



Log # 2023-1597

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On April 14, 2023, the Civilian Office of Police Accountability (COPA) received an initiation report from the Chicago Police Department (CPD), after the review of the Tactical Response Report (TRR) by Lieutenant (Lt.) James Allen. It is alleged that on April 12, 2023, Officer Michael Kearns (Officer Kearns) used excessive force during this incident by pushing ██████████ (██████████) about the chest with both hands, causing her to strike the ground.² Upon review of the evidence, COPA served an allegation that Officer Kearns pushed ██████████ to the ground, without justification. Following its investigation, COPA reached a sustained finding regarding the allegation of excessive force.

II. SUMMARY OF EVIDENCE³

On April 12, 2023, at approximately 10:08 pm, Officer Kearns was part of a group of CPD officers tasked with maintaining order, ensuring safety, and clearing out Millennium Park. Millennium Park was closed by security, due to a large gathering of individuals, predominately teenagers, that were causing a disturbance after hours.⁴ There were calls to 911 from people in the area reporting the large group of teenagers had moved to the area on Madison Street between Michigan Avenue and Garland Court.⁵ There were officers on the scene, by foot and bikes.⁶ Officer Kearns was assigned to bike patrol.⁷ Officer Kearns responded to a disturbance on Michigan Avenue and observed a small group of teenagers engaging in a fight upon the public way on Michigan Avenue.⁸ There were two female teenagers fighting with one another on the sidewalk area at and/or near the Starbucks coffee shop on Michigan Avenue, which swiftly changed to approximately eight female teenagers being in very close proximity to the fight and at

¹ 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.

² 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.

³ The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including Body-Worn Camera (BWC) footage, Chicago Police Department (CPD) Initiation Report, Tactical Response Report (TRR), POD footage, 911 Calls, Medical Records, and officer and complainant interviews.

⁴ Att. 29, pg. 2 and pg. 6.

⁵ Att. 3 at 0:15 to 1:20; Att. 4 at 0:15 to 0:30.

⁶ Att. 23 at 15:40.

⁷ Att. 66, pg. 8, ln. 9.

⁸ Att. 52, pg. 2.

least twenty teenagers, male and female, standing nearby, recording the fight with their cell phones.⁹

As the CPD officers intervened to separate the two teenagers who were fighting, they also ordered all teenagers and other people in the area to disperse, including Officer Kearns stating, “back up...get back, get back”.¹⁰ [REDACTED] was one of the teenagers among the group near the fight and is observed on Body-worn camera (BWC) pulling one of females away from the officers as they attempt to break up the fight.¹¹ As the group of teens began to disperse, [REDACTED] walked backwards and taking a bladed stance toward the officers. Officer Kearns walked around Sergeant Thomas Palma and pushed [REDACTED] about the chest area with both of his hands, causing her to fall backwards and strike the sidewalk.¹² Sergeant Palma stated something to the effect of, “don’t”¹³ and told [REDACTED] he saw what happened and took her information so he could report it.¹⁴ Sergeant Palma assisted [REDACTED] and rendered aid to her after she was pushed to the ground.¹⁵

[REDACTED] was transported to [REDACTED] Hospital of Chicago via ambulance, where her injuries were documented as blunt injury to the head from a ground level fall, resulting in an unspecified, mild head injury and/or concussion.¹⁶

III. ALLEGATIONS

Officer Michael Kearns:

1. Pushing [REDACTED] to the ground, without justification.
 - Sustained, Violation of Rules 2, 3, 6, 8, and 9

IV. CREDIBILITY ASSESSMENT

The credibility of an individual relies primarily on two factors: 1) the individual’s truthfulness and 2) the reliability of the individual’s account. The first factor addresses the honesty of the individual making the statement, while the second factor speaks to the individual’s ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory.

Although [REDACTED] account is similar to the events that occurred on April 12, 2023, there are some noted inaccuracies. [REDACTED] indicated that “she and her friends were headed home, when the officers told them to step back, they step back, the officer comes towards her and pushed her to

⁹ Att. 23 at 28:28 to 28:33.

¹⁰ Att. 52, pgs. 2 to 5 and Att. 23 at 28:35 to 28:38.

¹¹ Att. 23 at 28:32. [REDACTED] was wearing a black long-sleeved cropped shirt and black shorts, with long black hair.

¹² Att. 29, pg. 2, Att. 52, pgs. 5 to 6, and Att. 23 at 28:38.

¹³ Att. 23 at 28:39.

¹⁴ Att. 23 at 33:00 to 33:05. Lt. Allen’s Initiation Report indicates he received the information about this complaint from Sgt. Palma. See Att.

¹⁵ Att. 52, pg. 5.

¹⁶ Att. 55, pgs. 1 to 2 and Att. 60, pgs. 1 to 4.

the ground and hit her head on the concrete.”¹⁷ However, based on the BWC footage, ██████ directly involved herself by interfering with the officers as the officers were attempting to stop a fight between two females. When asked by COPA if anyone else was either touched, hit or pushed, ██████ responded “no.”¹⁸ Again, ██████ contradicts herself, as officers were physically attempting to separate the two female teenagers from fighting, which ██████ omits. ██████ credibility should be called into question, as the factors resulting in her encounter with the officers were omitted when providing her statement to COPA.

COPA interviewed Officer Kearns on August 16, 2024.¹⁹ COPA does not question Officer Kearns’ ability to accurately perceive the event at the time of the incident or from memory during his interview. However, COPA does find Officer Kearns’ description of the actions of ██████ do not match the BWC footage. Officer Kearns told COPA that ██████ was involved in the fight amongst the group of teenagers and assisted her friend who was fighting by trying to get to the individual who was on the ground while a supervisor was on top of the person who was on the ground, but this was not observed on BWC.²⁰ Furthermore, Officer Kearns expressed that ██████ was argumentative,²¹ angry²², and yelling²³ during their interaction, though this was not depicted on the BWC footage. Moreover, Officer Kearns stated that ██████ was an uncooperative, active resister,²⁴ despite the fact that ██████ was observed via BWC walking away and backing up upon being ordered to disperse by the CPD officers at the scene of the incident, demonstrating cooperative actions, without conveying any further words or differing emotions until being pushed to the ground by Officer Kearns.²⁵

V. ANALYSIS²⁶

COPA finds that **Allegation #1** against Officer Kearns, that he pushed ██████ to the ground, without justification, is **Sustained**. CPD members involved in a use-of-force incident must make an independent assessment and decision to use force based on the totality of the circumstances and whether such force is objectively reasonable, necessary, and proportional.²⁷ Force is defined as any physical contact by a CPD member, either directly or through the use of equipment, to compel a person’s compliance.²⁸ The main issue in evaluating every use of force is whether the amount of force used by the member was objectively reasonable in light of the totality of circumstances faced by the member on the scene, such as whether the person poses an imminent

¹⁷ Att. 1 at 2:56

¹⁸ Att. 1 at 13:57

¹⁹ Att. 62 and Att. 66.

²⁰ Att. 66, pg.14, lns. 8 to 15 and pg. 16, lns. 4 to 23.

²¹ Att. 66, pg. 20, lns. 17 to 24, pg. 21, lns. 1 to 3, pg. 30, ln. 2, pg. 31, ln. 6, and pg. 47, lns. 7 to 17.

²² Att. 66, pg. 30, lns. 22 and pg. 31, lns. 7 to 15.

²³ Att. 66, pg. 21, lns. 4 to 24, pg. 22, lns. 1 to 4, pg. 31, lns. 9 to 13, and pg. 39, ln. 10.

²⁴ Att. 66, pg. 17, lns. 20 to 24 and pg. 18, lns. 1 to 14.

²⁵ Att. 23 at 28:34 to 28:39.

²⁶ For a definition of COPA’s findings and standards of proof, *see* Appendix B.

²⁷ Att. 67, G03-02, De-escalation, Response to Resistance, and Use of Force (effective April 15, 2021, to June 28, 2023).

²⁸ Att. 67, G03-02 (III)(A).

threat to the members or others and the level of harm, threat, or resistance by the person.²⁹ CPD members must use the minimum amount of force needed to provide for the safety of any person or CPD member and must continually assess the necessity of the use of force and whether alternatives may be employed, including the use of de-escalation techniques.³⁰ Additionally, CPD members will use only the force that is proportional to the threat, actions, and level of resistance offered by a person and decrease the amount or type of force when or if the person offers less resistance.³¹

Here, force was used by Officer Kearns when he physically pushed ██████ about the chest area with both of his hands while ██████ was in the process backing away, causing ██████ to fall backwards, strike the sidewalk ground, and sustain a head injury.³² Officer Kearns described pushing ██████ as “a check to move her back, with a hand on the body, to redirect...on the upper body.”³³ Although Officer Kearns described ██████ as argumentative,³⁴ angry,³⁵ and yelling,³⁶ and said she was uncooperative and actively resisting,³⁷ it was not necessary for him to continue to engage with ██████. His own actions were not reflective of, reasonable to, or proportional to ██████ actions or level of resistance, particularly since ██████ was observed finally complying and cooperating with the orders given by the CPD officers to leave the area and disperse.³⁸ Officer Kearns did not utilize the minimum amount of force needed to provide for the safety of ██████. Additionally, Officer Kearns did not continually assess the necessity of the use of force and whether alternatives could have been employed that were more reasonable based upon the actions of ██████ such as using continuing to use verbal de-escalation techniques. COPA notes that no other officer on scene used force on ██████ Sgt. Palma, who was on scene at the time and had a direct view of what happened, intervened and took ██████ information so he could report Officer Kearns’ actions. Based upon the totality of the circumstances, the force used by Officer Kearns was not objectively reasonable, necessary, or proportional to the actions of ██████.

For these reasons, COPA finds the preponderance of the evidence shows that Officer Kearns’ actions of excessive force by pushing ██████ to the ground, without justification, violated CPD policy and Rules 2, 3, 6, 8, and 9.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Michael Kearns

²⁹ Att. 67, G03-02 (III)(B)(1).

³⁰ Att. 67, G03-02 (III)(B)(2).

³¹ Att. 67, G03-02 (III)(B)(3).

³² Att. 29, pg. 2, Att. 52, pgs. 5 to 6, and Att. 23 at 28:38.

³³ Att. 66, pg. 15, lns. 11 to 24 and pg. 16, lns. 1 to 3.

³⁴ Att. 66 at pg. 20, lns. 17 to 24, pg. 21, lns. 1 to 3, pg. 30, ln. 2, pg. 31, ln. 6, and pg. 47, lns. 7 to 17.

³⁵ Att. 66, pg. 30, lns. 22 and pg. 31, lns. 7 to 15.

³⁶ Att. 66 at pg. 21, lns. 4 to 24, pg. 22, lns. 1 to 4, pg. 31, lns. 9 to 13, and pg. 39, ln. 10.

³⁷ Att. 66, pg. 17, lns. 20 to 24 and pg. 18, lns. 1 to 14.

³⁸ Att. 23 at 28:34 to 28:39.

i. Complimentary and Disciplinary History³⁹

Officer Kearns has received 18 various awards, including 14 Honorable Mentions. He has no sustained disciplinary or SPAR history in the past five years.

ii. Recommended Discipline

COPA has found that Officer Kearns violated rules 2, 3, 6, 8, and 9, when he used excessive force by pushing [REDACTED] to the ground, without justification. Although Officer Kearns provided his perspective and justification regarding the allegation, his conduct escalated the situation resulting in [REDACTED] needed medical attention. Moreover, his actions brought discredit to CPD and were damaging to the relationship expected of an officer when interacting with members of the public. It is for these reasons, combined with Officer Kearns's complimentary history and lack of disciplinary, that COPA recommends a suspension of 10-15 days and retraining on CPD's use of force policy and standards of professionalism.

Approved:

[REDACTED]

October 9, 2024

Shannon Hayes
Director of Investigations

Date

Appendix A

Case Details

Date/Time/Location of Incident:	April 12, 2023 / 10:08pm / 8 N. Michigan Avenue, Chicago, Illinois
Date/Time of COPA Notification:	April 14, 2023 / 2:55pm
Involved Member #1:	Michael Kearns, Star #19068, Employee ID# [REDACTED] Date of Appointment: February 20, 2018, Unit: 124, Male, White
Involved Individual #1:	[REDACTED] Female, Black

³⁹ Att. 68

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Applicable Rules

- Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10:** Inattention to duty.
- Rule 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.

Applicable Policies and Laws

- General Order G03-02, De-escalation, Response to Resistance, And Use of Force (effective April 15, 2021, to June 28, 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.⁴⁰ For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD 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.”⁴¹

⁴⁰ 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).

⁴¹ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th 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