

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	February 2, 2018
Time of Incident:	Approximately 4:45pm
Location of Incident #1:	[REDACTED]
Location of Incident #2:	A Walgreens Store Located at 6310 N. Nagle, Chicago, IL.
Date of COPA Notification:	February 5, 2018
Time of COPA Notification:	8:09am

On February 2, 2018, at approximately 4:45pm, at [REDACTED] Sergeant Joseph Molina ("Sgt. Molina") had his two [REDACTED] and [REDACTED] [REDACTED] over for a weekend visit at his residence.¹ Sgt. Molina was having a discussion about teen gossip with [REDACTED] in her bedroom.² Sgt. Molina's live-in girlfriend, Officer Chere Katich, ("Officer Katich") was having the same discussion with her [REDACTED] [REDACTED] (" [REDACTED] in [REDACTED] bedroom. Officer Katich overheard the conversation in [REDACTED] room and interjected by making a comment that [REDACTED] did not like. In response, [REDACTED] called Officer Katich a "two-dollar whore." Sgt. Molina then struck [REDACTED] on the face and/or head multiple times. [REDACTED] threw a bowl of chili at a wall and refused to clean up the mess. Sgt. Molina struck [REDACTED] again and told [REDACTED] that she would get in trouble if she called the police. Sgt. Molina told [REDACTED] that she had to leave and dropped [REDACTED] off at Walgreens, the workplace of her [REDACTED], [REDACTED] (" [REDACTED] ³ [REDACTED] called the police after learning what occurred. Chicago Police Department ("CPD") Officers Andrew Napolitano ("Officer Napolitano") and Donald Beese ("Officer Beese"), and Sergeant Mark VanderPloeg ("Sgt. VanderPloeg") responded to the incident.

The Civilian Office of Police Accountability ("COPA") investigated and found by a preponderance of the evidence that Sgt. Molina did strike [REDACTED] on the face and/or head and did discourage [REDACTED] from making a complaint to the police. COPA also determined by a preponderance of the evidence that Sgt. VanderPloeg and Officers Napolitano and Beese failed to conduct a proper preliminary investigation.

¹ Sgt. Molina and the [REDACTED], [REDACTED] are in the process of getting a divorce. Sgt. Molina lives with his girlfriend, Officer Chere Katich, and her two [REDACTED], [REDACTED] and [REDACTED] in a two-story single-family house. Sgt. Molina has court approved visitation with his [REDACTED] who share a bedroom at Sgt. Molina's residence.

² The discussion was about social media gossip surrounding a rumor that one of [REDACTED] friends was going to fight [REDACTED]

³ [REDACTED] works as a [REDACTED] at a Walgreens store located near Sgt. Molina's current residence.

II. INVOLVED PARTIES

Involved Officer #1:	Sergeant Joseph Molina, #2042, Employee ID# [REDACTED] DOA: May 31, 1994, DOB: [REDACTED], 1968, Unit 016, Male, Hispanic
Involved Officer #2:	Sergeant Mark VanderPloeg, #1804, Employee ID# [REDACTED], DOA: July 27, 1998, DOB: [REDACTED], 1971, Unit 016, Male, White
Involved Officer #3:	Police Officer Andrew Napolitano, #8892, Employee ID # [REDACTED], DOA: [REDACTED] 1995, DOB: May 27, 1969, Unit 050, Male, White
Involved Officer #4:	Police Officer Donald Beese, #18662, Employee ID # [REDACTED], DOA: December 5, 1994, DOB: [REDACTED], 1968, Unit 016, Male, White
Involved Officer #5:	Police Officer Chere Katich, #9019, Employee ID# [REDACTED], DOA: November 15, 1999, DOB: [REDACTED], 1971, Unit 016 – Detailed to Unit 608, Female, White
Involved Individual #1	[REDACTED] DOB: [REDACTED], 1969, Female, Hispanic
Involved Individual #2:	[REDACTED] DOB: [REDACTED], 2001, Female, Hispanic
Involved Individual #3:	[REDACTED] DOB: [REDACTED], 2007, Female, Hispanic

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Sergeant Joseph Molina	It is alleged that on or about February 2, 2018, at approximately 4:45pm, at or near [REDACTED] [REDACTED] Sgt. Joseph Molina committed misconduct through the following acts or omissions: 1. Struck his [REDACTED] [REDACTED] on the face and/or head.	Sustained/15-day Suspension and Anger Management Counseling

	<p>2. Discouraged [REDACTED] from making a complaint to the police by implying that she would get into trouble if she called the police.</p>	<p>Sustained/10-day Suspension</p>
<p>Sergeant Mark VanderPloeg</p>	<p>It is alleged that on or about February 2, 2018, at approximately 5:10pm, at or near the Walgreens store located at 6310 N. Nagle Avenue, Sgt. Mark VanderPloeg committed misconduct through the following acts or omissions:</p> <p>1. Covered his body worn camera while [REDACTED] was telling him about misconduct that her [REDACTED] Sgt. Joseph Molina, allegedly committed against her.</p> <p>2. Failed to conduct a proper preliminary investigation into allegations made by [REDACTED] regarding misconduct that her [REDACTED], Sgt. Joseph Molina, allegedly committed against their [REDACTED], [REDACTED]</p>	<p>Sustained/10-day Suspension</p> <p>Sustained/5-day Suspension and re-training on domestic violence protocols</p>
<p>Officer Andrew Napolitano</p>	<p>It is alleged that on or about February 2, 2018, at approximately 4:45pm, at or near [REDACTED] Sgt. Joseph Molina committed misconduct through the following acts or omissions:</p> <p>1. Failed to conduct a proper preliminary investigation while responding to a call for service.</p>	<p>Sustained/10-day Suspension and re-training on domestic violence protocols</p>
<p>Officer Donald Beese</p>	<p>It is alleged that on or about February 2, 2018, at approximately 4:45pm, at or near [REDACTED] Sgt. Joseph Molina committed misconduct through the following acts or omissions:</p> <p>1. Failed to conduct a proper preliminary investigation while responding to a call for service.</p>	<p>Sustained/3-day Suspension and re-training on domestic violence protocols</p>

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 8 - Prohibits disrespect to or maltreatment of any person, while on or off duty.
2. 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.
3. Rule 6 - Prohibits disobedience of an order or directive, whether written or oral.

Directives

1. Domestic Incidents, General Order G04-04
 2. Preliminary investigations, General Order G04-01
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INVESTIGATION ⁴**V. Interviews**

██████████ ⁵

During interviews with COPA investigators on March 26, 2018 and July 16, 2018, ██████████ stated that Officer Katich entered her bedroom and told ██████████ that she did not want ██████████ involved in any gossip. ██████████ told Officer Katich that no one asked for her opinion. Sgt. Molina became upset with ██████████ comment to Officer Katich and struck ██████████ once on the head with a closed fist. ██████████ became angry and threw a bowl of chili across the bedroom.⁶ Sgt. Molina repeatedly struck ██████████ on the head, causing ██████████ to fall backward on her bed.⁷ Sgt. Molina then motioned toward ██████████ face with closed hand strikes, landing one of the strikes as ██████████ attempted to block them. ██████████ told Sgt. Molina that she could call the police to report him. Sgt. Molina told ██████████ that she would be get in trouble if she called the police. Fearing that she would be arrested, ██████████ did not call the police. ██████████ stated that Sgt. Molina took her cell phone from her and drove her to ██████████ workplace.⁸ ██████████ told ██████████ what occurred, and ██████████ called the police. ██████████ stated that she sustained redness to her left cheek that resulted from Sgt. Molina striking her on the face and sought medical treatment.

⁴ The following is a summary of the material evidence gathered and relied upon in our analysis.

⁵ Attachments 11, 12, 63 and 68.

⁶ The bowl of chili struck the wall and broke.

⁷ ██████████ was seated on the lower bunk of the bunkbed that she shares with ██████████

⁸ While en-route, ██████████ told Sgt. Molina that she did not like the way Sgt. Molina had been treating her and ██████████ since he started dating Officer Katich. Sgt. Molina told ██████████ that she was a kid and had no right to say anything about his relationship with ██████████ or with Officer Katich.

██████████⁹

During an interview with COPA investigators on May 31, 2018, ██████████ stated that she was downstairs in the living room when she heard her ██████████ Sgt. Molina, get angry and yell at ██████████. Specifically, ██████████ heard her ██████████ yell profanities and state, “what the heck is wrong with you” at ██████████. ██████████ also heard ██████████ yell profanities back at her ██████████ and heard ██████████ ask her ██████████ to stop touching her and to return her phone back to her. At some point, ██████████ went upstairs to the bedroom that she shares with ██████████ and observed chili and broken glass on the floor. ██████████ described Sgt. Molina as “really mad at [██████████] and observed Sgt. Molina throwing ██████████ belongings (her bag and sweater) down the stairs. ██████████ texted her mom, ██████████ and her other sister (██████████) telling both of them that Sgt. Molina was hitting ██████████. ██████████ stated that ██████████ appeared to be upset and as she exited the residence, ██████████ whispered to ██████████ to call the police. ██████████ saw a red mark on ██████████ face, but did not ask ██████████ where the red mark came from, nor did she call the police.

Officer Katich¹⁰

During an interview with COPA investigators on May 29, 2018, Officer Katich stated that she was talking to ██████████ in ██████████ bedroom when she overheard ██████████ in an adjacent bedroom ask Sgt. Molina why he believed ██████████ over her. Officer Katich also heard ██████████ refer to her as being a “two-dollar hooker.”¹¹ Officer Katich stated that she peeped out from ██████████ bedroom¹² and observed Sgt. Molina back out of ██████████ bedroom and a shattered bowl of chili. Officer Katich heard ██████████ direct profanity at Sgt. Molina and heard Sgt. Molina repeatedly instruct ██████████ to clean up the mess. ██████████ refused and continued to direct profanity at Sgt. Molina.

Officer Katich stated that she heard Sgt. Molina ask ██████████ who she was texting and instruct ██████████ to give him her cell phone. Officer Katich observed ██████████ repeatedly kick Sgt. Molina, throw a glass bottle at him, and heard ██████████ ask Sgt. Molina to give her back her cell phone. Sgt. Molina refused, telling ██████████ that he would return the phone after she cleaned up the mess. Officer Katich observed ██████████ chest bump Sgt. Molina, prompting Sgt. Molina to tell ██████████ that he was taking her to her mother’s house. Officer Katich stated that she did not observe Sgt. Molina initiate or engage in any physical contact with ██████████.

⁹ Attachment 42.

¹⁰ Attachment 35.

¹¹ Officer Katich stated that ██████████ made this comment about her because ██████████ could hear her talking to ██████████ in ██████████ bedroom.

¹² Officer Katich stated that she remained in ██████████ bedroom during the incident and only peeped out of the room a couple of times.

[REDACTED]

During an interview with COPA on May 31, 2018, [REDACTED] stated that [REDACTED] arrived at her workplace between 4:30pm-5:00pm, visibly upset.¹⁴ [REDACTED] told [REDACTED] that she and Sgt. Molina were talking about a rumor involving [REDACTED] and [REDACTED] when Officer Katich stepped inside the doorway of her bedroom and stated that she did not want [REDACTED] involved in the situation. [REDACTED] told Officer Katich that no one was talking to her and called Officer Katich a “two-dollar whore.” Officer Katich stepped away from the bedroom. Sgt. Molina became upset with [REDACTED] comment and struck [REDACTED] on the head/face. [REDACTED] became upset and Sgt. Molina exited the bedroom. [REDACTED] threw a glass bowl containing chili across the bedroom and the bowl broke. Sgt. Molina returned and told [REDACTED] to clean up the mess. [REDACTED] refused, and Sgt. Molina struck [REDACTED] on the head/face. [REDACTED] tried to defend herself by covering up her face and head and kicking in Sgt. Molina’s direction. [REDACTED] told [REDACTED] that the situation ended when Sgt. Molina grabbed [REDACTED] belongings, including her cell phone, and threw them down the stairs and told [REDACTED] that she had to leave. [REDACTED] complained to [REDACTED] of soreness to her head and nose.

Sgt. Molina¹⁵

During an interview with COPA on June 13, 2018, Sgt. Joseph Molina stated that while he was talking to [REDACTED] in her bedroom, [REDACTED] told him that she was upset because he believed [REDACTED] and Officer Katich over her. [REDACTED] then referred to Officer Katich, stating to Sgt. Molina words to the effect of, “tell that two-dollar whore to mind her own business,” and threw a bowl of chili at him. Sgt. Molina pulled the bedroom door shut and the bowl hit the wall behind the door. Sgt. Molina opened the door, re-entered [REDACTED] bedroom, instructed [REDACTED] to clean up the mess, and to apologize for the way she had been speaking. [REDACTED] told Sgt. Molina that he could not tell her what to do and again referred to Officer Katich as a “two-dollar whore.” Sgt. Molina stated that he tried to reprimand [REDACTED] by talking to her - telling her that there was no reason for her to talk like that. When [REDACTED] continued to refer to Officer Katich as a “two-dollar whore,” Sgt. Molina slapped [REDACTED] once on the left side of the face.¹⁶

During an interview with COPA on August 17, 2018, Sgt. Molina stated that [REDACTED] called Officer Katich a “two-dollar whore” and refused to apologize at his direction. Sgt. Molina stated that he slapped [REDACTED] once on the left side of her face as a form of corporal punishment to correct her behavior. [REDACTED] angrily looked at Sgt. Molina and continued to refer to Officer Katich as a “two-dollar whore.” Sgt. Molina backed away to exit the bedroom and continued to tell [REDACTED] to apologize. [REDACTED] threw the bowl of chili toward Sgt. Molina. Sgt. Molina pulled the door closed and the bowl of chili struck the wall behind the door. Sgt. Molina opened the door, re-entered the room, and told [REDACTED] to clean up the mess. [REDACTED] refused and continued to refer to Officer Katich as a “two-dollar whore.” Sgt. Molina retrieved a broom and continued to tell [REDACTED] to clean up the mess. [REDACTED] refused and continued with her verbal

¹³ Attachment 36.

¹⁴ [REDACTED] was crying, her cheeks were red, and she had a red mark on her face/nose.

¹⁵ Attachment 75.

¹⁶ The statement had to be terminated at this point because Inv. Sanders had to leave to testify in court. Sgt. Molina was rescheduled to provide a statement on a later date.

assault. Sgt. Molina slapped [REDACTED] a second time with an open hand on the left side of the face. [REDACTED] behavior did not change. [REDACTED] continued to refer to Officer Katich being a “two-dollar whore” and refused to clean up the mess. Sgt. Molina slapped [REDACTED] a third time on the left side of the face with an open hand.¹⁷ [REDACTED] laid on her bed with her cell phone in her hand and stopped talking to Sgt. Molina. Sgt. Molina attempted to grab the phone from [REDACTED] [REDACTED] struggled with Sgt. Molina for possession of the cell phone as she told Sgt. Molina that she was going to call her mother and the police. Sgt. Molina told [REDACTED] that she was going to clean up the mess before she made any calls and managed to gain possession of [REDACTED] phone. The momentum of grabbing the phone from [REDACTED] caused Sgt. Molina to fall backward to the floor and drop the phone. [REDACTED] began kicking Sgt. Molina on the back. Once to his feet, Sgt. Molina turned to face [REDACTED] and she attempted to chest bump him. Sgt. Molina told [REDACTED] that she had to leave, that she couldn’t stay there any longer, and needed to go back to her [REDACTED] residence. Sgt. Molina and [REDACTED] gathered her belongings and they left.¹⁸ During the drive, Sgt. Molina gave [REDACTED] back her cell phone and apologized to her for his actions. Sgt. Molina stated that it was a bad decision to slap [REDACTED] and that he never called the police because the situation was not a matter for the police to handle.

*Officer Napolitano*¹⁹

During an interview with COPA investigators on August 6, 2019, Officer Napolitano stated that after arriving at Walgreens he was directed to a rear breakroom where [REDACTED] told him that Sgt. Molina struck [REDACTED] Officer Napolitano’s immediate response was asking what [REDACTED] did to warrant being struck by her [REDACTED]²⁰ Officer Napolitano stated that he asked [REDACTED] to leave the room, though [REDACTED] was minor, because he thought [REDACTED] was skewing [REDACTED] account of what occurred. Officer Napolitano stated that when [REDACTED] told him that she wanted to file a complaint, he told that her to call IPRA because he was not at the rank to initiate a complaint.²¹ Officer Napolitano stated that all in all, his investigation consisted of asking [REDACTED] what happened and if she needed medical attention and radioing for a sergeant.²²

*Officer Beese*²³

Officer Besse stated that he was the assist unit and for this reason, he did not engage in conversation with [REDACTED] and [REDACTED] Officer Beese stated that while [REDACTED] was explaining what occurred, he heard [REDACTED] state that she was struck by her [REDACTED] because he became angry with her after she “mouthed off” to his [REDACTED]. Officer Besse indicated that it was improper for Officer Napolitano to automatically assume that [REDACTED] was in the wrong and that Officer Napolitano did not treat [REDACTED] like the victim. Officer Beese told investigators that as the assisting officer he could have intervened in the primary officer’s (Officer Napolitano)

¹⁷ Sgt. Molina said it was possible that he slapped [REDACTED] with enough force to cause redness to her face.

¹⁸ Sgt. Molina drove [REDACTED] to her [REDACTED] workplace because [REDACTED] told him that she did not have her house key.

¹⁹ Attachment 98, 99, 100, and 101.

²⁰ According to Officer Napolitano, when a parent disciplines a child, it means that the child automatically did something wrong to warrant such discipline.

²¹ Officer Napolitano stated that at some point, he radioed for a Sergeant.

²² Officer Napolitano stated that when he referred to [REDACTED] and [REDACTED] as “Asshole”, he thought his body worn camera was off and that he was having a private conversation with another officer.

²³ Attachment 105.

investigation, but he did not do so in this case – he believed that since a supervisor was coming there was no need to get further involved because the supervisor would ultimately decide what would happen.

Sgt. Mark VanderPloeg²⁴

In an Initiation Report dated February 2, 2018 and during an interview with COPA investigators on November 19, 2018, Sgt. Mark VanderPloeg stated that ██████ told him that Sgt. Molina struck ██████ during an altercation inside Sgt. Molina's²⁵ residence. More specifically, ██████ told Sgt. VanderPloeg that Sgt. Molina struck her on the head with his hand when she said something that he did not like about Officer Katich during an argument. After being struck, ██████ threw a bowl across the room. Sgt. Molina reacted by repeatedly striking ██████ on the face and head. ██████ told Sgt. VanderPloeg that her head hurt but declined medical treatment.²⁶ Sgt. VanderPloeg recalled ██████ asking ██████ to tell Sgt. Vanderploeg what Sgt. Molina said to her when he dropped her off; however, he did not recall ██████ or ██████ telling him that Sgt. Molina threatened ██████ if she called the police. Sgt. VanderPloeg stated that he inadvertently, repeatedly covered his body worn camera while talking with ██████ and ██████. Finally, when asked if it is okay for an upset ██████ to slap their kid around or punch them in the head, Sgt. Vanderploeg responds, "No."²⁷

a. Digital Evidence

Body Worn Camera ("BWC")

BWC worn by Officer Napolitano captures a Walgreens employee telling Officer Napolitano that ██████ and ██████ are in the back of the store and that ██████ complained that she was hit by her ██████. Officer Napolitano then tells the Walgreens employee that it is not a crime for a parent to hit their child and asks the employee if ██████ is "beat up." The employee states that ██████ has a welt on her face. Officer Napolitano asks the employee what ██████ did to deserve such treatment and states that corporal punishment is legal.

Next, Officer Beese joins Officer Napolitano and they walk together towards the rear of the store. As the two officers walk, Officer Napolitano explains to Officer Beese that corporal punishment is legal, that there is no crime there, and that a parent can hit their kid (elaborating that a parent cannot beat their kid to death, but a parent can spank their kid).

Once the officers arrive at the employee breakroom in the rear of the store, ██████ greets Officers Napolitano and Beese. ██████ then informs the officers that ██████ got into an argument with her ██████.²⁸ Officer Napolitano then repeatedly asks ██████ what she did to deserve such treatment and repeatedly tells ██████ that corporal punishment is legal – that a parent can discipline their kid. ██████ repeatedly tells Officer Napolitano that she wants a CR number,

²⁴ Attachments 6 and 86.

²⁵ Sgt. VanderPloeg stated that he and Sgt. Molina work in the same district but do not really know each other.

²⁶ Sgt. VanderPloeg did not observe any injury to ██████.

²⁷ Att. 86 at 25:50

²⁸ ██████ identified ██████ as Sgt. Molina of the 016th District, who is also her estranged husband.

stating that Sgt. Molina should not have touched [REDACTED]. When Officer Napolitano asks [REDACTED] why her [REDACTED] spanked her, [REDACTED] interrupts Officer Napolitano and tells him that Sgt. Molina did not spank [REDACTED] – that he hit her upside the head and on the face. Officer Napolitano repeatedly asks [REDACTED] to step out of the breakroom so that he and Officer Beese can talk to [REDACTED]. [REDACTED] repeatedly refuses. Officer Napolitano tells [REDACTED] that he cannot do anything, that he's not going to talk to her anymore, and that he is going to wait for his sergeant.

After a brief moment, Officer Napolitano asks [REDACTED] how old she is and what happened. [REDACTED] tells him that she is 16. [REDACTED] explains that Officer Katich interjected in a conversation that she was having with [REDACTED] Sgt. Molina. [REDACTED] told Officer Katich that no one cared about her opinion. Sgt. Molina became angry with [REDACTED] comment. [REDACTED] and Sgt. Molina began arguing. During the argument, Sgt. Molina repeatedly struck [REDACTED] on the head and in the face with either his fist or an open hand.²⁹ [REDACTED] expressed that she could press charges. Officer Napolitano told [REDACTED] that she could not press charges because what occurred was not illegal and advised [REDACTED] to contact IPRA or COPA.

Officers Napolitano and Beese exited the breakroom to wait for Sgt. VanderPloeg. While the two are walking together toward the front of the Walgreens store, Officer Napolitano refers to [REDACTED] and/or [REDACTED] by telling Officer Beese “She’s bullshitting. There’s no marks on her face. Corporal punishment it legal. It’s legal to hit your kid. You can’t hit them with a toaster.”

Sgt. VanderPloeg arrives, and Officer Napolitano explains the situation to him. Sgt. VanderPloeg, Officer Napolitano, and Officer Beese return to the breakroom wherein [REDACTED] tells Sgt. VanderPloeg what happened.³⁰ Officers Napolitano and Beese exit the breakroom. Officer Napolitano tells Officer Beese that [REDACTED] and [REDACTED] are assholes, and says to Officer Beese, in reference to [REDACTED] “You throw a bowl across a room and you think nothing’s gonna happen. Fuck you.”

The body worn camera worn by Sgt. VanderPloeg depicts [REDACTED] reiterating her account to Sgt. VanderPloeg., adding that she became angry and threw a bowl across the room. Sgt. Molina returned to her bedroom and struck [REDACTED] about the head and face. Sgt. Molina also took [REDACTED] cell phone from her and told her to leave.³¹ [REDACTED] asked [REDACTED] to tell Sgt. VanderPloeg what Sgt. Molina said to her about calling the police. As [REDACTED] was responding, Sgt. VanderPloeg placed his clipboard in front of his body worn camera and talked over [REDACTED]. [REDACTED] could still be heard telling Sgt. VanderPloeg that Sgt. Molina told her that she would get in trouble if she called the police.³²

²⁹ [REDACTED] stated that she refused to apologize to Officer Katich because she did not think that she did anything wrong. [REDACTED] explained to Officer Napolitano and Officer Beese that Officer Katich never talks nicely to her and always gives her dirty looks.

³⁰ Officer Napolitano asks Sgt. VanderPloeg if he should give [REDACTED] the telephone number to COPA. Sgt. VanderPloeg tells Officer Napolitano no – that he (Sgt. VanderPloeg) is responsible for registering the complaint.

³¹ [REDACTED] told Sgt. VanderPloeg that Sgt. Molina returned her cell phone to her when he dropped her off at her mother’s workplace.

³² Att. #47, #48.

b. Physical Documentary Evidence***Chicago Police Reports***

The related Original Case Incident Report, RD#JB139028, documented that ██████ stated that she was arguing with her ██████ Sgt. Molina, when he struck her on the face. ██████ became angry and threw a bowl across her bedroom. Sgt. Molina struck ██████ on the face a few more times and then dropped ██████ off at her mother's workplace.³³

In part, the related Supplementary Report, JB#139028, documented the accounts of ██████, ██████, and Sgt. Molina. ██████ told detectives that while she and Officer Katich were inside her bedroom with the door closed, she heard ██████ yelling at Sgt. Molina and call Officer Katich a hooker. ██████ heard something break and heard Sgt. Molina tell ██████ to apologize and clean up the mess. ██████ refused. ██████ and Sgt. Molina then left the residence.

██████ told detectives that he and ██████ were downstairs together when they heard ██████ and Sgt. Molina arguing upstairs and a crashing sound. During the argument, ██████ heard ██████ yell that she could call the police and Sgt. Molina responded by yelling that he could also call the police. Moments later, ██████ observed ██████ and Sgt. Molina exit the residence.

Sgt. Molina told detectives that he slapped ██████ the first time because she refused to apologize for calling Officer Katich a two-dollar whore. Sgt. Molina told detectives that he slapped ██████ two more times on the face, causing her to fall on her bed, after ██████ refused to clean up the mess from the thrown bowl of chili. Sgt. Molina told detectives that ██████ took out her cell phone and he took it from her. ██████ attempted to kick Sgt. Molina in the groin. Sgt. Molina turned away and felt pain to his lower back from a bottle that ██████ threw at him. Sgt. Molina told detectives that he told ██████ that she had to leave. They both exited the residence and Sgt. Molina dropped ██████ off at her mother's workplace.³⁴

VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

³³ Att. #17.

³⁴ Att. #18, #32.

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

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. *See e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

VII. ANALYSIS

Sgt. Molina

COPA finds that Sgt. Molina's act of striking his [REDACTED], [REDACTED] in the face met the threshold for domestic battery. Therefore, COPA reached a finding of Sustained for Allegation 1.

Domestic Battery

Under Illinois law, a person commits domestic battery if he or she knowingly, *without legal justification*, by any means: (1) causes bodily harm to any family or household member; or (2) makes physical contact of an insulting or provoking nature with any family or household member.³⁵ It is factually clear from the evidence that [REDACTED] is the [REDACTED] of Sgt. Molina and that Sgt. Molina struck [REDACTED] on the face multiple times. Importantly, Sgt. Molina does not deny that he struck his [REDACTED]; Instead, Sgt. Molina maintains he was justified in striking his [REDACTED] as a form of corporal punishment.

Corporal Punishment

Corporal punishment meets the threshold for domestic battery or abuse when it exceeds the bounds of "reasonableness."³⁶ *People v. Ball*, 58 Ill. 2d 36, 39 (1974) Reasonableness is, ultimately, a heavily fact-specific determination. *People v. Karen P. (In the Interest of J.P.)*, 294 Ill. App. 3d 991, 1002 (1st Dist. 1998) ("cases involving the adjudication of abuse, neglect, and

³⁵ 720 ILCS 5/12-3.2(a)

³⁶ Illinois courts apply the same reasonableness analysis to corporal punishment cases regardless of whether the claim is abuse or battery. *People v. West* explains that "[a] parent who utilizes corporal punishment exceeding the boundaries of reasonableness may, depending on the circumstances, be subject to prosecution for cruelty to children, [various forms of battery], or reckless conduct. Additionally, the child may be found to be a neglected minor as the result of an environment injurious to the child's welfare, or an abused minor as the result of the infliction of excessive corporal punishment." 261 Ill. App. 3d at 894, 898 (4th Dist. 1994) (citations omitted). *See also People v. Karen P. (In the Interest of J.P.)*, 294 Ill. App. 3d 991, 1002-04 (1st Dist. 1998) (citing battery cases as sources of authority on "'excessive' or 'unreasonable' corporal punishment" in adjudicating an abuse claim).

wardship are *sui generis*; that is, each case must be decided on its own distinct set of facts and circumstances”) (citing *In re Edricka C.*, 276 Ill. App. 3d 18, 25 (1995)). Illinois courts have relied on several factors in corporal punishment reasonableness analyses, including:

- “the fact any physical injury resulted from the discipline” (*People v. West (In re F.W.)*, 261 Ill. App. 3d at 903)
- “the degree of physical injury inflicted upon the child” (*People v. Parrott*, 2017 IL App (3d) 150545, ¶ 25)
- “the psychological effects of the discipline on the child” (*People v. West (In re F.W.)*, 261 Ill. App. 3d at 903)
- “the circumstances surrounding the ‘discipline,’ including whether the parent was calmly attempting to discipline the child or whether the parent was lashing out in anger” (*id.*)
- whether the discipline was “vicious or for other than disciplinary reasons” (*In the Interest of Aaronson*, 65 Ill. App. 3d 729, 732 (3rd Dist. 1978))
- whether the child “appeared happy and unaffected after being disciplined” (*People v. Karen P. (In the Interest of J.P.)*, 294 Ill. App. 3d at 1005)
- whether other means of discipline have been exhausted (*People v. McClendon (In re S.M.)*, 309 Ill. App. 3d 702, 704 (4th Dist. 2000) (holding that a “whooping” with a belt that left extensive bruising on the arms and upper thighs was not excessive in light of the minor’s incorrigible delinquent behavior, her parents’ attempts to curb it in other ways, and the fact that the punishment was “given in a concerned, caring manner” rather than in “vengeance”))

Fundamental to our determination in this case is whether Sgt. Molina calmly disciplined [REDACTED] by slapping her as a form of corporal punishment, or if the repeated strikes to [REDACTED] face were more akin to an act of vengeance, anger. We find that latter to be true. Significantly, the interview of [REDACTED] provides context of the situation giving rise to the physical confrontation. [REDACTED] described a situation where Sgt. Molina and [REDACTED] yelled profanities at each other. She further overheard [REDACTED] asking Sgt. Molina for her phone back to stop touching her. This verbal altercation drew [REDACTED] from the downstairs living room to [REDACTED] upstairs bedroom where [REDACTED] saw broken glass and chili on the floor. She further witnessed Sgt. Molina throwing some of [REDACTED] belongings down the stairs. When considering [REDACTED] observations, along with Sgt. Molina’s admission that he struck [REDACTED] on the face multiple times, we doubt a situation occurred where Sgt. Molina yelled profanities at [REDACTED] calmly struck [REDACTED] multiple times as a form of corporal punishment, and then proceed to throw [REDACTED] belonging down the stairs. Conversely, we believe the evidence demonstrates what most likely occurred was a domestic altercation which was fueled by anger. Anger which manifested with Sgt. Molina lashing out and striking [REDACTED]. Furthermore, [REDACTED] claimed injury to her face, which was observed near in time to the incident by [REDACTED] as redness on [REDACTED] face. [REDACTED] also described [REDACTED] as upset during the encounter, an observation which hints at the possible negative psychological effects from such a physical encounter with your [REDACTED]

In sum, when considering these factors, COPA finds that Sgt. Molina’s motivation for striking his daughter was anger and not reasonable corporal punishment. Therefore, COPA reached a finding of sustained for allegation 1 against Sgt. Molina.

Dissuaded ██████████ From Calling the Police

COPA finds by a preponderance of the evidence that Sgt. Molina discouraged ██████████ from making a complaint to the police by implying that she would get in trouble if she called the police and taking her phone away.

During her interview with COPA investigators, ██████████ said she told Sgt. Molina that she could call the police to report him, and that Sgt. Molina told ██████████ that if she called the police, she would be the one to get in trouble. The evidence further shows that Sgt. Molina took steps beyond verbal threats – he took ██████████ phone away from her during the altercation and did not return the phone until ██████████ was dropped off at Walgreens. Furthermore, the body worn camera footage captures ██████████ trying to tell Sgt. VanderPloeg that Sgt. Molina told her that she would get in trouble if she called the police. Finally, ██████████ asked ██████████ to call the police on her behalf, which supports her being fearful of calling the police and/or not having the ability to call the police, since Sgt. Molina had taken her phone.

For these reasons, we find that Sgt. Molina more likely than not verbally and physically dissuaded ██████████ from notify CPD of the incident. Therefore, COPA reached a finding of sustained for allegation 2 against Sgt. Molina.

Sgt. VanderPloeg

Blocking His BWC

COPA finds by a preponderance of the evidence that Sgt. VanderPloeg covered his body worn camera while ██████████ alleged misconduct that Sgt. Molina committed against her.

Contrary to Sgt. VanderPloeg's denial, in that, he repeatedly, and inadvertently, moved his clipboard in front of this body camera throughout his interview, we find that at this particular moment Sgt. VanderPloeg's placement of his clipboard to be more likely than not intentional.

First, ██████████ is definitely heard on the BWC asking ██████████ to tell Sgt. VanderPloeg what Sgt. Molina said would happen if ██████████ called the police. Only once ██████████ began to explain what Sgt. Molina said did Sgt. VanderPloeg block his camera *as he immediately began to interrupt and speak over ██████████* Soon thereafter, ██████████ accused Sgt. VanderPloeg of intentionally covering his body worn camera as ██████████ can still be heard telling Sgt. VanderPloeg that Sgt. Molina told her that she would get in trouble if she called the police.

Failure to Properly Interview ██████████

Despite, Sgt. VanderPloeg covering his BWC and talking over ██████████ as she tried to explain that her ██████████ attempted to dissuade her from calling the police, Sgt. VanderPloeg never asked ██████████ a single question regarding these additional allegations of misconduct, nor were they included in the Initiation Report prepared by Sgt. VanderPloeg. It is clear from the BWC that both ██████████ and ██████████ attempted to explain to Sgt. VanderPloeg that Sgt. Molina attempted to

dissuade [REDACTED] from reporting the domestic violence incident to the police and Sgt. VanderPloeg never acted on or documented this additional complaint of misconduct.

Failure to Arrest Sgt. Molina

First, CPD domestic violence policy provides, "If there is probable cause to believe that a person has committed a crime of domestic violence, *the preferred response of the officer is the arrest of the offender.*"³⁷ Second, this same policy provides, "The victim's refusal to sign a complaint, in and of itself, does not defeat probable cause to arrest."

During his interview, Sgt. Molina told investigators that it was not okay for an upset parent to slap or punch their child's face. Being that Sgt. VanderPloeg was confronted with a complaint of domestic violence by [REDACTED] and [REDACTED] that [REDACTED] slapped [REDACTED] face, we fail to understand why Sgt. VanderPloeg did not take the CPD's preferred course of action and arrest the offender, Sgt. Molina.

For the reasons stated above, we find that Sgt. VanderPloeg failed on multiple levels to comport with CPD policy by failing to "conduct a thorough and accurate investigation" and failing to "convey a sense of concern and general interest to all persons in need of police service."³⁸ Therefore, COPA reached a finding of sustained for allegations 1 and 2 against Sgt. VanderPloeg.

Officer Napolitano

Failure to Investigate

COPA finds that Officer Napolitano failed to conduct a proper preliminary investigation while responding to a call for service.

As stated above, CPD policy mandates that officers "conduct a thorough and accurate investigation" and "convey a sense of concern and general interest to all persons in need of police service." As is evident from the BWC, Officer Napolitano, without full knowledge of what occurred and even before he interviewed [REDACTED] is undoubtedly dismissive of [REDACTED] complaint of domestic violence by initially entering the Walgreens store and telling the first Walgreens employee in sight that it is not a crime for a [REDACTED] to hit their [REDACTED]. Officer Napolitano's swift judgment and level of assumption is staggering. Almost immediately upon speaking with [REDACTED] Office Napolitano seemingly blames [REDACTED] for her [REDACTED] actions asking by asking [REDACTED] what she did to deserve getting hit by her [REDACTED] Officer Napolitano's course of investigation was grossly lazy and incompetent, not even remotely approaching a proper investigation. Accordingly, COPA reached a finding of sustained for allegation 1 against Officer Napolitano.

³⁷ Domestic Incidents, General Order G04-04.

³⁸ Preliminary investigations, General Order G04-01

Officer Beese

Failure to Investigate

Officer Beese’s role as an assisting officer will not relieve him of any wrongdoing in this case. BWC establishes that Officer Beese was present thought out the incident with ample opportunity to ask [REDACTED] and [REDACTED] questions and to offer his opinion (privately among other officers or before the complaint) on how to proceed and resolve the situation. Moreover, Officer Beese admitted to COPA investigators that as an assisting unit he could have intervened in Officer Napolitano’s investigation, but he did not do so in this case because a supervisor was on his way. Officer Beese’s choice to take a passive role and rely on Officer Napolitano’s investigation and the decision making of a supervisor does not lessen his affirmative duty to conduct a thorough and accurate investigation and convey a sense of concern and general interest to all persons in need of police service. Accordingly, COPA reached a finding of sustained for allegation 1.

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Sergeant Joseph Molina	<p>It is alleged that on or about February 2, 2018, at approximately 4:45pm, at or near [REDACTED] [REDACTED] Sgt. Joseph Molina committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1.Struck his [REDACTED], [REDACTED] on the face and/or head. 2.Discouraged [REDACTED] from making a complaint to the police by implying that she would get into trouble if she called the police. 	<p>Sustained/15-day Suspension and Anger Management Counseling</p> <p>Sustained/10-day Suspension</p>
Sergeant Mark VanderPloeg	<p>It is alleged that on or about February 2, 2018, at approximately 5:10pm, at or near the Walgreens store located at 6310 N. Nagle Avenue, Sgt. Mark VanderPloeg committed misconduct through the following acts or omissions:</p>	

	1.Covered his body worn camera while [REDACTED] was telling him about misconduct that her [REDACTED] Sgt. Joseph Molina, allegedly committed against her.	Sustained/10-day Suspension
	2.Failed to conduct a proper preliminary investigation into allegations made by [REDACTED] regarding misconduct that her husband, Sgt. Joseph Molina, allegedly committed against their daughter, [REDACTED]	Sustained/5-day Suspension and re-training on domestic violence protocols
Officer Andrew Napolitano	It is alleged that on or about February 2, 2018, at approximately 4:45pm, at or near [REDACTED] Sgt. Joseph Molina committed misconduct through the following acts or omissions: 1.Failed to conduct a proper preliminary investigation while responding to a call for service.	Sustained/10-day Suspension and re-training on domestic violence protocols
Officer Donald Beese	It is alleged that on or about February 2, 2018, at approximately 4:45pm, at or near [REDACTED] Sgt. Joseph Molina committed misconduct through the following acts or omissions: 1.Failed to conduct a proper preliminary investigation while responding to a call for service.	Sustained/3-day Suspension and retraining on domestic violence protocols

IX. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Sergeant Joseph Molina

- i. Complimentary and Disciplinary History:** Democratic National Convention Award, 1; Problem Solving Award, 1; Emblem of Recognition – Physical Fitness, 6; Presidential Election Deployment Award, 1; Attendance Recognition Award, 4; Honorable Mention, 214; Department

Commendation, 11; 2004 Crime Reduction Ribbon, 1; Complimentary Letter, 3; NATO Summit Service, 1; 2009 Crime Reduction Award, 1. No relevant disciplinary history within the past 5 years.

Recommended Penalty, by Allegation

1. **Allegation No. 1:** Struck his [REDACTED] [REDACTED] on the face and/or head.

COPA recommends a 15-day suspension and anger management counseling for Sgt. Molina. As set forth in our analysis, there is ample evidence to suggest that these actions were not a lawful or appropriate exercise of parental discipline. To the contrary, the evidence suggests that Sgt. Molina acted out of anger and frustration and committed acts that could have resulted in criminal prosecution. Accordingly, COPA recommends both a 15-day suspension and counseling, to address Sgt. Molina's anger management.

2. **Allegation No. 2:** Discouraged [REDACTED] from making a complaint to the police by implying that she would get into trouble if she called the police.

COPA finds these actions constitute serious misconduct. The Illinois legislature enacted laws to prevent the interference with a domestic violence victim's right to seek help from emergency services. While Sgt. Molina's actions may not have risen to the level of criminal interference, his words were certainly intended to create a chilling effect on his daughter as she grappled with the already difficult choice of whether to call for help against her [REDACTED]. Accordingly, COPA recommends a suspension for 10 days.

b. Sgt. Mark VanderPloeg

- i. **Complimentary and Disciplinary History:** Attendance Recognition Award, 5; Presidential Election Deployment Award 2008, 1; Emblem of Recognition – Physical Fitness, 8; 2004 Crime Reduction Ribbon, 1; Department Commendation, 1; Honorable Mention, 39; Complimentary Letter, 5; Police Officer of the Month Award, 1; NATO Summit Service Award, 1; 2009 Crime Reduction Award, 1. No relevant disciplinary history within the past 5 years.

ii. Recommended Penalty, by Allegation

1. **Allegation No. 1:** Covered his body worn camera while [REDACTED] [REDACTED] was telling him about misconduct that her [REDACTED] Sgt. Joseph Molina, allegedly committed against her.

COPA finds Sgt. VanderPloeg's actions constitute serious misconduct. Properly recording of all "law enforcement activities" is of tantamount importance. Particularly when members of the public are making allegations against a fellow police officer. Accordingly, COPA recommends a 10-day suspension.

2. **Allegation No. 2:** Failed to conduct a proper preliminary investigation into allegations made by [REDACTED] regarding misconduct that her [REDACTED], Sgt. Joseph Molina, allegedly committed against their daughter, [REDACTED]

While COPA acknowledges that Sgt. VanderPloeg conducted a thorough interview with respect to [REDACTED] battery allegations, he failed to follow up on or document the allegations relative to Sgt. Molina's attempt to dissuade her from calling the police. COPA recommends a 5-day suspension and re-training on domestic violence protocols.

c. Officer Andrew Napolitano

- i. **Complimentary and Disciplinary History:** Democratic National Convention Award, 1; Problem Solving Award, 1; Attendance Recognition Award, 1; Presidential Election Deployment Award 2008, 1; 2004 Crime Reduction Ribbon, 1; Department Commendation, 3; Honorable Mention, 63; Complimentary Letter, 11; Life Saving Award, 1; NATO Summit Service Award, 1; 2009 Crime Reduction Award, 1. No relevant disciplinary history within the past 5 years.
- ii. **Recommended Penalty, by Allegation**

1. **Allegation No 1:** Failed to conduct a proper preliminary investigation while responding to a call for service.

COPA strongly condemns the manner in which P.O. Napolitano conducted the entirety of his civilian interactions in this case. P.O. Napolitano's language and tone in speaking to [REDACTED] failed to convey a sense of concern, minimized her allegations, and ultimately resulted in his failure to conduct a proper preliminary investigation. COPA recommends a 10-day suspension and re-training on domestic violence protocols.

d. Officer Donald Beese

- i. **Complimentary and Disciplinary History:** Deployment Operations Center Award, 1; Democratic National Convention Award, 1; Attendance Recognition Award, 2; Emblem of Recognition – Physical Fitness, 8; Other Awards, 1; Presidential Election Deployment Award 2008, 1; 2004 Crime

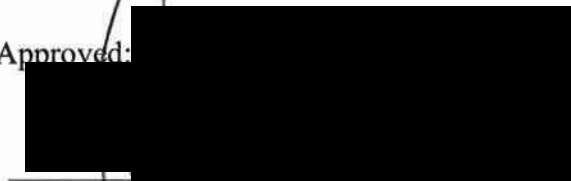
Reduction Ribbon, 1; Department Commendation, 11; Honorable Mention, 233; Complimentary Letter, 9; Life Saving Award, 1; NATO Summit Service Award, 1; 2009 Crime Reduction Award, 1. No relevant disciplinary history within the past 5 years.

ii. Recommended Penalty, by Allegation

- 1. Allegation No 1:** Failed to conduct a proper preliminary investigation while responding to a call for service.

COPA finds that P.O. Beese recognized that P.O. Napolitano was failing to conduct a proper preliminary investigation and failed to intervene. COPA finds it mitigating that P.O. Beese acknowledge this in his interview, however he is not completely absolved of responsibility. Accordingly, COPA recommends a 3-day suspension and re-training on domestic violence protocols.

Approved:



Andrea Kersten
Deputy Chief Investigator

Date 1/27/20

Appendix A

Assigned Investigative Staff

Squad#:	3
Investigator:	Erica D. Sanders
Supervising Investigator:	Matthew Haynam
Deputy Chief Administrator:	Andrea Kersten