COPA found nothing that made it obvious Officer Avalos was a police officer or associated with the Department.<sup>142</sup> Officer Avalos asserted that this was a “comment to the contradictions of Muslim extremist who portray the religion as based upon peace.”

Officer Avalos’ comments questioning the peacefulness of the Muslim community reflect poorly on the mission of the Department and is disparaging to the Muslim community. The Department interacts and protects members of numerous faiths and must treat each person with

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<sup>141</sup> See, e.g., <https://idioms.thefreedictionary.com/hood+rat> (last visited July 20, 2022); <https://www.collinsdictionary.com/us/dictionary/english/hood-rat> (last visited July 20, 2022).

<sup>142</sup> *Id* at Pg. 8.

respect.<sup>143</sup> Officer Avalos' comments show a bias against the Muslim community and a disbelief in their character for peacefulness. However, because his comments are on a matter of public concern, they must receive the balancing analysis.<sup>144</sup>

As such, Officer Avalos' position is one in which public confidence is necessary. If the public does not believe the police will treat them fairly, they will be less likely to request police protection when warranted. Comments like this can instill a lack of confidence in the police department from religious communities. Officer Avalos' interest in being able to disparage the Muslim religion on social media does not outweigh the Department's interest in maintaining public trust in its members. Officer Avalos is not prohibited from commenting on or critiquing people of any religion, such a prohibition would likely quell more speech than is permissible under the First Amendment. Rather, the Department directives only prevent him from doing so in a way that is disparaging based on their religion.<sup>145</sup> Thus, Officer Avalos' comment violated Department policy and Rules 2, 3, 6, and 32.

COPA finds Allegation #6 against Officer Avalos, that he inappropriately commented on a video regarding terrorism in Paris, is **sustained**. This comment was published on the publicly visible page of a user named "Ed's Manifesto," which was seemingly viewable to all Facebook users. Officer Avalos was using the name [REDACTED] and COPA found nothing that made it obvious Officer Avalos was a police officer or associated with the Department.<sup>146</sup> Officer Avalos related to COPA that he wrote "Those wacky peaceful Muslims!" in reference to the contradiction of Muslim extremists who portray their religion as peaceful while engaging in violence and acknowledged that the comment could be seen as offensive.

Officer Avalos Jr's comment stating "Those wacky peaceful Muslims!" is further showing of bias directed towards the Muslim religion. As a Department member, Officer Avalos must make decisions based on statements from members of various religions. In order to properly perform his duties, he must show every person he interacts with respect. Officer Avalos' comments reflect that he does not believe people who practice the Muslim religion follow their adherence peace. Thus, Officer Avalos' comment violated Department policy and Rules 2, 3, 6, and 32.

COPA finds Allegation #7 against Officer Avalos, that he inappropriately commented on a WGN TV post about shootings, is **not sustained**. This comment was identified on the publicly visible page for WGN TV, which was seemingly viewable to all Facebook users. Officer Avalos was using the name [REDACTED] and COPA found nothing that made it obvious Officer Avalos was a police officer or associated with Department.<sup>147</sup>

In response to a post from WGN TV stating "MEMORIAL DAY WEEKEND VIOLENCE: 49 people were shot, 6 fatally, during the Memorial Day weekend in Chicago. And that's fewer shootings than last year." Officer Avalos replied with an image containing the words "those are amateur numbers you need to bump those numbers up." Officer Avalos related that the

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<sup>143</sup> G02-1(II)(A)

<sup>144</sup> *Harnishfeger*, 943 F.3d at 1113

<sup>145</sup> G09-01-06

<sup>146</sup> Att. 16: Pg. 8 – 9

<sup>147</sup> *Id* at Pgs. 10 – 11

meme was in “poor taste and inappropriate.” Officer Avalos acknowledged it was an inappropriate joke, but he wanted to indicate that even though homicides were down, there were still too many. Officer Avalos denied that he was advocating for increased homicides in Chicago. This comment does not clearly violate any Department policy. The comment also does not implicate his work as a police officer, nor does it reflect poorly on the Department or disparage any person or group based on a protected class. It is for these reasons this allegation is **not sustained**.

COPA finds Allegation #8 against Officer Avalos, that he inappropriately commented on a video about a fatal police shooting, is **not sustained**. Officer Avalos made this comment on the publicly visible Facebook profile identified as [REDACTED] which was seemingly viewable to all Facebook users. Officer Avalos was using the name [REDACTED] and COPA found nothing that made it obvious Officer Avalos was a police officer or associated with the Department.<sup>148</sup>

Officer Avalos replied to a video about fatal police shooting by posting an image of the apparent victim of the shooting photoshopped to be wearing a cap and gown and holding a diploma. Although the post was insensitive to the individual pictured, it was not clear that the picture was overtly disparaging because of the individual’s status in a protected class or otherwise. Additionally, Officer Avalos asserted he made this comment to highlight how the media shows assailants involved in police shootings, and he acknowledged it was dark humor. Thus, this allegation is **not sustained**.

### iii. Officer Dallas Englehart

At the time COPA performed its review of Officer Englehart’s publicly visible Facebook page, he was using an alias of [REDACTED]. While Officer Englehart referred to police-related issues, there was nothing specific identified on his public profile to suggest he was a member of law enforcement or affiliated with the Department.

COPA finds Allegation #1 against Officer Englehart, that he inappropriately shared a news article, is **not sustained**. Officer Englehart shared a news article from Louderwithcrowder.com titled “DEFINITVE: New Data Directly Correlates #BlackLivesMatter To Rise in Chicago Homicide” accompanied by a comment from the author of the article stating “Everyone needs to see this. Behold, definitively, what unfettered liberalism gets you...”<sup>149</sup> The article attempts to draw a link between the Black Lives Matter movement and rises in violence in cities where protests are held using city-wide crime data. In his interview with COPA, Officer Englehart denied that the post was racially motivated, but was unable to clearly articulate how Black Lives Matter (BLM) is not a racial topic.

Discussions on BLM inherently deal with race because much of the movement’s focus is on drawing attention to the way police interact with the black community. However, without more, COPA cannot conclude that Officer Englehart disparaged the black community simply by sharing this article. Officer Englehart’s sharing of the post by Louderwithcrowder.com does not clearly violate any Department directives. Thus, this allegation is **not sustained**.

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<sup>149</sup> Att. 18: Pg. 1

COPA finds Allegation #2 against Officer Englehart, that he inappropriately shared a Fox News post, is **not sustained**. Officer Englehart shared a video from Fox News about crime, which included a statement that “Black males between the ages of 14 & 17 commit homicide at ten times the rate than white and Hispanic teens combined.” The video was accompanied by a caption stating, “Black Lives Matter crew ... [is] promoting a false narrative that American police officers are actively hunting down and killing blacks.” The article attempts to link the creation of the Black Lives Matter movement to an increase in gun violence in black communities. Officer Englehart stated that he thought it was a comment on “how more resources need to be pumped into underserved communities,” and denied it was racially motivated.<sup>150</sup>

The video and article do not disparage any private individuals or protected classes. The article and video attempt to correlate a rise in gun violence to the beginning of the Black Lives Matter movement but does so by stating that police have to be less assertive leading to an increase in crime. Critiques of Black Lives Matter, although inherently dealing with race, do not necessarily disparage black communities. COPA acknowledges that the post is likely to be offensive to many; however, it is not in violation of Department directives. Additionally, the speech is of public concern, and Officer Englehart’s First Amendment interests would outweigh the Department’s interests in this instance. Thus, this allegation is **not sustained**.

COPA finds Allegation #3 against Officer Englehart, that he posted an inappropriate photograph, is **not sustained**. The photo depicts a black teenager appearing to tackle a white teenager with the caption “Liberal media would have exploded had the roles been reversed.” During his interview, Officer Englehart related this was a comment on media bias and denied including any racial tones in his commentary. Officer Englehart did not clearly articulate how this post was media commentary or commentary on underserved communities.<sup>151</sup>

Officer Englehart’s post does not violate any Department directives. Officers are not prevented from commenting on issue of race, but rather from disparaging people or groups based on their race.<sup>152</sup> This post was an apparent comment on the media portrayal of racial relations. The post did not obviously implicate his work as an officer and does not necessarily impede the Department in its mission or goals. Thus, this allegation is **not sustained**.

COPA finds Allegation #4 against Officer Englehart, that he shared an inappropriate article, is **not sustained**. Officer Englehart shared an article from Makeamericagreattoday.com titled “White House Petition To ‘Formally Recognize BLM As A Terrorist Organization’ Picks Up Steam.” Officer Englehart explained he did not believe the post to be racially biased and that he didn’t have an opinion on whether BLM was a terrorist group.<sup>153</sup>

Comments on BLM do not automatically implicate Department directives. Although discussions of Black Lives Matter inherently deal with issues of race, Department members are not prohibited from discussing issues of race; rather, they are prohibited from disparaging people

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<sup>150</sup> Att. 18: Pg. 3

<sup>151</sup> Att. 18: Pg. 4

<sup>152</sup> G09-01-06

<sup>153</sup> Att. 18: Pg. 6

based on race or other protected classes.<sup>154</sup> The article shared does not directly disparage Black people, and purports to be more informative than indicative of a position taken on the issue. Although officer Englehart's position can potentially be inferred, there is not enough evidence to find a violation of any Department policy or rule. Thus, this allegation is **not sustained**.

COPA finds Allegation #5 against Officer Englehart, that shared an inappropriate photo about voting rights, is **sustained**. Officer Englehart shared a photo of a large line of apparently Latino people and accompanied by the caption "Only U.S. Citizens should be allowed to vote! Like If You Agree!" Officer Englehart explained he was simply sharing information and did not have an opinion on the post.<sup>155</sup>

The post implies that people of Latino ethnicity are not U.S. citizens. Officer Englehart denied the post was racially motivated, but that denial is not credible. Further, even if Officer Englehart was not intentionally racially biased, Officer Englehart should have known that the post could reasonably be interpreted by members of the public as stating that non-white individuals are not U.S. citizens. The post was on a matter of public concern, which implicates a balancing test. Officer Englehart's interest in making the statement does not outweigh the Department's interests in building trust among all community members and impartial policing. Thus, Officer Englehart's post violated Department policy and Rules 2, 3, 6, and 32.

COPA finds Allegation #6 against Officer Englehart, that he shared an inappropriate photograph depicting black individuals in front of a store with a broken glass door, one of whom is carrying what appears to be merchandise from the store and accompanied by the caption "Looting: When free food, housing phones, healthcare & education aren't enough" is **sustained**. During his COPA interview, Officer Englehart explained this was a comment on "communities that are underserved and resources need to be [...] put in these neighborhoods." The officer denied disparaging African Americans. He also again related he was sharing information and lacked an opinion.<sup>156</sup>

However, this post can reasonably be seen to disparage black communities in violation of Department policy.<sup>157</sup> The image only shows black individual(s), and there is no indication from the image that the people pictured receive any type of public benefit. The only shared identifying characteristic is their skin color. The post contained no other information, and no article appeared to be linked to it.

The post did touch on a matter of public concern in commenting on distribution of public benefits. Because the post involved a matter of public concern and was available to a public audience, a balancing analysis is needed to determine whether the First Amendment bars reprimand.<sup>158</sup> To that end, the Department has a strong interest in maintaining public trust that its employee's will treat people from all communities fairly.<sup>159</sup> This post is disrespectful and shows a

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<sup>154</sup> G09-01-06

<sup>155</sup> Att. 18: Pg. 7

<sup>156</sup> *Id* at Pg. 8

<sup>157</sup> G09-01-06

<sup>158</sup> *Roe*, 543 U.S. at 84.

<sup>159</sup> G02-1(II)(A)

potential bias against low income black communities, and was shared publicly on social media. Officer Englehart speaking under a pseudonym does make it unlikely that people would identify him as a Department member and thus make it unlikely to affect public trust. However, he was able to be identified by a member of the public leading to this allegation. Thus, Officer Englehart's post violated Department policy and Rules 2, 3, 6, and 32.

COPA finds Allegation #7 against Officer Englehart, that he inappropriately shared an article from Ilovemyfreedom.org with the title "WOW: White Lives Matter has been declared a "Hate Group" is **sustained**. A picture containing four white individuals accompanied the article in question. In the picture, one of the individuals is holding a confederate flag, two are holding a banner with the words "#whitelivesmatter" with two images of a phoenix, and one person is holding a poster board with "14 words"<sup>160</sup> written on it. The shared post is accompanied by the caption "No Way ... Interesting how BLM is totally ignored the hypocrisy and double standards are..."<sup>161</sup> The article shared by officer Englehart discusses a decision by the Southern Poverty Law Center to label the White Lives Matter movement as a hate group. White Lives Matter is a rebuttal to the Black Lives Matter movement.

According to Officer Englehart, he was criticizing bias in the media and denied knowing what the phrase "14 Words" meant. Officer Englehart related that he does not support White Lives Matter but was calling attention to a perceived double-standard in media coverage. The saying "14 Words" is exclusively associated with organizations that advocate for maintaining a white majority in the United States and advocate against racial equality.<sup>162</sup> There is no evidence that officer Englehart knew what this phrase meant when sharing the post. The article does not mention the image or its symbols except for the "#whitelivesmatter" slogan. The article does discuss white supremacy groups but does not support them. However, the post could reasonably be interpreted as stating that Officer Englehart does not believe the White Lives Matter movement to be a hate group. The fact that the post includes white supremacist and Nazi imagery bolsters the conclusion that Officer Englehart does not maintain race neutral beliefs. The post was on a matter of public concern, which implicates a balancing test. Officer Englehart's interest in making the statement does not outweigh the Department's interests in building trust among all community members and impartial policing. Thus, Officer Englehart's post violated Department policy and Rules 2, 3, 6, and 32.

COPA finds Allegation #8 against Officer Englehart, that he shared a cartoon with racial overtones, is **sustained**. Officer Englehart shared an illustration of a white man displaying his middle finger toward the reader and accompanied by the caption "Only 1.4% of white people ever owned slaves, so blaming the entire white race is racism at its's finest!" During his COPA interview, Officer Englehart explained this post was a "commentary on misinterpretation of racism" and on bias in the media.<sup>163</sup>

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<sup>160</sup> 14 words is a white nationalist saying which represents the words ""We must secure the existence of our people and a future for white children." The saying is exclusively associated with organizations that advocate for maintaining a white majority in the United States and advocate against racial equality.

<sup>161</sup> Att. 18 at Pg. 11

<sup>162</sup> <https://www.adl.org/education/references/hate-symbols/14-words>

<sup>163</sup> Att. 18 at Pg. 12

Generally, Department members are not prohibited from discussing issues of race and racism. However, the comment displayed a middle finger and refers to, which is often interpreted as offensive and is inappropriate. Thus, Officer Englehart's post violated Department policy and Rules 2, 3, 6, and 32.

COPA finds Allegation #9 against Officer Englehart, that he shared a disparaging photo about the Black community, is **sustained**. Officer Englehart shared a post which stated, "BLM helping Florida stores clean up after hurricane Matthew," depicting seven black individuals standing in a floodwaters outside what appears to be a store and holding what appears to be merchandise from the store. During his COPA interview, Officer Englehart denied that the post had any racial undertones and asserted he was highlighting how Black Lives Matter fails to help people in need.<sup>164</sup>

Critiques of Black Lives Matter are not inherently disparaging to black communities, however, race was clearly implicated in this post, as the comment referenced Black Lives Matter, and the individuals pictured looting were black. Because Black Lives Matter is a well-known social movement, Officer Englehart's post is likely on a matter of public concern. Therefore, this speech is afforded a balancing test.<sup>165</sup> Under this analysis, the Department's interest in maintaining public trust outweighs Officer Englehart's interest in making comments disparaging black people. The post shows racial bias, which is contrary to the Departments objectives in maintaining trust that the Department does not treat race as an underlying factor in criminal activity. Thus, Officer Englehart's post violated Department policy and Rules 2, 3, 6, and 32.

COPA finds Allegation #10, that Officer Englehart shared a photo with sexist overtones, is **sustained**. The post in question states, "when he grabs your pussy and makes America great again" and depicts a female who appears to be topless/naked and showing what seems to be a sexually pleasurable response. Officer Englehart explained that the post was a joke.<sup>166</sup>

This comment can be seen as a reference to sexual assault, or possibly a crude attempt to depict a consensual sexual experience and uses an offensive term for female genitalia. The comment implicates the Department's interest in maintaining a workplace free of sexual harassment. Female Department members, among others, may reasonably question whether Officer Englehart maintains sexist beliefs. His statement that the post is merely a joke suggests he does not take seriously the importance of a Department member's duty to remain professional and courteous in all contacts with the public. References to the Presidency are likely matters of public concern, which would subject this post to a balancing test. In this instance, Officer Englehart's interests are not outweighed by the Department's interests. Thus, Officer Englehart's post violated Department policy and Rules 2, 3, 6, and 32.

COPA finds Allegation #11, that Officer Englehart posted about a wall between the United States and Mexico, is **sustained**. The post in question stated "'TIME TO BUILD THAT WALL'", and Officer Englehart further commented that he wanted to shoot down planes with undocumented

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<sup>164</sup> *Id* at Pg. 13

<sup>165</sup> *Harnishfeger*, 943 F.3d at 1113

<sup>166</sup> Att. 18. Pg. 14



immigrants which might fly over the wall.<sup>167</sup> Per Officer Englehart, the comment about the anti-aircraft gun was in jest and asserted he was only talking about protecting United States borders.

Officer Englehart's comments show an animus toward the undocumented community, which the Chicago police are dutybound to serve the same as any other community. In calling for planes to be shot down, his comments detract from the Department's mission to protect all people within its jurisdiction. Officer Englehart's comments express a violent animosity toward the undocumented community.

Under a balancing analysis, the Department's interest in supporting all communities within the city is paramount. Officer Englehart's comment advocated for violence against people based on their national origin, which is a protected class under the Illinois Human rights act.<sup>168</sup> Therefore, his comments are subject to discipline because the officer's interest in advocating for violence against immigrant communities does not outweigh the Departments goals of supporting and establishing trust within the city's communities. Officers are not prohibited from commenting or sharing their views on immigration-related issues. However, they are prohibited from doing so in a way that brings discredit to the Department and impede its goals. Thus, Officer Englehart's post violated Department policy and Rules 2, 3, 6, and 32.

COPA finds Allegation #12, that Officer Englehart shared an article about law enforcement minority hiring, is **not sustained**. The post at issue stated, "Feds Order Law Enforcement Agencies to Ignore Drug Use, Criminal Records to Hire Minorities."<sup>169</sup> Officer Englehart explained the post was "commentary on policing and hiring of guilty applicants."<sup>170</sup> The linked article describes a joint report released by the Department of Justice and the Equal Employment Opportunity commission calling for the reducing of some barriers to hiring minority candidates. The article contains some commentary in apparent opposition to the report's proposed methods and goals,<sup>171</sup> but largely explains the substance of the joint report.

While Officer Englehart's post speaks to the Department's hiring processes and only mentions minority candidates, the content of the article does not violate Department policy.<sup>172</sup> Generally, Department members are prohibited from posting, displaying, or transmitting any communications that discredit or reflect poorly on the Department, its missions or goals. Content that is disparaging to a person or group based on race, religion, sexual orientation or any other protected class, is prohibited. However, this post is not unquestionably disparaging to people or groups based on their race or other protected class. Rather, the article comments on the hiring of people with criminal records, but not clearly against hiring racial minorities.<sup>173</sup> this this allegation is **not sustained**.

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<sup>167</sup> *Id* at Pg. 15

<sup>168</sup> 775 ILCS 5/1-102

<sup>169</sup> The article can be found at: <https://www.judicialwatch.org/corruption-chronicles/feds-order-law-enforcement-agencies-ignore-drug-use-criminal-records-hire-minorities/>

<sup>170</sup> Att. 18: Pg. 16

<sup>171</sup> Stating "The administration wants to change this to promote their role as 'guardians of the community' even as cops get violently ambushed and brutally murdered around the country."

<sup>172</sup> G09-01-06

<sup>173</sup> Criminal Background was added as a protective class in Jan. 2020.

COPA finds Allegation #13, that Officer Englehart shared a racially charged photo, is **sustained**. Officer Englehart shared a post depicting a car occupied by four black individuals with apparent smoke surrounding it. The post stated, “Claims trump will destroy America as they go out and actually destroy America”. During his COPA interview, Officer Englehart related he was calling attention to how those who are anti-Trump have caused harm and denied that the post was racial.<sup>174</sup>

The post shows multiple black individuals riding in a car covered in writing and can reasonably be interpreted as implicating race. The statement was political in nature, but specifically depicted black individuals in relation to “destroying America,” which disparages black Americans. Officer Englehart’s intention in making such a post does not change the analysis in regard to the Department policy governing social media posts.

Department policy prohibits members from posting, displaying, or transmitting: any communication that discredit or reflect poorly on the Department, its missions, or goals; or content that is disparaging to a person or group based on race, religion, sexual orientation, or any other protected class. There is no inquiry as to whether the intent of the content is to disparage, but simply whether in effect it is disparaging. Because the post only depicts black people, it can be inferred that race was a factor in its message. Although the caption on the photo does not indicate race explicitly, there is no other context to indicate a racially neutral standpoint. However, the statement requires the First Amendment protections of a balancing test, as Officer Englehart was speaking as a private citizen on a matter of public concern. Nonetheless, the interest of the Department in promoting the efficiency of the public services it performs through its employees outweighs Officer Englehart’s First Amendment right to make the statement.

Officer Englehart has a strong interest in being able to make statements of a political nature. This post, however, was not only implicating political concerns, but also those of race relations and order. By sharing a post that implies black individuals are “destroying America” Officer Englehart post was against the Department’s interests in promoting trust within the community. Thus, Officer Englehart’s post violated Department policy and Rule 2, 3, and 6.

COPA finds Allegation #14, that Officer Englehart shared an inappropriate cartoon about immigration, is **sustained**. According to Officer Englehart, he was commenting on the cost of illegal immigration and denied he was talking about race and ethnicity.

The video in question depicts two families; one with white skin named John Legal and another with brown skin named Juan Illegal. The video goes on to make claims about the cost of illegal immigration.<sup>175</sup> The video itself perpetuates a negative stereotype about Latino immigrants by making a distinction based on skin color and legal immigration status. The post clearly implicates race by making an inflammatory statement in relation to an image of a non-white person, without directly stating anything about race. Race is not only implicated, but intentionally so, and the post is disparaging to racial minority and immigrant communities, both of which the Department is obligated to protect.

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<sup>174</sup> Att. 18: Pg. 17

<sup>175</sup> Att. 18: Pg. 11

The subject of the video speaks directly on an issue of public concern, and Officer Englehart's speech does not implicate his position as a police officer, making his post potentially protected by the First Amendment, and therefore subject to a balancing test.<sup>176</sup> Under a such an analysis, Officer Englehart's speech falls short of absolute protection. Although immigration is a matter on which debate is vital to informed decision making, the manner in which it's discussed is what is at issue here. There are no rules restricting Officer Englehart from discussing immigration or race. The restriction only prohibits him from doing so in a manner that disparages people based on their race. The post clearly makes a racial distinction between legal and illegal immigrants. This distinction is disparaging on its face, and Officer Englehart's interest in sharing the post does not outweigh the Department's interest in maintaining public trust that officers will treat them fairly, regardless of their race. Thus, Officer Englehart's post violated Department policy and Rules 2, 3, 6, and 32.

#### iv. Sergeant Keith Olson

COPA finds Allegation #1 against Sergeant Olson, that he posted "CPD is far from the problem, these little animal fucks have no respect for anything. At least the ghetto building on nw hwy is stalled," is **sustained**. Sergeant Olson made the comment in question in relation to a comment about the Department being a problem,<sup>177</sup>

At the time ██████████ identified the comment, Sergeant Olson was using the Facebook name ██████████ with ██████████ being Olson spelled backwards. Nothing in Sergeant Olson's post made it obvious he was associated with the Department. As ██████████ provided the content, COPA does not know if this post was available to everyone viewing the post at the time, nor can COPA confirm its source. Sergeant Olson told COPA that he was commenting on the bad behavior of local teenagers, did not identify himself as a Department member, was not speaking on behalf of the Department, and did not target his comment towards any specific individuals.

Sergeant Olson admitted in his interview with COPA that he was the commenter shown as ██████████. Sergeant Olson's comments were indicative of an animus towards members of a particular community and against people from low-income situations. The Department protects all people in the city, no matter their economic status or neighborhood. The use of the term "ghetto" carries connotations of both race and class, as well does the implication that children growing up in housing projects are "animals."<sup>178</sup> Racial minorities, especially black people, have been subjected to being called various pejoratives as a means of dehumanization since the days of slavery.

Sergeant Olson's comments were on a matter of public concern because they involved the building of low-income housing in a Chicago neighborhood. However, it is not his position on low-income housing that is at issue. It is his use of racially charged language in relation to residents

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<sup>176</sup> *Harnishfeger*, 943 F.3d at 1113

<sup>177</sup> Att. 11

<sup>178</sup> The term "ghetto" is used to refer to low-income areas where a large number of people are squeezed into a small amount of space to keep cost of living low. The term in the United States has a history of being used as a means of demeaning such living arrangements and the people that have to live there. *See* <https://time.com/5684505/ghetto-word-history/>

of low-income housing that the Department has an interest in prohibiting. The Department serves people from nearly every race, religion and socioeconomic background. In this instance, the Department's interest in maintaining public trust in its members to treat all citizens and visitors with respect outweighs Sergeant Olson's interest in being able to use such racially charged language on social media platforms. Sergeant Olson is not prohibited from speaking on issues of race or stating his opinions on low-income housing. However, he is prohibited from doing so in a manner that disparages people of groups based on their race or other protected class. Thus, Sergeant Olson's post violated Department policy and Rules 2, 3, 6, and 32.

#### v. Officer Scott Kniaz

When COPA reviewed Officer Kniaz's public Facebook profile, his profile picture was of the police solidarity symbol. Officer Kniaz also had posts referring to policing, and at one point stated, "we officers," in the context of a post about Chicago politics. Later in this same post, he also stated, in part, that police officers have, "been trying to get FOP to demand the city put officers in their Riot gear [...]." That being said, Officer Kniaz never explicitly said he was part of the Department in content identified by COPA.

COPA finds Allegation #1, that Officer Kniaz responded to an article about a break-in on Superintendent Eddie Johnson's vehicle with, "next week we'll see [REDACTED] wearing the boss's hat!" is **not sustained**. When [REDACTED] identified this post, Officer Kniaz's profile picture was of himself in Department uniform. Further, referring to Superintendent Eddie Johnson as the boss is a reference to him being Officer Kniaz's boss. As [REDACTED] provided the content, COPA does not know if this post was available to everyone viewing the post at the time, nor can COPA confirm its source. Officer Kniaz told COPA that he was making a joke about activist [REDACTED] self-reported connection to former Superintendent Eddie Johnson.<sup>179</sup>

Officer Kniaz's comment was made as a member of the Department, as indicated by his profile picture and his comment towards Superintendent Eddie Johnson as "the boss." However, his comments lack enough context to determine if they were disparaging based race or any other protected class. Thus, this allegation is **not sustained**.

COPA finds Allegation #2, that Officer Kniaz commented on a video of a black male protesting Laquan McDonald's death with, "well, let's just hope this case goes before a black judge, because if it goes before a white judge, then when the officer gets found not guilty, the city will burn," is **sustained**. When COPA identified this post, Officer Kniaz's profile picture was of a blue bar over a black background, which is a common symbol of police solidarity.<sup>180</sup> Officer Kniaz made this comment on the public Facebook page for WNG-TV reporter Erik Runge, suggesting the content was visible to all Facebook users. According to Officer Kniaz, this post was commentary on how the media highlights race and can be divisive. Officer Kniaz elaborated he was being satirical and did not intend to be taken literally.<sup>181</sup>

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<sup>179</sup> Att. 11

<sup>180</sup> Source: [https://en.wikipedia.org/wiki/Thin\\_blue\\_line](https://en.wikipedia.org/wiki/Thin_blue_line).

<sup>181</sup> Att. 45: Pgs. 2 – 3

In effect, Officer Kniaz' s comments were predicting public unrest if the officer who shot and killed Laquan McDonald was found not guilty of murder. In execution, Officer Kniaz' s comments were racially demeaning in relation to potential judge assignments to the case. The comment explicitly suggests that the race of the judge will play a role in their decision-making, and that people would not accept an undesired ruling from a non-black judge. The post was disparaging to both the potential judge and local communities based on race.

Because the comment involved widely discussed Department activity, the comment would qualify as one on a matter of public concern. The comment was made to a public audience on social media and involved issues of police conduct and the judicial process, which would bring a First Amendment balancing.<sup>182</sup> Under the test, Officer Kniaz' s interest in being able to disparage judges and communities based on their race is outweighed by the Department' s interest in maintaining public trust. Officer Kniaz is not prevented from speaking on issues of race, public unrest, or judges, but he cannot do so in a way that is disparages based on race or another protected class.<sup>183</sup> Thus, Officer Kniaz' post violated Department policy and Rules 2, 3, 6, and 32.

COPA finds Allegation #3 against Officer Kniaz, that he inappropriately commented on a video about Chicago protests is **sustained**. Officer Kniaz' comment stated, in part, "Oh, it's better then (sic) that. An officer got punched yesterday [...] Alderman Sawyer, and other members of the Black Caucus [...] protesting the arrest, and demanded the offender be released [...] It will not be long now until the war starts." Then went on to state, "it's illegal for use to strike. if it wasn't...." Officer Kniaz' s profile picture included the police solidarity symbol when he made these comments. Additionally, Officer Kniaz references Chicago politics and makes several statements, which insinuate that he is a Department member. COPA identified these posts on the public account for Blue Lives Matter, which was presumably visible to all Facebook users.<sup>184</sup> Officer Kniaz related that he was sharing information about protests and the Department and referring to a war between the police and those who are anti-police. Officer Kniaz denied having an opinion of the Black Caucus.

Officer Kniaz' s comments about Alderman Sawyer and the Black Caucus are not evidently disparaging based on race or any other protected class. Officer Kniaz was seemingly only stating the desires of these members of the city council and his disagreement with them. However, his comments warning of an impending "war" between police and protesters on the other hand, do implicate Department directives for online speech. The comment, either warning of or predicting a war between police and anti-police protesters, shows disdain for the people he is sworn to protect. Department members are prohibited from posting, displaying, or transmitting any communication that discredit or reflect poorly on the Department, its mission, or goals.<sup>185</sup> One of the Department' s goals is to maintain public trust and loyalty within its ranks.

Officer Kniaz' s comments are on a matter of public concern but were referring directly to issues related to his employment as a Department member. Because his comments a on a matter

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<sup>182</sup> *Harnishfeger*, 943 F.3d at 1113

<sup>183</sup> G09-01-06.

<sup>184</sup> Att. 45, pages 3 - 5

<sup>185</sup> *Id.*

of public concern, they fall under a First Amendment balancing.<sup>186</sup> However, his comments do not receive immunity under the First Amendment. His comments focus squarely on his role as a Department member, elude that the Department is at war with the people they are sworn to protect, and suggest that members want to and should strike. These issues speak directly to and can negatively impact trust in the Department and its goals.

Speaking of a “war” between the police and those that are anti-police weighs against the Department’s goal in maintaining public trust. The Department serves the people of Chicago in a protective capacity. The term war brings with it a number of connotations, not least of which is the expectation of violence. Suggestions of striking also weighs against the goal of maintaining public trust and loyalty within its ranks. Thus, Officer Kniaz’ s post violated Department policy and Rules 2, 3, 6, and 32.

#### vi. Officer Joseph Pekic

All allegations served to Officer Pekic were **unfounded**. COPA determined the posts were authored by Officer Pekic’s brother and published on the brother’s Facebook page.

#### vii. No Formal Allegations Served<sup>187</sup>

COPA found no misconduct from the below Department members following an independent review of available Facebook content. The content provided by the complainant, [REDACTED] was also determined to lack misconduct for these Department members. Therefore, COPA determined that the allegations against the following be **unfounded**.

- Lieutenant John Garrido III
- Sergeant Michael A. Anderson
- Sergeant Michael Nowacki
- Detective Adam Criscione
- Detective Jason Boettcher
- Officer Stephen Krause
- Officer Daniel Lardino
- Officer Joseph Lipa
- Officer Oswaldo Maldonado
- Officer Nick P. Spencer
- Officer Anne Belluomini
- Officer Michael Slowik

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<sup>186</sup> *Harnishfeger*, 943 F.3d at 1113

<sup>187</sup> This determination was based on COPA’s preliminary investigation.

**V. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS****a. Sgt. Kereakes****i. Complimentary and Disciplinary History**

Sgt. Kereakes has received 169 various awards and has no discipline in the last 5-years.

**ii. Recommended Penalty**

COPA has found that Sgt. Kereakes' actions violated Rules 2, 3, 6 and 32 by posing inflammatory and derogatory comments on Facebook. These comments speak for themselves and are in no way excusable for any Department members, let alone a supervisory member. Sgt. Kereakes' post directly call into question his ability to impartially enforce and direct the enforcement of the law. Sgt. Kereakes' comments directly disparaged members of the various communities the Department serves. For these reasons, combined with is complimentary and disciplinary history, COPA recommends Sgt. Kereakes receive a **minimum suspension of 120 days**.

**b. Officer Avalos****i. Complimentary and Disciplinary History**

Officer Avalos has received 50 various awards and has no discipline in the last 5-years.

**ii. Recommended Penalty**

COPA has found that Officer Avalos; actions violated Rules 2, 3, 6 and 32 by posing inflammatory and derogatory comments on Facebook. These comments speak for themselves and are in no way excusable for any Department members. Officer Avalos' post directly call into question his ability to impartially enforce the law. Officer Avalos' comments directly disparaged members of the various communities the Department serves. For these reasons, combined with is complimentary and disciplinary history, COPA recommends Officer Avalos receive a **minimum suspension of 60 days**.

**c. Officer Englehart****i. Complimentary and Disciplinary History**

Officer Englehart has received 15 various award and has no discipline in the last 5-years.

**ii. Recommended Penalty**

COPA has found that Officer Englehart's actions violated Rules 2, 3, 6 and 32 by posing inflammatory and derogatory comments on Facebook. These comments speak for themselves and are in no way excusable for any Department members. Officer Englehart's post directly calls into question his ability to impartially enforce the law. Officer Englehart's comments directly

disparaged members of the various communities the Department serves. For these reasons, combined with is complimentary and disciplinary history, COPA recommends Officer Englehart receive a **minimum suspension of 120 days**.

**d. Sgt. Olson**

**i. Complimentary and Disciplinary History**

Sgt. Olso has received 157 various awards and has no discipline in the last 5-years.

**ii. Recommended Penalty**

COPA has found that Sgt. Olson's actions violated Rules 2, 3, 6 and 32 by posing inflammatory and derogatory comments on Facebook. These comments speak for themselves and are in no way excusable for any Department members, let alone a supervisory member. Sgt. Olson's post directly call into question his ability to impartially enforce and direct the enforcement of the law. Sgt. Olson's comments directly disparaged members of the various communities the Department serves. For these reasons, combined with is complimentary and disciplinary history, COPA recommends Sgt. Olson **receive a minimum suspension of 120 days**.

**e. Officer Kniaz**

**i. Complimentary and Disciplinary History**

Officer Kniaz has received 83 various awards and has received one suspension in 2022 for Insubordination,<sup>188</sup> one Reprimand in 2020 for a preventable accident, and one SPAR in 2022 for missing a court appearance in the last 5-years.

**ii. Recommended Penalty**

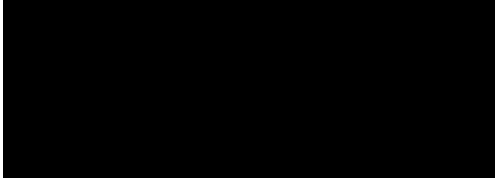
COPA has found that Officer Kniaz's actions violated Rules 2, 3, 6 and 32 by posing inflammatory and derogatory comments on Facebook. These comments speak for themselves and are in no way excusable for any Department members. Officer Kniaz's post directly call into question his ability to impartially enforce the law. Officer Kniaz's comments directly disparaged members of the various communities the Department serves. For these reasons, combined with is complimentary and disciplinary history, COPA recommends Officer Kniaz receive a **minimum suspension of 30 days**.

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<sup>188</sup> This was related to Log 2021.



Approved:



8/31/2022

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Matthew Haynam  
*Deputy Chief Administrator*

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Date