INVESTIGATIVE RESPONSIBILITY

The investigating officer (I/O), for this case was Sergeant II Martha Delgado, Serial No. 39903, Internal Affairs Division (IAD), Complaint Investigation Section-Central. She can be contacted at (213) 996-2783. Any request for supplemental investigation must be approved by the Commanding Officer at IAD, via an Intradepartmental Correspondence, Form 15.02.00.

STATUTE ISSUES

On November 23, 2022, Detective Andres Villalobos, from Baldwin Park Police Department (BPPD) advised they presented a criminal case against Police Officer II Armando Avena, Serial No. 42919, Pacific Patrol Division, to Los Angeles County District Attorney's Office (Case No. 2EM00297). Deputy District Attorney Melvin Lopez filed one count of California Penal Code 273.5 (F)(2), Domestic Violence, against Avena. Avena was scheduled to be arraigned on January 18, 2023. Thus, the statute date remained **February 13, 2022.**

BACKGROUND

Avena and his [redacted], Complainant- Victim, were in a relationship for approximately nine years. The couple lived together with [redacted], Relevant Party 1.

SUMMARY

On February 12, 2022, Avena and Victim went out for drinks at the Flashbackz Lounge, located in the City of Whittier. While there, Avena and Victim became involved in an argument over the fact that Victim had engaged in conversation with an unknown male patron at the bar area of the lounge. The couple mutually agreed to leave the lounge after their argument. Despite having been consuming alcohol, Avena drove them home to Home Address, in the City of Baldwin Park. When the couple arrived home, they continued their argument which led to Avena physically assaulting Victim, causing her to sustain numerous injuries.

The following morning, Avena drove Victim to her [redacted], Relevant Party 2's, residence at Location 1 in the City of Baldwin Park, and left her there. Once at RP 2's residence, RP 2 observed Victim's injuries and immediately notified BPPD (Addenda 1 Crime and Arrest Report).

BPPD Officer Trinidad, Serial No. 4445, responded to the domestic violence investigation. Upon Trinidad's arrival, Los Angeles County Fire Department personnel was providing medical treatment to Victim. She was transported to Kaiser Permanente Baldwin Park Medical Center for further medical treatment. Trinidad interviewed Victim at the hospital and obtained an Emergency Protective Order (EPO) for her (Victim's Photographs) (Addenda 2 Restraining Order).

Upon Officer Trinidad' return to Baldwin Park Police Station, Avena turned himself in. Avena was arrested for CPC 273.5 (F)(2), Domestic Violence.

On February 13, 2022, Lieutenant II Eric Eppolito, Serial No. 34270, IAD, assigned to the IAD-On Call Team, was contacted by Captain I Michael Applegate, Serial No. 34613, Pacific Division, Patrol Commanding Officer. Captain Applegate advised Avena was arrested for Domestic Violence by BPPD. Additionally, Captain Applegate advised Eppolito that Officer Avena had made threats to harm himself and could not yet be located.

> **Note:** Avena turned himself in to the BPPD prior to the IAD On-Call team's arrival. Eppolito along with Sergeant II Todd Schmidt, Serial No. 32902, and Sergeant II Shawn Svboda, Serial No. 36699, IAD, responded to RP 2 's residence and interviewed Victim and RP 2 for this complaint investigation (Avena's Photographs).

During her interview with IAD, Victim disclosed past domestic violence incidents with Avena. In January 2022, Avena threatened to kill her, broke her eyeglasses, and pulled her hair during various disputes. In one particular incident, that occurred on October 24, 2020, Avena threw a folding chair in her direction, nearly striking her. During this dispute, BPPD responded to their residence. BPPD kept the peace and did not interview Avena due to him being asleep. On that occasion, Victim agreed to go to RP 2 's home for the evening.

ALLEGATION 1. Complainant Victim alleged that on February 13, 2022, Officer Avena, while off -duty, operated his private vehicle while under the influence of alcoholic beverages.

ALLEGATION 2. Complainant Victim alleged that on February 13, 2022, Officer Avena, while off -duty, physically assaulted her causing injuries that required medical treatment.

ALLEGATION 3. Complainant Victim alleged that sometime in January of 2022, Officer Avena, while off-duty, threatened to kill her.

ALLEGATION 4. Complainant Victim alleged that sometime in January of 2022, Officer Avena, while off -duty, unnecessarily broke her eyeglasses and cellphone, and forcibly pulled her hair.

ALLEGATION 5. Complainant Victim alleged that on unknown date and time, Officer Avena, while off -duty, pulled her hair during an argument.

ALLEGATION 6. Complainant Victim alleged that on October 24, 2020, Officer Avena, while off -duty, threw a folding table in her direction, nearly striking her, during a domestic dispute.

ALLEGATION 7. Complainant Victim alleged that on October 24, 2020, Officer Avena, while off -duty, became involved in a domestic violence incident which resulted in the response of on-duty officers from the Baldwin Police Department.

Victim[1] and Avena were in a relationship for approximately nine years. They have [redacted] (Relevant Party 1. [redacted]) in common and lived together at Home Address, in the City of Baldwin Park.

Victim and Avena had prior history of unreported domestic incidents. Those prior incidents involved naming calling, breaking her cell phone, and breaking her prescription eyeglasses. Victim advised the only previous physical altercation was "years ago" when Avena pulled her hair. Victim believed the physical altercations escalated after he became a police officer.

> **Note:** The investigation revealed that the incident described by Victim occurred in January of 2022.

On February 12, 2022, Victim and Avena went to the Flashbackz Lounge. Avena and Victim had not consumed any alcohol prior to their arrival to the bar. Victim advised she and Avena only consumed beer at the location. Victim recalled they had a total of four glasses of Pacifico beer each throughout their stay at the bar. Victim believed Avena was "a little buzzed, not too intoxicated" throughout the night.

While at the lounge, Victim walked to the bar to order some drinks. While at the bar area, an unknown male approached her and asked her what drinks she had ordered. Victim advised the male of her order. Avena then approached her from behind and questioned why she had engaged in conversation with the unidentified male at the bar area. Victim explained the nature the conversation, but Avena grabbed Victim and took her to the table. The couple went home soon after. Victim stated there was no physical altercation between them while they were at the bar.

As Avena drove home, he continued to yell at Victim for speaking to the unknown male at the bar. Victim warned Avena that he was driving too fast and continually braking hard. Victim did not observe Avena swerve or driving in a manner that led her to believe Avena would collide with other vehicles.

Once the couple arrived home, Avena continued to yell at Victim over the same issue of her talking to the unknown male at the bar. As Victim began to change her clothes, Avena went through her phone and noticed a text conversation she had had with an old male friend. Avena questioned her about the text conversation and Victim told him he was taking the text conversation out of context. Avena then pulled Victim's hair and dragged her into the bathroom. There, Victim became ill and vomited. Avena threw her into the bathtub and turned on the shower head with cold water. Victim told Avena that the water was cold, but Avena refused to let her out of the bathtub and told her, "you're not getting out". As Victim remained inside the bathtub, Avena punched her in the left side of her face as he pulled her hair. At one point, Avena took Victim's glasses off her and broke them. Avena also scratched, slapped, and choked Victim with both hands. Victim did not believe she had lost consciousness but advised she had to scratch Avena in

[1] On February 13, 2022, Svoboda and Schmidt interviewed Victim for the Complaint investigation. The recording of the interview was uploaded onto the Complaint Management System (CMS).

self-defense to get him to stop choking her. Once she scratched him, Avena stopped choking her.

After the physical altercation was over, Victim took two Tylenols to ease her headache and immediately fell asleep. Victim woke up the next morning with a painful headache. Victim asked Avena to take her to RP 2 's residence. Avena began to cry and asked her to stay. Avena asked that she not tell anyone, including RP 2 , the police, and hospital staff, where or how she sustained the injuries. Avena began to tell Victim he did not want to go to jail and wanted to be able to see Relevant Party 1 .

Eventually, Avena agreed to drive Victim to RP 2 's residence. Avena refused to give Victim her cell phone and her Apple watch back when he left her at RP 2 's residence. Avena left the location after Victim stepped out of the vehicle. Victim never recovered her cell phone or watch and later purchased her own cell phone.

Victim told RP 2 that Avena had physically assaulted her and RP 2 called the police and requested an ambulance to respond to treat the injuries she had sustained. Victim was medically treated by Los Angeles County Fire Department personnel and transported to the Kaiser Permanente Baldwin Park Medical Central for additional medical treatment.

> **Note:** Victim agreed to sign the medical release form and described her injuries to the IAD On-Call team as follows. Victim sustained bruising and swelling to the left side of her face, blood shot eyes, bruising on her hands, back and neck, and broken nails. Victim was also diagnosed with concussion which was a result from the physical altercation with Avena.

Victim had not been in communication with Avena from the time he dropped her off at RP 2 's residence. Avena continuously called in attempt to speak to Relevant Party 1. Victim decided to block Avena's cell phone number and advised she would fully cooperate with the investigation.

> **Note:** On January 6, 2023, the I/O contacted Victim to request copies of the text messages that Avena had sent her. Victim advised there were no text messages to assist in memorializing the Domestic Violence incident that occurred on February 13, 2022. She only recalled one phone call occurring during that period. Additionally, Avena kept her cellular phone because he was the one who bought it for her and paid the monthly bill.

Victim also alleged another domestic incident that occurred sometime in September of 2020. Victim had gone to Relevant Party 4 's house to watch a Dodger's game while Avena went out with his friends. Avena returned home drunk and began to question Victim 's whereabouts. Victim told him she was at RP 4 's house and to call [redacted] if he doubted her. Avena became angry and began throwing items out of the pantry. One of those items happened to be a folding table. Avena threw it in Victim 's direction, but missed. The table ended up hitting the wall. Victim feared for her safety and called BPPD. Victim said the police responded and believed they took a police report for the

incident due to the officers taking down her information, but was uncertain if a report was completed.

> **Note:** The I/O contacted BPPD to ascertain if a report was taken for the incident in September of 2020 and was met with negative results. However, it was later determined the incident Victim believed occurred in September of 2020 actually occurred on October 24, 2020. BPPD responded to Victim and Avena's residence for a verbal dispute investigation. Upon their arrival, Avena was already asleep and Victim agreed to go to RP 2 's residence[2]. BPPD confirmed this incident. No additional reports unrelated to this scope were taken (Addenda 3 October of 2020 Radio Call Incident)[3]

Victim also stated that Avena threatened her in the past and the last time was in January of 2022. Victim had gone out to dinner with her friends and missed his phone call. When Victim returned home from the dinner, Avena grabbed her glasses, broke them, and pulled her hair. Avena then threatened to kill her if she ever went out again. Victim believed his threats were real and believed he would kill her. Avena told her he did not want her going out because he was jealous. Victim told Avena that she had never given Avena any reason to be jealous. Victim believed Avena was controlling. She did not report this incident to the police.

Victim explained that for the past four years, Avena had gone out with his friends every other month and returned drunk. Avena would become "aggressive" towards her and would want to argue but Victim would ignore him by just going to sleep to de-escalate the situation. Avena stopped going out with his friends since last year and only recalled him going out three times this year.

RP 2 [4] advised she was aware that Victim and Avena had gone out the night prior (February 12, 2022) to a club or bar. On February 13, 2022 at approximately three in the morning, Victim called her crying as Avena was driving home from the bar.

Victim explained she was involved in a dispute with Avena at the club and that Avena had dragged her out of the club. Avena was upset with her because he saw her talking to other guys at the bar. Victim explained to RP 2 that when she was ordering drinks at the bar, the bartender told her tequila shots were being sold at two shots for $16.00. Victim believed it was a good price and bought four shots for both her and Avena. While Victim was at the bar, an unknown male asked her what type of drinks she was having. Victim told the unknown male she was drinking Don Julio 70 Tequila. Avena then approached her and asked her why she had four shots. Avena began questioning if she had ordered the other two shots for the men standing next to her. She explained to him that the shots were cheap, and she decided to get four shots to save herself another trip to

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[2] On January 6, 2023, the I/O interviewed Victim for the Complaint investigation. The recording of the interview was uploaded onto the Complaint Management System (CMS).
[3] On December 21, 2022, the I/O spoke with BPPD Records Clerk Chvez, Serial No. 4965, who confirmed no additional reports had been filed. On January 6, 2023, the I/O spoke with BPPD Records Clerk Khor and Operator Serial No. 4062, who confirmed the radio call and that no additional reports had been filed.
[4] On February 13, 2022, Svoboda and Schmidt interviewed RP 2 for the complaint investigation. The recording of the interview was uploaded onto the CMS.

the bar. Avena began to argue with her and eventually dragged her out of the club. Victim advised RP 2 she was scared because Avena was mad and driving too fast as they drove home. RP 2 advised her to calm down, go home, sleep, and that they would talk about it in the morning.

RP 2 said Victim had a tendency of calling her whenever she argued with Avena. In those previous incidents, RP 2 responded to their residence but upon her arrival, Victim would tell her everything was under control and would ask her to go back home. Due to that pattern, RP 2 no longer wanted to respond to the couple's residence at three in the morning just to be sent back home. RP 2 figured she would discuss the incident with her more detail later in the day. RP 2 never expected Avena to harm Victim in that manner. RP 2 admitted she knew Avena had a temper but did not imagine he would ever actually hurt Victim. RP 2 advised she was aware Avena "could explode really quickly" and has seen how he acts when he consumes alcohol.

Later that same morning, RP 2 's [redacted], Relevant Party 3, told her she had been texting Victim, but she had not responded. RP 3 advised the texts messages were not going through and told her the cell phone must have been turned off. RP 2 was also aware Avena had a tendency of taking Victim 's phone away from her. RP 2 remembered Victim had to report to work and they decided to text Victim 's co-worker and asked about Victim 's whereabouts. Victim 's co-worker advised Victim was not at work. RP 2 text messaged Avena asking for Victim and asked him to call back. Avena text RP 2 and asked her if she was home. RP 2 told him she was and he advised he would be dropping Victim off her home.

Sometime during mid-morning, Avena dropped off Victim at RP 2 's home. As Victim walked up to the front door, RP 2 noticed Victim was wearing a mask over her mouth while holding her face. When RP 2 opened her door, she then noticed Victim had been physically assaulted.

Once Victim told her Avena had hit her, RP 2 immediately called Avena and told him to turn himself in to the police or she would report the incident to the authorities. Avena hung up on RP 2 and RP 2 immediately called the police due to Avena hanging up on her. Victim also told RP 2 that Avena had hit her in the restroom, placed her in the bathtub with cold water, beat her, banged her head.

RP 2 reiterated she was aware of Avena's temper. She has heard him yell at Victim in the background during prior telephonic conversations. RP 2 believed Avena's anger was only geared toward Victim.

Avena[5] and Victim were in a relationship for approximately nine years and had been living together since 2014. They had [redacted] in common. Avena advised he and Victim had no history of reported or unreported domestic violence.

[5] On February 15, 2022, Sergeant Miguel Ortega, Serial No. 33273 and the I/O interviewed Avena. The recording of the interview was uploaded onto CMS.

On Saturday, February 12, 2022, at approximately 2000 hours, Victim and Avena went out to eat and drink at a restaurant the City of West Covina. Prior to arriving at the restaurant, they dropped off RP 1 at RP 3 s residence. Avena could not recall the exact name of the restaurant but advised they went to a Sushi restaurant located inside the West Covina Plaza. As they ate and drank at the restaurant, the couple got into a minor argument regarding the fact Victim wanted to go to a club in the City of Fullerton after dinner. Avena did not like the idea due to the fact the club was approximately 40 minutes away and they both had to work the following day. The couple left the restaurant and went back to their vehicle.

While inside their vehicle, Victim continued to express she wanted to go out. The couple agreed to go out to a brewery in the Uptown Whittier District in the City of Whittier. Avena could not recall the time they arrived at the brewery. Avena stated he and Victim walked up to the bar and ordered unknown types of Indian Pale Ale (IPA) beers. Avena estimated they had approximately three 12-ounce beers each during their time at the brewery. The couple then walked to the Flashbackz Friday's Lounge which was nearby the brewery. Avena did not recall what time they arrived at Flashbackz Friday's lounge, but, they spent approximately an hour at the brewery.

Avena recalled they bought several beers when they arrived at the Flashbackz Friday's Lounge. Avena was unable to recall the brand or size of the beers they consumed. The couple ordered their drinks and sat down at a table to watch a man who was playing his guitar at the location. Avena recalled they had several rounds of beers while at the lounge.

Victim made her way over to the bar to order additional drinks, while Avena remained at their table to secure their spot. Avena noticed Victim had taken a while at the bar but understood it took time to order drinks at a full bar. Avena eventually observed Victim talking and laughing with two unknown males at the bar. Avena went to check on Victim since he had never seen the males who were talking to her. As Avena arrived at the bar, Avena observed Victim signing a receipt for four drinks. Avena asked why she had ordered four shots of tequila. Victim became upset at the fact he was questioning about why she had purchased four shots. They both walked to their table as Victim was carrying a tray with the four shots. Avena could not recall how many shots he had but advised they both consumed the four shots. Avena was not sure what brand of liqour the shots contained but advised they tasted like tequila. Avena continued to question Victim on why she had engaged in such long conversation with the unknown males at the bar. Victim became upset over the continuous questioning and they mutually decided to leave the location. Avena estimated they spent approximately 1 ½ hour at the lounge.

Avena did not think about whether he was too impaired to drive. His mind was consumed with the thought Victim had entertained a conversation with the other males at the bar. Avena did not believe he was impaired to drive. Avena confirmed there was no physical altercation while they were in the vehicle.

Upon arrival to their residence, Avena advised he had opened the garage door with his garage remote control. At this point, Victim had already exited the vehicle and began to

walk upstairs into their apartment. Avena parked in their garage, proceeded to their apartment, and noticed Victim had gone into the bathroom.

Avena observed Victim left her purse and phone on a living room table and also noticed her phone was unlocked. Avena wanted to go through her cellphone because, days prior, he noticed she had been hiding her cellphone from him. Avena decided to go through it and noticed the cellphone screen was opened to her Instagram Direct message screen. Avena immediately noticed that Victim had engaged in a conversation with her ex-boyfriend. Avena began reading the messages she exchanged with her ex-boyfriend and became upset when he noticed she had been updating him about their whereabouts throughout the night. She also provided the ex-boyfriend with all the details that transpired through their night. Avena began to scroll back into the conversation to see how long they had been in contact for and realized Victim had engaged in conversation with ex-boyfriend for several weeks. Avena became upset at the fact they referred to each other as 'Babe.' Avena also became upset over the fact the ex-boyfriend had made a list of things she needed to do before she left Avena. Avena read all this in the span of three minutes.

Victim eventually exited the bathroom and observed Avena was holding her cellular phone. Victim was shocked Avena was holding her cellular phone. Avena began to read the messages aloud as he held her cellular phone. Victim ran towards him and attempted to take the phone away from him. Avena explained that as he was holding the phone he turned around to give her his back to prevent her from taking the phone away from him. Avena wanted to continue reading all the messages. As he twisted his upper torso, his right elbow unintentionally struck her on the side of her face. Victim then fell over to her side which knocked down the entry table in the living room.

Avena then ran into the bedroom and locked the door to prevent her from coming in so he could continue reading the conversations in her cellular phone. Avena laid in the bed and continued to read the messages. Victim banged on the bedroom door and demanded he let her in for approximately two minutes. Avena ignored her requests and continued reading through the messages. Avena attempted to call the ex-boyfriend through the direct messages but failed to get in contact with him. The banging continued and then he observed the door was "busted open." Victim entered the bedroom and jumped on top of him. Avena had been with Victim for almost ten years and he wanted to continue to read the messages to find out exactly everything about the conversation. Avena explained Victim continued to reach for the cell phone. Avena pushed Victim off the bed and she fell off onto the carpet. Avena ran to the living room and continued to read the messages for approximately 20 more seconds before her cell phone battery died.

Avena then heard Victim vomiting in their bedroom. Avena went into the bedroom and observed her standing over the hamper. Victim began to vomit into the hamper and on herself. Victim asked if he could turn on the shower for her. Victim walked straight into the restroom and into the bathtub. Victim sat down with her with her clothes on. Victim tried to apologize about what he had discovered. Avena went back to the room because he still wanted to talk to the ex-boyfriend. Avena again attempted to get a hold of the ex-boyfriend over the phone but was not able to do so. Avena advised he was crying at this

time because he had just found out Victim had been cheating on him with her ex-boyfriend. Avena recalled he fell asleep around three in the morning.

At one point he woke up to Victim saying, "Babe, can you help me." Avena got up and observed Victim was still in the shower. Avena turned off the shower and gave Victim a towel. Avena handed her the towel and she told him she needed help getting out of the shower. Avena assisted her out of the bathroom and Avena returned to their bedroom, laid down on the bed, and fell asleep.

Later in the morning, Avena's cell phone alarm went off because he had set it up earlier when he knew he needed to drive Victim to work and then head out to work himself. Avena could not recall what time the alarm went off. As Avena attempted to wake Victim, he noticed her eye was swollen. Avena woke her up and told her to look at her face. Avena began to cry because he knew what was going to happen in situations like this.

Avena advised Victim they needed to get her medical attention and drove toward the hospital. Victim told him she wanted to be dropped off at RP 2 's residence. Victim wanted RP 2 to go with her to the hospital. Avena did not want RP 2 to see her with a black eye because he did not want any additional problems. Victim insisted she wanted to go to RP 2 's residence, so Avena drove her there. Avena dropped Victim off near the rear of the apartment gate. Victim began to apologize to Avena. Avena told Victim that he did not want to be with her anymore and Victim began to cry. At one-point Victim asked for her phone back. Avena advised he wanted to continue reading the messages. He told Victim the cell phone technically belonged to him since he paid for phone and the bills that came with it.

As Avena drove home, RP 2 called. She told him, "I'm going to ruin your fucking life. Watch motherfucker. I'm calling the police." Avena met up with Relevant Party 5 and 6 at his apartment. Relevant Party 5 and 6 advised him it would be best for him to surrender himself to the police. RP 5 drove Avena to the police station due to the fact he was very emotional. Avena advised he was very emotional during this time because he was in disbelief over the fact he had been cheated on. Avena explained Victim was his [redacted] and therefore this was his first heartbreak. Avena arrived at the BPPD station and advised the officers he was a Los Angeles Police Department officer and was there because Victim had reported a domestic incident. Avena met with an officer and detective and they placed him under arrest.

Avena denied telling Victim he did not want to go to jail and denied ever telling her he wanted to hurt himself. He added he did not know it would be important to remember what brand or size of drink he was drinking during the time he was out with Victim. He would have had a better recollection of those beer brand names if he had been interviewed earlier to the time of his arrest.

In hindsight, Avena would have preferred he would have chosen to stay home and gone to sleep that night. Avena denied that he and Victim had been involved in reported and unreported domestic violence incidents in the past.

INVESTIGATOR'S NOTES:

1. The I/O contacted the Baldwin Park Police Department (Dispatch and Records) and obtained the comments of one previous "415- Boy/Girl" radio call. BPPD however, verified no previous domestic violence reports had been taken prior to this incident. After the Avena's arrest, BPPD responded to Keep the Peace radio calls due to Avena and Victim requesting them to respond due to an active EPO and in the process of picking up personal belongings.

2. The I/O contacted Maria Foster, Victim advocate, who advised an automatic restraining order against Avena had been granted.

3. The I/O met with Detective Villalobos from the Baldwin Park Police Department to obtain Victim and Avena's photographs.

4. Baldwin Park Police Department did not request Avena provide a Blood Alcohol Content (BAC) sample at the time of his arrest. Due to the considerable time lapse between the incident and the time in which the IAD Call-out Team was able to interview Avena while in BPPD custody (over sixteen hours), a BAC sample was not ordered.

ADDENDA

1. Baldwin Park Crime and Arrest Police Report
2. Restraining Order
3. Photographs
4. 5-year history of Radio Call Incidents at CP's residence
5. October of 2020 Radio Call

SUBMITTED BY:

_____ 01/06/2023
MARTHA DELGADO, Sergeant Date
Complaint Investigation Section- Central
Internal Affairs Division

APPROVED BY:

_____ 01/06/2023
RUTHANN CHAVEZ, Lieutenant Date
Officer In Charge
Complaint Investigation Section- Central
Internal Affairs Division