



Log # 2023-0001526

## FINAL SUMMARY REPORT<sup>1</sup>

### I. EXECUTIVE SUMMARY

On April 8th, 2023, the Civilian Office of Police Accountability (COPA) received an initiation complaint from Lieutenant William Grassi (Lt. Grassi) of the 25<sup>th</sup> District reporting alleged misconduct by a member of the Chicago Police Department (CPD).<sup>2</sup> Lt. Grassi alleged that on April 7th, 2023, Field Training Officer Paul Lauber (FTO Lauber) committed misconduct when he utilized excessive force while arresting ██████████ (██████████).<sup>3</sup> Furthermore, Lt. Grassi alleged that FTO Lauber failed to record the law-enforcement-related activity through the use of his body-worn camera (BWC). Upon further review of the evidence, COPA served Sergeant Stephen Keenan (Sgt. Keenan) with an allegation related to failing to entirely record law-enforcement related activity. Following its investigation, COPA reached sustained findings regarding the allegations of BWC violations for both FTO Lauber and Sgt. Keenan.

### II. SUMMARY OF EVIDENCE<sup>4</sup>

The initiation report generated by Lt. Grassi stated that FTO Lauber and his partner, Police Officer Christian Talavera (Officer Talavera), responded to a call for paramedics needing assistance with ██████████ who was impeding on the paramedics' work.<sup>5</sup> Following the incident, Lt. Grassi reviewed FTO Lauber's Tactical Response Report (TRR) and found FTO Lauber's actions to not be in compliance with department policies and directives.<sup>6</sup> Following this review, he spoke with FTO Lauber wherefore FTO Lauber self-admitted that he failed to activate his camera during the incident.

The TRR generated by FTO Lauber states that he responded to ██████████ for a battery in progress and to assist CFD members with ██████████ who was being combative on scene.<sup>7</sup> Upon arrival, FTO Lauber noted that ██████████ was being held down on top of a CFD vehicle by several CFD members, at which point FTO Lauber and Officer Talavera attempted to place ██████████ into handcuffs. FTO Lauber noted that he was able to place one handcuff on, but ██████████ then

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<sup>1</sup> Appendix A includes case identifiers such as the date, time, and location of the incident, the involved parties and their demographics, and the applicable rules and policies.

<sup>2</sup> Att. 1.

<sup>3</sup> One or more of these allegations fall within COPA's jurisdiction pursuant to Chicago Municipal Code § 2-78-120. Therefore, COPA determined it would be the primary investigative agency in this matter.

<sup>4</sup> The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including BWC, police reports, CFD members' interviews, and officer interviews.

<sup>5</sup> Att. 1, pg. 2.

<sup>6</sup> Att. 1, pg. 2.

<sup>7</sup> Att. 7.

pulled away making it difficult for the second handcuff to be placed. Once both cuffs were on, FTO Lauber noted that ██████ was still being resistive and combative in that ██████ refused verbal commands, continued to push his body off of the CFD vehicle, and was spitting blood on the officers when he was yelling at them.<sup>8</sup> After several failed attempts in utilizing verbal de-escalation techniques, FTO Lauber delivered a closed hand strike to ██████ chest. FTO Lauber indicated that ██████ fully complied following the strike and was then transported to the district station for processing.<sup>9</sup>

COPA also obtained statements from FTO Lauber and Officer Talavera concerning the use of force incident.<sup>10</sup> Officer Talavera stated that he and FTO Lauber were assigned to assist CFD with an individual who was combative.<sup>11</sup> When they arrived, they noted that ██████ was being held by CFD members after the CFD members were battered by ██████<sup>12</sup> Officer Talavera classified ██████ as an active resistor but turned into an assailant because he was actively resisting the officers by pushing his body and head back while spitting blood at them.<sup>13</sup> Officer Talavera did witness FTO Lauber striking ██████ in the chest during the time in which ██████ was pushing his head and body and spitting towards the officers.<sup>14</sup> When describing the strike, Officer Talavera stated that ██████ was handcuffed and placed against the CFD vehicle, but according to Officer Talavera and FTO Lauber, the strike was not direct, rather it was done with FTO Lauber's left palm and delivered from the side.<sup>15</sup> Officer Talavera classified this as a diffused strike rather than a direct mechanical strike.<sup>16</sup>

The on scene CFD members on scene all stated that they did not witness FTO Lauber's use of force, but they did witness ██████ fighting against the CFD members in an attempt to impede them from rendering aid to a woman that was allegedly injured by ██████<sup>17</sup> The use of force was not captured on BWC by neither Officer Talavera nor FTO Lauber. When asked why he failed to record his encounter with ██████ FTO Lauber stated that he believed he turned on his camera once he got on scene, but due to the situation he could not verify if it was actually recording.<sup>18</sup> ██████ transport to the district station was recorded by FTO Lauber.<sup>19</sup>

Upon further review, COPA noted that Sgt. Keenan, who was the supervisor for both FTO Lauber and Officer Talavera, arrived at the scene. In Sgt. Keenan's BWC<sup>20</sup>, ██████ could be seen in handcuffs, placed against the hood of a CFD vehicle.<sup>21</sup> The BWC was then activated 30 seconds

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<sup>8</sup> Att. 7, pg. 2.

<sup>9</sup> Att. 7, pg. 5.

<sup>10</sup> Atts. 47 and 50.

<sup>11</sup> Att. 47 at 4:40.

<sup>12</sup> Att. 47 at 4:50.

<sup>13</sup> Att. 47 at 5:10.

<sup>14</sup> Att. 47 at 9:05.

<sup>15</sup> Att. 47 at 10:00.

<sup>16</sup> Att. 47 at 11:20.

<sup>17</sup> Atts. 43 to 46.

<sup>18</sup> Att. 51, pgs. 22 to 24.

<sup>19</sup> Att. 24.

<sup>20</sup> Att. 23.

<sup>21</sup> Att. 23 at 1:30.

later.<sup>22</sup> █████ could be heard saying “How the fuck did you punch me in my chest”.<sup>23</sup> After which, Sgt. Keenan’s video abruptly ended. During his statement to COPA<sup>24</sup>, Sgt. Keenan was asked about the timeliness of both the activation and deactivation for the BWC.<sup>25</sup> Sgt. Keenan noted that his camera died while on scene.<sup>26</sup> He further denied the allegation of his activation being untimely because he received an auditory warning from his BWC letting him know that the battery was low.<sup>27</sup> Due to the low battery, Sgt. Keenan wanted to save the battery and activate the camera once he actually got closer to the scene.<sup>28</sup> Sgt. Keenan noted that he was supposed to report the deficiency to OEMC but failed to do so.<sup>29</sup>

### III. ALLEGATIONS

#### FTO Paul Lauber:

1. Using unjustified and excessive force against █████ during your arrest of █████
  - **NOT SUSTAINED**
2. Failing to record law enforcement-related activity through the use of BWC.
  - **SUSTAINED** (In violation of Rules 5, 6, and 10)

#### Sergeant Stephen Keenan:

1. Failing to record law enforcement-related activity through the use of BWC.
  - **SUSTAINED** (In violation of Rules 5, 6, and 10)

### IV. CREDIBILITY ASSESSMENT

COPA assessed the credibility of the individuals who provided statements utilizing truthfulness and reliability criteria. This investigation did not reveal any evidence that caused COPA to doubt the truthfulness of any of the individuals who provided statements. Each of the individually provided statements affirmed that some force had been used against █████ by FTO Lauber.

COPA questions the reliability of the individuals who provided statements. The definition of the force (strike), used by FTO Lauber against █████ while █████ was handcuffed, differs between FTO Lauber and Officer Talavera. FTO said it was a closed fist strike. Officer Talavera said the strike was an open-handed diffusing strike. While may or may not be a difference in technicality, there is a stated difference. Juxtaposed to this difference is the captured utterance from █████ “How the fuck did you punch me in my chest.”

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<sup>22</sup> Att. 23 at 2:00.

<sup>23</sup> Att. 23 at 2:05.

<sup>24</sup> Att. 52.

<sup>25</sup> Att. 52 at 7:39.

<sup>26</sup> Att. 52 at 8:25.

<sup>27</sup> Att. 52 at 9:20.

<sup>28</sup> Att. 52 at 9:30.

<sup>29</sup> Att. 52 at 10:30.

## V. ANALYSIS<sup>30</sup>

### 1. EXCESSIVE FORCE ALLEGATION AGAINST FTO LAUBER

COPA finds that the allegation of FTO Lauber utilizing excessive force is **EXONERATED**. General Order G03-02-01 outlines Department members' ability to use force and the rationale needed to respond reasonably and appropriately to threats they may be presented with under a variety of circumstances. Among said circumstances, officers are instructed to "...refrain from using force against a person who is secured and restrained with handcuffs...unless the member must act to prevent injury to the Department member, the restrained person, or another person".<sup>31</sup>

Here, it is undisputed that ██████ was handcuffed at the time FTO Lauber used force, as made evident by the testimony given by FTO Lauber and Officer Talavera. Also made evident through the testimony given is ██████ belligerence on scene towards CFD members and the officers. Even when restrained, ██████ was combative and posed a risk to cause injury towards the individuals on scene, to include FTO Lauber. Both FTO Lauber and Officer Talavera stated that at the time FTO Lauber used force against ██████ (by hitting ██████ in the chest), ██████ was then classified as an assailant due to the fact that he was actively utilizing his body to push the officers back and spitting blood in the direction of and/or at CFD/CPD first responders. COPA finds that these actions are likely to cause injury. Therefore, classifying ██████ as an assailant is accurate.

Based on the testimony given, COPA also finds that FTO Lauber and his partner attempted to de-escalate the situation through verbal techniques but failed. Per the testimony of Officer Talavera, FTO Lauber utilized a diffused strike due to the fact that the strike given was indirect and delivered with the palm side of a closed hand rather than a traditional direct mechanical strike that is described as being delivered directly and with the knuckles of a closed fist.<sup>32</sup> Consequently, FTO Lauber utilized less force than what could have been delivered, meaning that his use of force was well within department regulations and was only used after several failed attempts in de-escalating the situation. Therefore, this allegation is **EXONERATED**.

### 2. FAILING TO RECORD LAW-ENFORCEMENT-RELATED ACTIVITIES THROUGH THE USE OF BWC AGAINST FTO LAUBER

COPA finds that the allegation of failing to record law-enforcement-related activities through the use of BWC against FTO Lauber is **SUSTAINED**. Special Order S03-14 requires officers engaged in law enforcement related activities to record from the beginning of the incident up until "...the member is no longer engaged in law-enforcement-related activity".<sup>33</sup> COPA investigators attempted to retrieve BWC footage for the incident and was only able to find Sgt. Keenan's incomplete footage and FTO Lauber's footage of ██████ transport into the district

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<sup>30</sup> For a definition of COPA's findings and standards of proof, *see* Appendix B.

<sup>31</sup> Att. 55, pg. 2.

<sup>32</sup> Att. 51, pg. 27.

<sup>33</sup> Att. 56, pgs. 2 and 3.

station.<sup>34</sup> When questioned about the BWC allegation, FTO Lauber admitted that he did not record the incident because he mistakenly believed that he activated the camera. COPA finds this statement to be a mitigating factor. However, it is not enough to exonerate the allegation. Therefore, this allegation is **SUSTAINED**.

### **3. FAILING TO RECORD LAW ENFORCEMENT RELATED ACTIVITIES THROUGH THE USE OF BWC AGAINST SGT. KEENAN**

COPA finds that the allegation of failing to record law-enforcement-related activities through the use of BWC against Sgt. Keenan is **SUSTAINED**. Special Order S03-14 requires officers engaged in law enforcement related activities to record from the beginning of the incident up until "...the member is no longer engaged in law-enforcement-related activity".<sup>35</sup> "Department members will notify their immediate supervisor when the BWC is deactivated prior to the conclusion of an entire incident".<sup>36</sup> COPA found issues with Sgt. Keenan activating and deactivating his camera. Sgt. Keenan was already on scene and speaking with [REDACTED] and the officers before he turned on his camera. Regarding the issue with the deactivation, the recording ended while Sgt. Keenan was still on scene speaking with the involved parties, including [REDACTED]

In his statement, Sgt. Keenan stated that he was saving the battery until he was actually on scene but when he turned on his BWC, the battery died shortly thereafter. However, he was asked if he notified anyone, to which he stated that he did not tell anyone. Department directives are clear in that Sgt. Keenan had a duty to notify his immediate supervisor of the issue on hand, which he failed to do. Furthermore, the directives do not allow officers leeway in partially recording an incident in response to saving the BWC's battery. COPA finds this testimony to be a mitigating factor, but it does not absolve Sgt. Keenan from his duty to fully record the incident from the beginning of his law-enforcement-related actions, up until the battery died. Therefore, the allegation is **SUSTAINED**.

## **VI. DISCIPLINARY RECOMMENDATION**

### **a. FTO Paul Lauber**

#### **i. Complimentary and Disciplinary History<sup>37</sup>**

FTO Lauber has received a total of 120 awards, to include: 2 Lifesaving Award, 4 Department Commendation, 1 Field Training Service Award, 72 honorable mentions, and 10 complimentary letters. As of May 13, 2024, He has no SPAR or Sustained Complaint History within the past five years.

<sup>34</sup> As stated in the evidence section, FTO Lauber recorded [REDACTED] transportation to the district station.

<sup>35</sup> Att. 56, pgs. 2 and 3.

<sup>36</sup> Att. 56, pg. 4.

<sup>37</sup> Att. 57.

**ii. Recommended Discipline**

Here, COPA has found that FTO Lauber Sgt. Keenan violated Rules 5, 6, and 10 by failing to record law-enforcement-related activities through the use of BWC. Based on this information, COPA recommends **Violation Noted**.

**b. Sgt. Stephen Keenan**

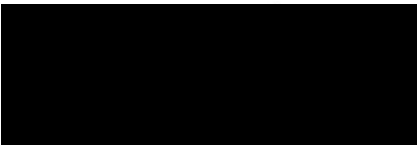
**i. Complimentary and Disciplinary History<sup>38</sup>**

Sgt. Keenan has received a total of 48 awards, to include: 1 Lifesaving Award, 1 Department Commendation, 2004, 2009, 2019 Crime Reduction Award, 24 Honorable Mention, and 5 Complimentary Letter. He has no SPAR or Sustained Complaint History within the past five years.

**ii. Recommended Discipline**

Here, COPA has found that Sgt. Keenan violated Rules 5, 6, and 10 by failing to record law-enforcement-related activities through the use of BWC and failing to immediately contact/notify his supervisor of any BWC issues, Sgt. Keenan is a Department Supervisor, and his responsibilities here require that he be held to a higher standard. Based on this information, COPA recommends a **1-Day Suspension**

Approved:



7/10/2024

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*Matthew Haynam*  
*Deputy Chief Administrator – Chief Investigator*

\_\_\_\_\_  
Date

<sup>38</sup> Att. 58.

Appendix ACase Details

Date/Time/Location of Incident:	April 7, 2023 / 02:30 PM / [REDACTED].
Date/Time of COPA Notification:	April 8, 2023 / 01:44 PM
Involved Officer #1:	FTO Paul Lauber, Star #6341, Employee ID#[REDACTED], Date of Appointment: December 17, 2001, Unit of Assignment: 025, Male, White.
Involved Officer #2:	Sergeant Stephen Keenan, Star #2019, Employee ID#[REDACTED], Date of Appointment: May 10, 1999, Unit of Assignment: 025, Male, White.
Witness Officer:	Officer Christian Talavera, Star #17478, Employee ID#[REDACTED], Date of Appointment: June 30, 2022, Unit of Assignment: 025, Male, Hispanic.
Involved Individual:	[REDACTED] Male, Black.
Witness Individual #1:	CFD member Sean Flynn, Male, White.
Witness Individual #2:	CFD member Thomas Meyers, Male, White.
Witness Individual #3:	CFD member Pedro Samarripa, Male, Hispanic.

Applicable Rules

- Rule 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 10:** Inattention to duty.

Applicable Policies and Laws

- General Order G03-02-01: Response to Resistance and Force Options (effective 15 April 2021 to 28 June 2023)
- Special Order S03-14: Body Worn Cameras (effective 30 April 2018 to 29 December 2023)

## Appendix B

### **Definition of COPA’s Findings and Standards of Proof**

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

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

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that a proposition is proved.<sup>39</sup> For example, 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. 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.”<sup>40</sup>

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<sup>39</sup> 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 is found to be more probably true than not).

<sup>40</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4<sup>th</sup> ed. 2000)).



**Appendix C**

**Transparency and Publication Categories**

Check all that apply:

- Abuse of Authority
- Body Worn Camera Violation
- Coercion
- Death or Serious Bodily Injury in Custody
- Domestic Violence
- Excessive Force
- Failure to Report Misconduct
- False Statement
- Firearm Discharge
- Firearm Discharge – Animal
- Firearm Discharge – Suicide
- Firearm Discharge – Unintentional
- First Amendment
- Improper Search and Seizure – Fourth Amendment Violation
- Incidents in Lockup
- Motor Vehicle Incidents
- OC Spray Discharge
- Search Warrants
- Sexual Misconduct
- Taser Discharge
- Unlawful Denial of Access to Counsel
- Unnecessary Display of a Weapon
- Use of Deadly Force – other
- Verbal Abuse
- Other Investigation