

**SUMMARY REPORT OF INVESTIGATION**

Date/Time/Location of Incident:	April 15, 2021 at 7:30 a.m. at [REDACTED]
Date/Time of COPA Notification:	April 15, 2021 at 5:15 p.m.
Involved Officer #1:	Andrew Gasca, Star #829, Employee ID# [REDACTED], Date of Appointment: October 26, 1998, Sergeant, Unit of Assignment 007/057, DOB: [REDACTED], 1975, Male, Hispanic
Involved Officer #2:	Marie Gasca, Star #6294, Employee ID# [REDACTED], Date of Appointment: July 8, 1996, Police Officer, Unit of Assignment: 166, DOB: [REDACTED], 1970, Female, White
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 2006, Female, White
Involved Individual #2:	[REDACTED] DOB: [REDACTED], 1975, Female, White
Involved Individual #3:	[REDACTED] Female, White
Case Type:	Domestic Violence

**I. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding</b>
Officer Andrew Gasca	1. On or about April 15, 2021, at approximately 7:30 a.m. at or near [REDACTED], Chicago, IL, Sgt. Andrew Gasca placed his hand on [REDACTED] neck without justification.	Sustained
	2. On or about April 15, 2021, at approximately 7:30 a.m. at or near [REDACTED], Chicago, IL, Sgt. Andrew Gasca struck [REDACTED] with an open hand without justification.	Sustained
	3. On or about April 15, 2021, at approximately 7:30 a.m. at or near [REDACTED], Chicago, IL, Sgt. Andrew Gasca pushed [REDACTED] without justification.	Sustained

## II. SUMMARY OF EVIDENCE<sup>1</sup>

On April 15, 2021, ██████████ (hereafter ██████████) told her counselor at school that her ██████████ Sgt. Andrew Gasca (hereafter Sgt. Gasca) had made physical contact with her that morning prior to going to school. At the time of the incident, ██████████ was a ██████████ at ██████████ ██████████. In ██████████ statement to COPA on June 9, 2021, she related that she and ██████████ ██████████ are on a rotating schedule for their vacuuming chores.<sup>2</sup> On April 15, 2021, ██████████ lied to her ██████████ Sgt. Gasca, about vacuuming the day before. ██████████ lied and said she completed the vacuuming because she thought if she told him that she did not do it, then he would not let her friend come over after school. Sgt. Gasca asked ██████████ multiple times if she had completed the vacuuming, and he then asked one of her ██████████ if ██████████ had completed it, and they said “no.” ██████████ related that her ██████████ got mad in the moment, grabbed the front of her neck area with one hand, and told her to never lie again. Sgt. Gasca then “smacked” her three times on her head about her temple area with an open hand.<sup>3</sup> ██████████ and her ██████████ were in the hallway upstairs in their house, facing each other. ██████████ was standing right by the wall, and she was unsure if ██████████ pushed her against the wall or if she backed up into the wall.<sup>4</sup> When asked if her ██████████ applied pressure to her neck, she stated he did not and that her breathing was not restricted.<sup>5</sup> During the incident, her ██████████ kept telling her “Don’t lie.” ██████████ related there were no marks or injuries on her, and she was not in any pain from the incident. ██████████ stated this is the fifth time she has been caught lying. Sgt. Gasca then drove ██████████ and ██████████ to school and they did not discuss the incident in the car.<sup>6</sup>

When ██████████ was in class at school, she was thinking about the incident and started crying. She went to the bathroom and the dean, now known as Ms. ██████████ (hereafter Ms. ██████████) came to check on ██████████ Ms. ██████████ asked ██████████ if she was alright, to which she said “yes.” Ms. ██████████ came back to the bathroom approximately ten minutes later and took ██████████ to the counselor’s office, now known as Ms. ██████████ (hereafter Ms. ██████████) told Ms. ██████████ what happened, and Ms. ██████████ told her that every child lies and that she would most likely call ██████████ mother and Department of ██████████ and Family Services (DCFS). After school, Sgt. Gasca drove ██████████ home and told her that someone at his work had called him about the incident. A woman from DCFS came to their house later that day when Sgt. Gasca was at work, and she spoke to ██████████ and her ██████████ Officer Marie Gasca. Ms. ██████████ emailed ██████████ a week later and asked to meet with her, and ██████████ told her she did not need to. ██████████ related that there has never been an incident like this with either of her parents before.

In **Officer Marie Gasca’s** statement with COPA on June 9, 2021, she related that she is married to Sgt. Gasca and they have ██████████ together.<sup>7</sup> Both she and her husband enforce consequences if the ██████████ do not complete their chores, depending on who is home at the time

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<sup>1</sup>COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence.

<sup>2</sup> Att. 8

<sup>3</sup> ██████████ related that she was “smacked” two times on one side of her head and one time on the other side of her head.

<sup>4</sup> Att. 8 at 22:07-22:47

<sup>5</sup> Att. 8 at 7:55-8:08

<sup>6</sup> ██████████ stated that both her ██████████ were in the home but on the ground level of the house when the incident occurred, so neither of them heard or saw the incident take place.

<sup>7</sup> Att. 9

that it is discovered chores were not completed. The consequences typically consist of being yelled at, having their electronics taken away, being grounded, not allowing friends to come over, and extra chores being assigned. Officer Marie Gasca stated that the consequences have never been physical, other than she has given the kids a flick with her finger on the top of the head before. She explained that catching [REDACTED] lie about not completing her chores seems to be a reoccurring incident because they need to be done every day.

Officer Marie Gasca was at work on the morning of April 15, 2021. Sgt. Gasca called her shortly after he dropped the kids off at school to tell her that they needed to have a talk with [REDACTED] because she lied to him again and he was “fed up” with her lying. The school counselor, Ms. [REDACTED] had also called Officer Marie Gasca around 11 a.m. that morning to notify her. Ms. [REDACTED] relayed that [REDACTED] was upset and was in her office because she did not do her chores, her [REDACTED] had disciplined her, and she was required to report it to DCFS. When Officer Marie Gasca returned home after work, she spoke to Sgt. Gasca and informed him that DCFS had been notified about the incident. Sgt. Gasca then went to work and a woman from DCFS arrived at their home and spoke to all three [REDACTED] and Officer Marie Gasca separately. When Officer Marie Gasca spoke to [REDACTED] about the incident, she simply asked her if she was alright and told her she just needed to tell the truth. She did not ask any details because she did not want her to have to relive the incident. Officer Marie Gasca also stated that there has never been an incident like this regarding herself, her husband, and her [REDACTED].

COPA interviewed [REDACTED] on May 5, 2021.<sup>8</sup> Ms. [REDACTED] related that she is a counselor at [REDACTED] and [REDACTED] is a student on her case load. She met with [REDACTED] once in the fall and once in February 2021, as she had with all the freshmen. Ms. [REDACTED] did not have any personal knowledge or relationship with [REDACTED]. On April 15, 2021, [REDACTED] was brought to Ms. [REDACTED] by an administrator, now known as Ms. [REDACTED] who was told by a teacher that [REDACTED] had left class crying. When [REDACTED] came into Ms. [REDACTED] office, she worked on deep breathing strategies with her to try to help calm her down and stop crying. When asked what happened, [REDACTED] started crying again and told Ms. [REDACTED] that she lied to her [REDACTED] that morning about vacuuming. He got mad and put his hand on her throat, pushed her against the wall, and slapped her three to five times on the cheek.<sup>9</sup> Ms. [REDACTED] asked [REDACTED] if the incident left a mark on her cheeks or neck, [REDACTED] removed her face mask so that Ms. [REDACTED] could see and she observed no visible injuries.<sup>10</sup> Ms. [REDACTED] asked [REDACTED] if she felt safe going home, to which [REDACTED] responded she did. After speaking with [REDACTED] Ms. [REDACTED] consulted with Ms. [REDACTED] to inform her that [REDACTED]. Ms. [REDACTED] called Officer Marie Gasca to inform her that [REDACTED]. It was a brief call where Officer Marie Gasca was not emotional and did not ask for details of the incident.

COPA interviewed [REDACTED] on July 7, 2021.<sup>11</sup> Ms. [REDACTED] stated that she is the dean of underclassmen at [REDACTED] and she supports students at the freshman and sophomore levels. She coaches the school’s [REDACTED] that [REDACTED] is on, so she knows [REDACTED] but only to a certain extent. Ms. [REDACTED] related information consistent with Ms. [REDACTED] statement

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<sup>8</sup> Att. 1

<sup>9</sup> Ms. [REDACTED] was unsure if [REDACTED] said she had been slapped on one cheek or both cheeks.

<sup>10</sup> Face masks were worn at the school to comply with safety protocols regarding the COVID-19 pandemic.

<sup>11</sup> Att. 13

about the events that occurred on April 15, 2021. She received an email from a teacher stating that ██████ had left class crying. She went to check on her and assumed she would be in the bathroom closest to the classroom she left. ██████ was exiting the bathroom when Ms. ██████ found her, and she appeared upset, so Ms. ██████ asked her if she wanted to go speak to her counselor. ██████ replied “no” but then began crying again, and after a few minutes she agreed. While walking to the counselor’s office, Ms. ██████ asked ██████ if she was upset about something related to her friends, to which ██████ shook her head “no,” and then asked if it was something related to a family situation, to which she nodded “yes.” ██████ was then turned over to Ms. ██████ who relayed the information that ██████ told her to Ms. ██████. Ms. ██████ informed the principal of the school of the incident, as is the school protocol. Ms. ██████ stated she has never seen ██████ upset before like she had that day.

An **Initiation Report** was completed on April 15, 2021.<sup>12</sup> The report related that Sgt. Gasca notified his superior at work. He related that his ██████ school notified his ██████ that a report had been filed with DCFS about an incident that occurred between him and his ██████. The report states that Sgt. Gasca related that he had an argument with his ██████ where he utilized parental corporal punishment on her, causing no injury.

COPA obtained the **DCFS case file** with investigation ID# ██████.<sup>13</sup> The report documents that the investigator spoke with ██████ and both her ██████ all individually. The investigator did not observe any marks or signs of abuse on any of the ██████. The report states that when ██████ was asked why she was crying at school, she stated that her ██████ had passed away and she has been thinking about him.<sup>14</sup> The report states that when asked what room the incident occurred in, ██████ stated it was in her bedroom.<sup>15</sup> ██████ told the investigator that Sgt. Gasca’s hands were near her throat for a few seconds, but he did not choke her. The report states that on June 7, 2021, the investigator had a scheduled visit with Sgt. Gasca. Sgt. Gasca related that his ██████ lied to him about doing her chores, he grabbed her by her top and she was against the wall, but his hands were not near her neck. Sgt. Gasca reported he simply wanted ██████ attention, and he never slapped her. The allegation in the investigation was unfounded. The initial report to DCFS included information that Sgt. Gasca slapped ██████ three to five times on the cheeks. During the DCFS investigation, ██████ denied being slapped in the face. The report documents that ██████ stated nothing of that nature had ever happened before, and typically when she gets in trouble her phone gets taken away. ██████ reported to DCFS that she is not afraid of her ██████

COPA interviewed **Sgt. Andrew Gasca** on April 7, 2022.<sup>16</sup> Sgt. Gasca related information consistent with what ██████ related happened during the physical incident. He stated that on April 15, 2021, ██████ had lied to him about doing her chores. He repeatedly asked her questions about whether she had done the chores and ██████ continued to lie to him, until she finally admitted to him that she was lying. Sgt. Gasca and ██████ were in the upstairs hallway when he found out she lied to him, and a physical incident ensued. He became upset and grabbed her with one hand about

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<sup>12</sup> Att. 5

<sup>13</sup> Att. 12

<sup>14</sup> ██████ did not mention anything regarding her ██████ in her statement with COPA and for that being the reason she was crying at school.

<sup>15</sup> In her statement with COPA, ██████ stated that the incident occurred in the hallway upstairs.

<sup>16</sup> Att. 16-17

her clavicle bone area and “put her up against the wall.”<sup>17</sup> He further related that [REDACTED] was standing a few inches away from the wall, and the force of him grabbing her about the clavicle bone area pushed her back to the wall. He then proceeded to “smack” her on the head with an open hand. Sgt. Gasca described the “smack” as a wrist action, where he used his knuckles to fingertips to make contact with her head.<sup>18</sup> He made contact with her head approximately above her ear, slightly towards the back of her head. Sgt. Gasca could not recall how many times he “smacked” her or which side of [REDACTED] head he contacted. He stated that [REDACTED] did not have any labored breathing during the incident. He estimated that the entire physical incident lasted approximately 10 seconds or less. He described his demeanor during the incident as an upset [REDACTED] and his voice was likely raised. He described [REDACTED] demeanor as shocked, scared, and very stunned. Immediately after the incident [REDACTED] became emotional and was crying, and she ran to the bathroom.

Sgt. Gasca spoke to [REDACTED] briefly before he drove her to school that morning. He could not recall what their conversation consisted of, other than him asking her if she was alright. At some point later they had a conversation about the seriousness of lying, but Sgt. Gasca was unsure if that conversation took place the same day as the incident or on a different date. Sgt. Gasca related that he was unsure of where his other two [REDACTED] were at in the house during the incident, but they never expressed to him that they heard or saw the incident. He never saw any marks on [REDACTED] or heard her complain of any pain from the incident. Sgt. Gasca stated that when [REDACTED] lies, he would typically tell her to “knock it off.” He stated that this incident was the first and the last time that he has had a physical incident with one of his [REDACTED]

Sgt. Gasca stated he was informed by someone at [REDACTED] school that a report had been made with DCFS regarding the incident. He related that he spoke to someone from DCFS at a later date, and he could not recall what he described to them happened during the physical incident. He also reported the incident to his supervisor. He could not recall exactly what he reported to his supervisor, stating it was something regarding that there was an altercation between himself and his [REDACTED]. Sgt. Gasca was asked about a part of the Initiation Report that states, “he had an argument with his [REDACTED] where he utilized parental corporal punishment on her, causing no injury.” Sgt. Gasca related the language used in the report were not his words, and therefore they were his supervisor’s interpretation of what he reported.

### III. LEGAL STANDARD

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

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;

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<sup>17</sup> At first, Sgt. Gasca related in his statement that his hand was on [REDACTED] neck. When asked more details about the incident, he stated his hand was near her clavicle bone.

<sup>18</sup> Sgt. Gasca described the “smack” as a wrist action rather than winding up his arm to strike [REDACTED]

3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

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

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

#### IV. ANALYSIS AND CONCLUSION

The allegations against Sgt. Gasca involve physical abuse against ██████ a minor. Sgt. Gasca is the ██████ of ██████ and thus, if COPA finds that there was physical contact, COPA must determine whether the physical contact was unjustified or whether it was reasonable corporal punishment, which is permissible. 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 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)). But courts have relied on several factors in corporal punishment reasonableness analyses, including: “the likelihood of future punishment which may be more injurious” (*People v. West (In re F.W.)*, 261 Ill. App. 3d at 903); “the fact any physical injury resulted from the discipline” (*id.*); “the psychological effects of the discipline on the child” (*id.*); “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 alternate ways to correct the minor’s behavior 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”)). Therefore, COPA will utilize these factors in determining its findings.

COPA finds **Allegations 1, 2 and 3** that Sgt. Andrew Gasca placed his hand on ██████ Gasca's neck, struck ██████ Gasca with an open hand and pushed her against a wall without justification are **Sustained**. Sgt. Gasca and ██████ essentially provided COPA with similar versions of the events. Sgt. Gasca initially related that his hand was on ██████ neck, and then stated that his hand was on her clavicle bone, near where her upper chest meets her neck. However, both ██████ and Sgt. Gasca agreed that pressure was not applied to her neck and her breathing was not restricted.

COPA finds that Sgt. Gasca did strike ██████ with an open hand on her head. ██████ related that her ██████ "smacked" her around her temple area three times with an open hand. Sgt. Gasca related that he used a wrist action where his knuckles to fingertips made contact with her head, above her ear and slightly towards the back of her head. There were no injuries or pain as a result of the incident.

Furthermore, ██████ related in her statement that she was unsure if her ██████ had pushed her up against the wall or if she had backed up into the wall. At first, Sgt. Gasca related in his statement that he "put her up against the wall." He clarified that ██████ was standing a few inches away from the wall, and the force of him grabbing her about the clavicle bone area pushed her back to the wall.

Sgt. Gasca described ██████ demeanor following the incident as shocked, scared, and very stunned. That, along with her emotional behavior at school following the incident suggests that the physical incident with her ██████ was something out of the ordinary for her and caused her distress. While it is clear that Sgt. Gasca's actions were a response to ██████ lying, the amount and manner of physical discipline falls outside the bounds of permissible corporal punishment. Additionally, his response appears to be one of anger. COPA does not find that multiple strikes to the head and placing hands on a child's neck with enough force to push her into a wall are within the bounds of what is reasonable corporal punishment. Therefore, COPA finds that Allegations 1, 2 and 3 are **Sustained**.

## **V. RECOMMENDED DISCIPLINE**

### **a. Complimentary and Disciplinary History**

Sgt. Gasca has received various complimentary awards and has no recent disciplinary history.

### **b. Recommended Penalty**

Sgt. Gasca was generally forthright in his statement when discussing the details of the incident. Sgt. Gasca and ██████ both related that this is the only physical incident that has ever occurred between them. ██████ did not sustain injuries as a result of Sgt. Gasca's actions. However, Sgt. Gasca not only pushed ██████ but also struck her in the head and placed his hands on her neck, which are factors COPA has considered in aggravation. COPA has also considered his complimentary and disciplinary history. Thus, COPA recommends a 20-day Suspension.

Approved:

A solid black rectangular box redacting the signature of the Deputy Chief Administrator.

Sharday Jackson  
*Deputy Chief Administrator*

February 10, 2023

Date