

SUPPLEMENTARY SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	May 25, 2011
Time of Incident:	approximately 10:30 p.m.
Location of Incident:	10 N. Kilbourn Avenue, Citgo Gas Station
Date of IPRA Notification:	May 25, 2011
Time of IPRA Notification:	approximately 11:39 p.m.

On May 25, 2011, a male subject, now known as ██████ entered a McDonald's restaurant located at 5656 West Irving Park Road and committed an armed robbery. ██████ ran from the restaurant and jumped into a vehicle, a Lincoln Town Car ("Lincoln"), driven by a female, now known as ██████. Later that same evening, police spotted the Lincoln, and a pursuit ensued that ended near the intersection of Madison and Kilbourn Avenues.

After several minutes of a pursuit that was monitored and joined by several police officers, the Lincoln, turned into a Citgo Gas Station ("Citgo") via the entrance/exit located on Madison Avenue. ██████ began driving through the gas station as a police vehicle, occupied by Officers ██████ and ██████ turned and parked their police car in the entrance/exit apron of the gas station that accesses Kilbourn Avenue. ██████ drove slowly around gas pump islands, towards the Kilbourn entrance/exit. Contemporaneously, Officer ██████ exited his police car and approached the Lincoln. ██████ accelerated as she moved toward the Kilbourn entrance/exit and drove in the direction of the police car and Officer ██████. Officer ██████ discharged his weapon five times into the Lincoln. ██████ sustained two gunshot wounds to the left breast and one gunshot wound to the right back. ██████ brought the Lincoln to a stop across the street from the Citgo, at approximately 44 North Kilbourn Avenue.

█████ exited the Lincoln with her hands raised. An officer, now known as ██████ grabbed ██████ near the collar of her shirt and took her to the ground. ██████ was tased five times and received multiple control holds and strikes from officers as they attempted to place her in handcuffs. A Chicago Fire Department ambulance arrived on scene and transported ██████ to Mt. Sinai Hospital. In December 2013, IPRA concluded its investigation into the non-fatal officer-involved shooting incident. IPRA found that Officer ██████ actions were in accordance with the Chicago Police Department's deadly force policy. In May 2016, IPRA re-opened this incident to investigate the use of force employed by officers after the weapons discharge. COPA agrees with the original determination that the weapon discharge was within policy and therefore

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

this report only addressed the use of force and other actions which occurred after the weapons discharge.

II. INVOLVED PARTIES

Involved Officer #1:	██████████ Star ██████████ Employee # ██████████ Date of Appointment: ██████████, 2006; Police Officer; Unit ██████████ DOB: ██████████ 1970; Male White
Involved Officer #2:	██████████ Star ██████████ Employee # ██████████ Date of Appointment: ██████████ 2005; Police Officer; Unit ██████████ DOB: ██████████ 1978; Male White
Involved Officer #3:	██████████ Star ██████████ Employee # ██████████ Date of Appointment: ██████████ 2006; Police Officer; Unit ██████████ DOB: ██████████ 1982; Male Hispanic
Involved Officer #4:	██████████ Star ██████████ Employee # ██████████ Date of Appointment: ██████████ 2008; Police Officer; Unit ██████████ DOB: ██████████ 1982; Male Hispanic
Involved Officer #5:	██████████ Star ██████████ Employee # ██████████ Date of Appointment: ██████████ 2006; Police Officer; Unit ██████████ DOB: ██████████ 1970; Male White
Subject #1:	██████████ DOB: ██████████ 1981; Female Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer ██████████	1. It is alleged that on May 25, 2011, at approximately 2230 hours, while at the location 31 N. Kilbourn Ave, you used excessive force in the manner in which you took ██████████ to the ground.	Sustained/ 25 Days
	2. It is alleged that on May 25, 2011, at approximately 2230 hours, while at the location 31 N. Kilbourn Ave, you violated Department policy	Sustained/ 25 Days

² Also appearing in some records as ██████████

	<p>and directives when you discharged your taser without justification.</p> <p>3. It is further alleged that in an interview to IPRA dated 12 September 2013, at 1615 West Chicago, you gave false oral statement regarding [REDACTED] refusal to comply with his verbal commands to show her hands, in that Investigator Q: "And so, what happened once the Lincoln came to a stop?" A: "The driver exited the vehicle; female." Q: "Did the female say anything? A: "No, she was not following my verbal directions to show me her hands." Q: "What was her demeanor when she exited the vehicle?" A: "She turned her back on us." Q: "Were her hands raised? Where were her hands at that time?" A: "She kept them by her side by her waistband, she didn't keep them raised," in violation of Rule 14.</p>	<p>Not Sustained</p>
<p>Officer [REDACTED]</p>	<p>1. It is alleged that on 25 May 2011, at approximately 2230 hours, while at the location 31 N. Kilbourn Ave, you violated Department policy and directives when you discharged your taser without justification.</p> <p>2. It is alleged that on 25 May 2011, at approximately 2230 hours, while at the location 31 N. Kilbourn Ave, you violated Department policy and directives when you discharged your taser for more than five seconds.</p>	<p>Sustained/ 10 days</p> <p>Sustained/ 10 days</p>
<p>Officer [REDACTED]</p>	<p>1. It is alleged that on 25 May 2011, at approximately 2230 hours, while at the location 31 N. Kilbourn Ave, you failed to report misconduct committed by Officer [REDACTED]</p>	<p>Not Sustained</p>
<p>Officer [REDACTED]</p>	<p>1. It is alleged that on 25 May 2011, at approximately 2230 hours, while at the location 31 N. Kilbourn Ave, you failed to report misconduct committed by Officer [REDACTED]</p>	<p>Not Sustained</p>

IV. APPLICABLE RULES AND LAWS

Rules

- 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 14:** Making a false report, written or oral.
- Rule 22:** Failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department.
-

General Orders

- G03-02-02,** "Force Options," Effective October 1, 2002 through May 16, 2012.
- G03-02-03,** "Deadly Force," Effective October 1, 2002 through February 10, 2015.
- G08-01-02,** "Allegations of Misconduct – Specific Responsibilities," Effective May 24, 2001 through March 17, 2013.
-

Uniform and Property

- U04-02,** "Department Approved Weapons and Ammunition," Effective July 24, 2007 through June 14, 2012.
-

V. INVESTIGATION³

a. Interviews

1. Civilian Statements

On May 26, 2011, IPRA conducted a **canvass** in the vicinity of the incident in an attempt to locate additional witnesses and/or evidence. That effort identified two Citgo Gas Station employees [REDACTED] and [REDACTED] that had witnessed the shooting. Additionally, a manager at JR Plaza's Hotel stated that Room 224 has a view of the Citgo Gas Station, and the room was occupied the night of the incident by a guest named [REDACTED]⁴

³ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁴ Attachment 34.

In a **telephone interview with IPRA** on May 26, 2011, ██████████ stated that he was inside the Citgo Gas Station store when he heard multiple gunshots outside and “dropped” to the floor. ██████████ did not witness the incident.⁵

Multiple attempts to interview ██████████ were unsuccessful.⁶

In an **interview with IPRA** on June 14, 2011, ██████████ ██████████ stated that on May 25, 2011, she was driving her 1999 Lincoln Town Car with her boyfriend, ██████████ when police cars began following her with their lights on. ██████████ was scared, so she fled from the police. At some point while being chased by the police, ██████████ threw his gun away and jumped out of the Lincoln.

While traveling westbound on Madison, ██████████ saw police cars blocking the street ahead, so she turned into a Citgo Gas Station. The gas station was a tight space requiring ██████████ to drive slowly, approximately five miles per hour, around the gas pumps and come to a complete stop before exiting through the station’s east exit. While proceeding through the exit, ██████████ heard two gunshots. She knew the police had fired upon her, but she could not identify an individual officer. Once ██████████ realized she was shot, she pulled the Lincoln over to the side of the street.

██████████ exited the Lincoln with her hands raised, so that the police could see she did not have anything in her hands. The police tackled her to the ground, and she fell on her stomach with her hands underneath her. ██████████ stated that she was trying to place her hands behind her back to be handcuffed, but she was in pain from the gunshots. ██████████ said this is when she was first tased. Then, an officer put his foot on her head pushing it into the concrete, which chipped her tooth and bruised her face. She, once again, tried to put her hands behind her back, but told police “I’m shot and I’m trying to get my hands behind my back because I’m in pain.”⁷ ██████████ said the police did not believe her and called her a “bitch.”⁸ She was tased a second time. Then, after ██████████ was handcuffed, she was tased a third time. After ██████████ was handcuffed, officers asked her to roll over and officers helped her stand up. The officers escorted her to a police vehicle and questioned her about who had been in the Lincoln with her earlier in the evening. ██████████ answered their questions and told them that she had been shot. Officers opened her jacket and saw that she was bleeding. Officers called an ambulance and she was transported to Mt. Sinai Hospital.⁹

In an **interview with IPRA** on January 25, 2012, ██████████ (██████████ a security officer with TNT Security Company, stated that on the date and time of the incident, he was working security at Citgo Gas Station. ██████████ was outside standing at the gate surrounding the gas station, which is located about fifteen to twenty feet from where the Lincoln stopped. ██████████ observed the female driver exit the Lincoln with her hands raised. ██████████ thought the driver appeared to be injured based on the manner she held her arms up; her left arm was slightly lower than her right arm. Shortly after the driver exited, a tall officer, who had just pulled up in a police truck, ran towards the driver and threw her down to the pavement. Other officers came running and surrounded the driver. ██████████ heard officers yelling, “stop resisting,” and the driver

⁵ Attachment 27.

⁶ Attachments 78, 108.

⁷ Attachment 104, page 5, lines 17 and 18.

⁸ Attachment 104, page 15 line 11.

⁹ Attachments 75, 76, 104.

was yelling, "I'm not resisting." [REDACTED] saw officers back away and watch as the driver moved back and forth while handcuffed. Then, [REDACTED] heard at least one "pop" of a taser gun after the driver was handcuffed on the ground. Eventually, an ambulance arrived and transported the driver from the scene.¹⁰

2. Police Officers

In an **interview with IPRA** on September 6, 2013, witness **Officer [REDACTED]** ("**Officer [REDACTED]**") stated that he and his partner, Officer [REDACTED] were working in a marked vehicle as a citywide traffic car, when Officer [REDACTED] stopped and asked us to assist him because he was following a vehicle that matched the description of vehicle recently involved in an armed robbery of a McDonald's in the [REDACTED] District. They turned around and followed the vehicle, which immediately turned down an alley, and observed the driver of the vehicle throw items into a trash can. At this point, they approached, turned on the siren and emergency lights, the vehicle fled, and officers notified the zone on the radio. The vehicle was involved in a car accident before the pursuit came to an end at 10 N. Kilbourn, however, Officer [REDACTED] was not the primary car at the time of the accident.

At 10 North Kilbourn, Officer [REDACTED] car was directly behind and to the left of the vehicle and there was a marked squad car at the other exit of the station. Officer [REDACTED] was about thirty to forty feet away when the vehicle appeared to be stopping. Officer [REDACTED] could see Officer [REDACTED] an officer from the marked car at the other exit, approaching the vehicle on foot. During Officer [REDACTED] approach, and while he appeared to be dead center of the vehicle, the vehicle accelerated toward Officer [REDACTED] Officer [REDACTED] appeared to fire shots while moving to the side, seemingly attempting to get out of the way of the vehicle. The vehicle exited the gas station and came to a stop approximately fifty feet from the station. The driver exited the vehicle yelling and running towards officers. The driver did not comply with verbal commands, and an unknown officer performed an emergency takedown. The driver continued to yell, stiffen her body and flail her arms. An unknown officer tased her, but her actions did not cease until after she was handcuffed. In order to handcuff the driver, Officer [REDACTED] had to put her in a wristlock and place handcuffs on one of her hands, while another unknown officer placed handcuffs on her other hand and the two sets of handcuffs were cuffed together. While on the ground and handcuffed, Officer [REDACTED] heard an officer say, "She's been shot," and an ambulance was ordered.¹¹

In an **interview with IPRA** on September 6, 2013, **Officer [REDACTED]** ("**Officer [REDACTED]**") stated that he and his partner, Officer [REDACTED] heard a dispatch over their radio zone that a vehicle matching the description of a vehicle involved in an armed robbery was being followed. Officer [REDACTED] monitored the pursuit over the radio and drove toward the vehicle's location. Officer [REDACTED] heard "shots fired by police" over the radio before he arrived on scene.

When Officer [REDACTED] arrived on scene, the vehicle was parked on Kilbourn on the opposite side of a Citgo Gas Station. There were numerous police vehicles with their emergency lights on in the vicinity. As Officer [REDACTED] approached on foot, he could not remember if the female was being pulled or had already been pulled out of the vehicle, but he could hear officers yelling verbal commands for the female to get down and put her hands behind her back. Officer [REDACTED] stated that

¹⁰ Attachments 84, 85.

¹¹ Attachments 111, 112.

the female did not comply with verbal commands, but instead took positions to avoid being controlled. Officers were trying to grab the female's wrists and hold down her ankles. Then, at some point, Officers [REDACTED] and [REDACTED] deployed their tasers to gain control of the female's limbs. Once [REDACTED] was handcuffed, but while she was still on the ground, Officer [REDACTED] heard her say that she was shot. The female was brought to her feet and placed in Officers [REDACTED] and [REDACTED] squad car to wait for an ambulance.¹²

In an **interview with IPRA** on September 11, 2013, Officer [REDACTED] ("Officer [REDACTED]") stated that he and his partner, Officer Adam [REDACTED] heard, over the radio, about a vehicle that had just committed an armed robbery. Officers [REDACTED] and [REDACTED] monitored the pursuit over the radio and drove toward the vehicle's location.

When Officer [REDACTED] arrived on scene, he exited his car and went to assist officers that were attempting to put a female into custody. Officer [REDACTED] stated that the female was being combative towards officers, which he described as refusing to follow verbal commands, kicking and swinging her free arm. Officer [REDACTED] believes that he unsuccessfully attempted to reach under the female to grab her arm and handcuff her. Officer [REDACTED] heard an officer yell, "Someone just get a taser." At that point, Officer [REDACTED] knew that the female was suspected of committing an armed robbery and could possibly have a gun underneath her and she continued to kick and not place her hands behind her back, so Officers [REDACTED] and [REDACTED] deployed their tasers. The female was picked up from the ground and put in the back of Officers [REDACTED] and [REDACTED] squad car. At this time, Officer [REDACTED] observed blood on the female's shirt and an ambulance was requested.¹³

In a follow up **interview with COPA** on February 6, 2018, Officer [REDACTED] provided the following additional details. Officer [REDACTED] entered the scene, and believes he was positioned somewhere around [REDACTED] legs or feet. Although Officer [REDACTED] cannot recall any specific actions regarding attempting to handcuff [REDACTED] he did remember screaming, along with other officers, "hands, hands." [REDACTED] appeared to be attempting to flee arrest, she was suspected of armed robbery, she may have a weapon, she kicked at officers and she refused to show her hands. Officer [REDACTED] viewed [REDACTED] as an active resister and felt his safest action was to use his taser. Although Officer [REDACTED] cannot be sure, he believes he yelled, "taser, taser, taser," prior to initially deploying his taser, as he was trained.

After reviewing the taser download report,¹⁴ Officer [REDACTED] saw that on his first taser deployment, the taser cycled for ten seconds. Officer [REDACTED] explained that the scene was chaotic, he was trying to confirm his taser made contact while watching for movement, and he must have miscounted the time. Officer [REDACTED] stated, due to the lapse in time between the incident and the interview, Officer [REDACTED] could not recall what [REDACTED] did following his first taser deployment. However, Officer [REDACTED] felt that something must have happened that he needed, in that split second, to redeploy the taser in order to regain control. Officer [REDACTED] indicated that although one second is not a long time, it is enough time for a person to grab a knife or handgun, to pull the trigger on a handgun already in hand, or to strike an officer. Officer [REDACTED] believes [REDACTED] must have done something in that split second that triggered him to react and deploy his taser a second time. Officer [REDACTED] stated, again, due to the lapse in time, Officer [REDACTED] could not recall how [REDACTED] reacted to

¹² Attachments 114, 115.

¹³ Attachments 120, 121.

¹⁴ Attachment 7.

this second taser cycle. Officer [REDACTED] indicated that most individuals stiffen and do not move while they are experiencing the taser, so he thinks [REDACTED] must have continued to move. Officer [REDACTED] also saw in the taser download report that he deployed his taser for a third time but is unable to remember why. Officer [REDACTED] believed [REDACTED] must have taken some action, like a quick movement, because some time had passed since the last deployment, or the taser may not have connected or had any effect. Officer [REDACTED] explained that the effectiveness of a taser depends on how close the taser prongs are to each other and where they land on a person's body. For example, if the taser prongs are too close together, a person may feel pain, but they can overcome it and rip the prongs out. Officer [REDACTED] was unaware if his taser prongs made contact with [REDACTED] or where the prongs were on her body. Officer [REDACTED] denied tasing [REDACTED] after she was placed into handcuffs.

Additionally, Officer [REDACTED] indicated that with the chaotic scene, he was unable to recall what other officers were doing on scene. It was after [REDACTED] was secure and in custody that Officer [REDACTED] remembered learning that Officer [REDACTED] had used his taser that night. Officer [REDACTED] only remembered that he was surprised Officer [REDACTED] had used a taser and thought Officer [REDACTED] face indicated that he was surprised that Officer [REDACTED] had used a taser. Officer [REDACTED] wanted to point out that he understands that in a controlled environment, it is not ideal to deploy two tasers, however, this was a chaotic scene, with an armed robbery, weapon, and a combative offender. Additionally, Officer [REDACTED] was not sure his taser had even struck [REDACTED].¹⁵

In an **interview with IPRA** on September 12, 2013, **Officer [REDACTED]** (“Officer [REDACTED]”) stated that he and his partner, Officer [REDACTED] received a flash message over the radio regarding a pursuit of a Lincoln Town Car (“Lincoln”) involved in an armed robbery. Officer [REDACTED] monitored the pursuit and attempted to locate the Lincoln. Officer [REDACTED] first observed the Lincoln at a gas station at the intersection of Madison and Kilbourn. Officer [REDACTED] observed the vehicle driving erratically through the gas station toward an officer, who he thought had been hit by the Lincoln, and he saw an unidentified officer fire at the vehicle. Officer [REDACTED] remembers hearing two gunshots, but he was focused on bringing his car to a stop to avoid entering the path of bullets. Officer [REDACTED] car then hydroplaned and came to a stop just north of Madison. Simultaneously, the Lincoln exited the gas station and came to rest in front of Officer [REDACTED] car.

After the Lincoln stopped, the driver exited the vehicle and refused to follow verbal commands to show her hands. Officer [REDACTED] stated that the driver kept her hands by her waistband, at her side and refused to raise her hands. Officer [REDACTED] continued to give verbal commands to the driver as he approached. When Officer [REDACTED] was close enough to put his hand on the driver, the driver tensed up, which Officer [REDACTED] perceived as resistance, and he proceeded to perform an “emergency takedown.” Once the driver was on the ground, the driver turned onto her stomach and placed her hands underneath her waist area and continued to resist. Officer [REDACTED] deployed his taser, striking the driver in the back. Officer [REDACTED] believed that Officer [REDACTED] also deployed his taser but did not explain any further. Officer [REDACTED] did not remember how many times the driver was tased, but she finally complied, and officers were able to handcuff her. Officer [REDACTED] did not learn that the driver had been shot until after she was placed in the back of a squad car.¹⁶

In a follow up **interview with COPA** on February 1, 2018, **Officer [REDACTED]** provided the following additional details. Officer [REDACTED] stated that, on this night, he did

¹⁵ Attachments 192, 197.

¹⁶ Attachments 123, 124.

not discuss with Officer ██████ how to approach ██████ Lincoln because everything happened so fast. Officer ██████ did not want to get shot, so he exited his car and approached the Lincoln to try and “place a violent assailant into custody that had just committed armed robbery and attempted to kill a police officer.”¹⁷ As Officer ██████ approached the Lincoln, he gave the individual or individuals in the car verbal direction, “Get out of the car. Let me see your hands.”¹⁸ Officer ██████ stated that it took ██████ a while to exit the car, and that she was fumbling around inside, which he thought may have been ██████ going for a weapon or had a weapon on her person.

When Officer ██████ was read his previous statement, the subject of the Rule 14 allegation against him, Officer ██████ stated that the statement is not accurate. Officer ██████ explained that he gave the statement two and a half years after the incident, the statement he gave was what his brain had processed that night, and he was not given the opportunity to review the video, so he was not able to make an accurate statement. Officer ██████ further explained that after seeing the video, obviously, ██████ hands were up, and had he been shown the video during his, September 12, 2013, IPRA statement, he would have recalled that part of the incident. Officer ██████ stated that he did not lie, he just did not recall the event correctly.

When ██████ was still in the car, Officer ██████ ordered her to put her hands up. ██████ put her hands up as she exited the vehicle, but then Officer ██████ commanded her to “show me your hands and get on the ground.”¹⁹ ██████ did not comply and get on the ground. At that moment, Officer ██████ had classified ██████ as an assailant “because she just committed an armed robbery, and she’d just attempted to kill a police officer.”²⁰ Officer ██████ did not know if ██████ was armed. Officer ██████ then performed an emergency takedown. When asked why Officer ██████ chose to use an emergency takedown instead of any other use of force, Officer ██████ stated that he did not know if anyone else was in the vehicle, and an emergency takedown was the quickest use of force

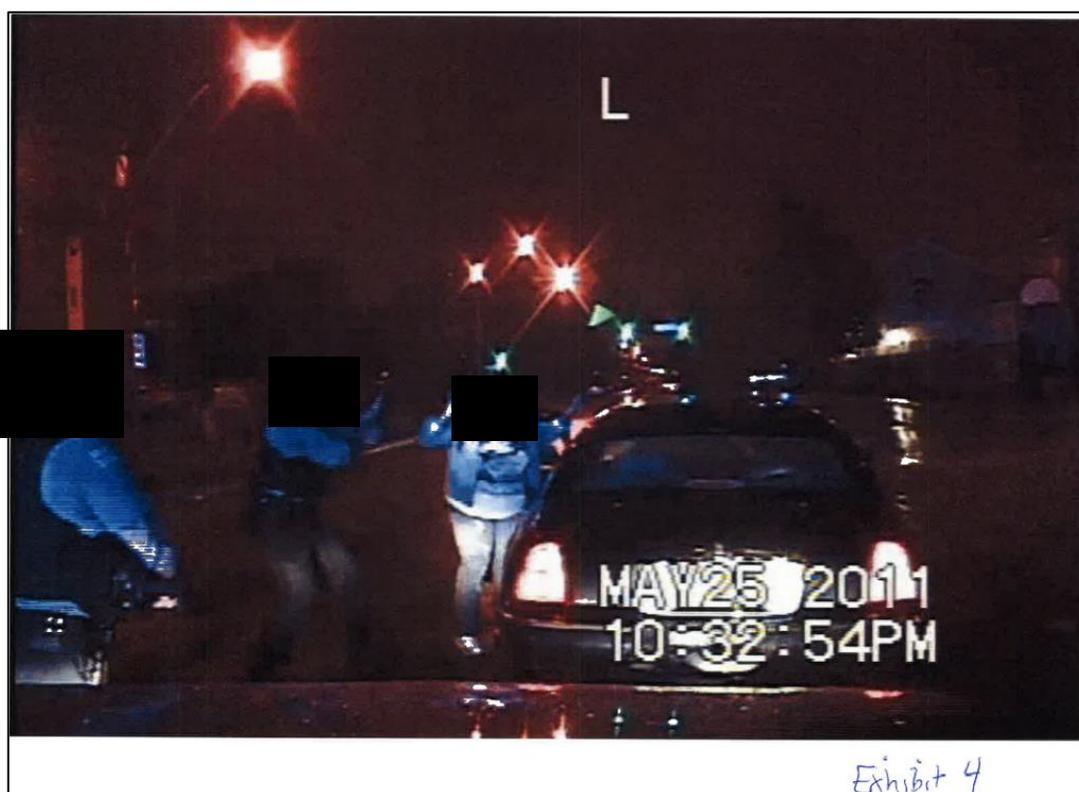
¹⁷ Attachment 194, page 12 lines 10-12.

¹⁸ Attachment 194, page 14.

¹⁹ Attachment 194, page 17.

²⁰ Attachment 194, page 21 lines 10-12.

option to get compliance from a subject. After being shown the video again, from when [REDACTED] exited the car and Officer [REDACTED] performed an emergency takedown, Officer [REDACTED] indicated that while he can see [REDACTED] hands were up and not by her waistband when he performed the emergency takedown, from his perspective that night, he could not see her hands. Then, Officer [REDACTED] was presented with several still shots²¹ that represented the time from when [REDACTED] exited the car and Officer [REDACTED] performed an emergency takedown. Officer [REDACTED] described each photograph during the interview. Initially, Officer [REDACTED] indicated that [REDACTED] was exiting her vehicle, and her hands were raised, but one hand was lower towards her shoulder area and the other hand was higher above her head. When Officer [REDACTED] was shown Exhibit 4, as seen below, Officer [REDACTED] stated that [REDACTED] was turning her back, and from where he was standing, he could only see [REDACTED] right hand, not her left. In the final photograph, Exhibit 5, as seen below, Officer [REDACTED] stated this is when he was going to perform an emergency takedown. Officer [REDACTED] indicated that [REDACTED] is putting her hands down, and it appears that her left hand is going to push away from the car and break away from Officer [REDACTED]. Officer [REDACTED] reiterated that he could not see her left hand but could only see her right hand raised by her head.



²¹ Attachment 189.



Officer [REDACTED] was asked to explain what he meant in his previous IPRA statement that [REDACTED] “tensed up” when he got close enough to put his hand on her.²² Officer [REDACTED] stated that [REDACTED] stiffened, and, in his experience, when a person stiffens, that person will either fight or run, and Officer [REDACTED] did not want to give [REDACTED] an opportunity to do anything else. At that time, right before the takedown, when [REDACTED] stiffened, Officer [REDACTED] classified her as an active resister. Officer [REDACTED] further explained, after reviewing the still shots from the video, that he classified [REDACTED] as an active resister instead of a passive resister because [REDACTED] attempted to create distance from him when she was putting her hands down, where it looked like her left hand was about to push off the vehicle and she would try to break away from him. Officer [REDACTED] explained that [REDACTED] was going to push off from the car, bump into Officer [REDACTED] to throw him off balance, maybe cause him to fall, and then she would move and create distance from him. Additionally, Officer [REDACTED] stated that [REDACTED] had already attempted to kill a police officer and she was an armed robbery suspect. Officer [REDACTED] chose to perform an emergency takedown because it was the quickest way to get someone on the ground. Officer [REDACTED] stated that he was taught to lower the threat level, and because he believed [REDACTED] was armed, he wanted to have the advantage of her on the ground instead of standing if it came to a gun fight.

Once [REDACTED] was on the ground, Officer [REDACTED] stated that [REDACTED] continued to be an active resister, that she was pulling away,²³ refusing to show her hands, and since they were underneath her body around her waistband, Officer [REDACTED] thought she was going for a weapon. Officer [REDACTED]

²² Attachment 124, page 12.

²³ Officer [REDACTED] defined “pulling away” as [REDACTED] swung or pulled her hands away from the officers, as officers attempted to grab [REDACTED] hands to place her in handcuffs. Attachment 194, page 44-45.

stated that he gave verbal commands of “Stop resisting. Show me your hands.”²⁴ After reviewing the video, Officer ██████ stated he was near the lower half of ██████ body, so he could not use certain techniques of control, such as a knee in the shoulder area, to assist in handcuffing ██████. Additionally, Officer ██████ could not recall if he attempted to apply any joint locks or pain compliance techniques. Officer ██████ stated that, as allowed under the use of force model, he yelled, “taser, taser, taser”²⁵ and deployed his taser. Officer ██████ stated that he did not know that he used his taser again on ██████ until he was shown his taser download report in this interview. However, Officer ██████ stated that if he redeployed his taser, then it was because ██████ was not in compliance and still an active resister, where she would not show her hands and attempted to defeat an arrest. Officer ██████ stated that “you yell, taser, taser, taser, before each deployment”²⁶ and that on this evening he “must’ve done it, because it’s muscle memory.”²⁷

Officer ██████ stated that he does not remember hearing any other officer, including Officer ██████ yell, “taser, taser, taser,” that night, nor does he remember knowing that Officer ██████ deployed his taser at the time. Officer ██████ explained, that even if he heard another officer deploy their taser, it would not change his evaluation on whether to redeploy his taser. Officer ██████ explained that he would not be able to tell if the other officer’s taser connected, and if ██████ was still fighting, then Officer ██████ would redeploy. Additionally, Officer ██████ explained that when a taser is deployed, the reaction and compliance depend on where the probes hit a person. For instance, if one probe hits the shoulder and another hits the bottom of the leg, then the whole body is tased. Officer ██████ did not know where the probes, or if the probes, hit ██████ or how much compliance they were receiving from her.²⁸

In an **interview with IPRA** on September 16, 2013, **Officer ██████** (“Officer ██████” stated that he and his partner, Officer ██████ were monitoring the radio when they heard that an armed robbery occurred in the ██████ District, and a black vehicle was headed to the ██████ District. Officers ██████ and ██████ drove to a location they believed the vehicle may be headed. When Officer ██████ arrived at 10 North Kilbourn, he heard gunshots and braced himself because he did not know who fired the gunshots or from which direction the shots were coming. Officer ██████ observed the vehicle go through the gas station onto Kilbourn. Officer ██████ stated that is when he and Officer ██████ activated their emergency lights and pulled the vehicle over.

Officer ██████ went toward the passenger side of the vehicle while Officer ██████ went to the driver’s side of the vehicle. The driver exited the vehicle, but she would not comply with verbal commands to get down and show her hands. Officer ██████ then took the driver to the ground. Officer ██████ stated that the driver was on her stomach with her hands underneath her by her waist. There was an officer safety issue, and Officers ██████ and ██████ both discharged their tasers to subdue the driver. Officer ██████ was not aware that the driver was injured on scene. Officer ██████ learned, over the radio later that night, that the shots fired were by the police and that the driver had been shot.²⁹

²⁴ Attachment 194, page 43 line 8.

²⁵ Attachment 194, page 46 line 8.

²⁶ Attachment 194, page 72 lines 7, 8.

²⁷ Attachment 194, page 72 lines 11, 12.

²⁸ Attachments 188, 189, 194.

²⁹ Attachments 132, 133.

In a follow up **interview with COPA** on February 2, 2018, **Officer [REDACTED]** provided the following additional details. Officer [REDACTED] stated that he does not recall making any plan with Officer [REDACTED] on how to approach [REDACTED] vehicle. Officer [REDACTED] explained that due to the nature of this stop, shots fired and an armed robbery suspect, he wanted [REDACTED] out of her vehicle and secured, quickly, for police and public safety. After exiting the vehicle, Officer [REDACTED] recalled that [REDACTED] was not following his and Officer [REDACTED] verbal directions to show her hands and get on the ground. After watching the video, Officer [REDACTED] stated that he could see that [REDACTED] exited the vehicle with her hands raised. As [REDACTED] exited her vehicle, Officer [REDACTED] was standing on the front passenger side of his police car, looking to see what his partner was going to do. From his vantage point, Officer [REDACTED] perceived [REDACTED] moving at a slow pace, which he did not expect based on her erratic driving. Officer [REDACTED] classified [REDACTED] somewhere between a passive and active resister due to her non-compliance with police commands, that she was an armed robbery suspect and that he heard shots fired. Officer [REDACTED] believed that it would be acceptable to use an arm bar³⁰ and take [REDACTED] down to the ground. Officer [REDACTED] added that while he believed [REDACTED] was a passive resister, he does not know what Officer [REDACTED] suspected at that time.

Once [REDACTED] was on the ground, Officer [REDACTED] moved to assist his partner in handcuffing [REDACTED] however, other officers had arrived on scene, and Officer [REDACTED] found it difficult to get close enough to help. Officer [REDACTED] recalls hearing Officer [REDACTED] and Officer [REDACTED] each, announce “taser, taser” prior to deploying their tasers, but Officer [REDACTED] does not know how many times [REDACTED] was tased that night. After [REDACTED] was tased, Officer [REDACTED] does not recall if Officer [REDACTED] or Officer [REDACTED] gave [REDACTED] any verbal commands.³¹

In an **interview with IPRA** on September 10, 2013, **Officer [REDACTED]** (“Officer [REDACTED]”) stated that he, along with his partners, Officers [REDACTED] and [REDACTED] were on patrol in a marked squad car when they heard, over OEMC communications, about a pursuit of a vehicle that was involved in an armed robbery entering the [REDACTED] District. Officer [REDACTED] joined the pursuit as the third car before the vehicle turned westbound on Madison and entered a Citgo Gas Station. Officer [REDACTED] drove northbound on Kilbourn and parked in the driveway portion of the gas station facing the vehicle, basically cutting the vehicle off in the gas station. All three officers exited their respective doors. Officer [REDACTED] exited in front of the vehicle and ordered the driver out of their vehicle. The vehicle accelerated and drove directly at Officer [REDACTED]. Officer [REDACTED] had his gun drawn and fired several shots at the driver. Officer [REDACTED] stated that although he was only about ten feet away from Officer [REDACTED] at this time, Officer [REDACTED] was on the driver side of the squad car, and his vision was partially obstructed. Officer [REDACTED] could not state for certain if Officer [REDACTED] was in front of the vehicle when he fired his weapon, nor could he see Officer [REDACTED] moving when he fired his weapon, but he did believe that Officer [REDACTED] ceased firing when the front portion of the vehicle was past his body. The vehicle continued through the exit and came to a stop on Kilbourn Avenue. Several officers moved to put the driver, now known as [REDACTED] in custody, but initially Officer [REDACTED] remained with Officer [REDACTED] at the gas station.

Officer [REDACTED] eventually crossed the street to assist other officers. Officer [REDACTED] observed [REDACTED] on the ground, laying on her stomach with her hands under her.

³⁰ Officer [REDACTED] described “arm bar” as similar to a wrist lock, where an officer would push an individual’s hand down and control the individual’s arm. Attachment 195, page 23-24.

³¹ Attachments 190, 195.

Officer ██████ stated that ██████ refused to show her hands, and at some point, Officer ██████ performed an open hand strike in an attempt to gain control and handcuff ██████. Officer ██████ stated that ██████ was tased because officers “couldn’t get her hands from underneath her body. Being that it was an armed robbery call, we assumed, the assumption is that there could be a weapon still on her.”³² Officer ██████ while on the scene, was not aware that ██████ had been shot. After ██████ was pulled up and placed in a sitting position, officers saw blood on ██████ and called for an ambulance.³³

In an **interview with IPRA** on September 12, 2013, **Officer ██████** (“Officer ██████” stated that he, along with his partners Officers ██████ and ██████ heard about a pursuit of a vehicle that was involved in an armed robbery over the radio. Officer ██████ and his partners went to assist in the pursuit. When the vehicle pulled into the Citgo Gas Station, Officer ██████ parked their squad car in the station. Officer ██████ observed the vehicle make a brief complete stop, and he and his partners exited their squad car. When Officer ██████ exited his car, he was approximately five to ten feet behind Officer ██████ and both officers were about twenty to thirty feet away but in front of the vehicle. Officer ██████ heard screeching tires and observed the vehicle coming directly at Officer ██████ and himself. This happened so quickly, over the course of maybe one to two seconds, that Officer ██████ in fear of his life, focused on moving out of the way of the vehicle. Officer ██████ heard gunshots as he and Officer ██████ moved to the right to avoid the vehicle, but Officer ██████ did not see Officer ██████ firing into the vehicle. Officer ██████ observed bullet holes in the vehicle as it passed.

The vehicle came to a stop immediately after exiting the gas station. The driver was ordered to exit the vehicle, and she complied. An officer took the driver to the ground after she exited the vehicle. On the ground, ██████ would not show her hands, she was lying on her stomach with her hands underneath her body. Officer ██████ stated that he performed an open hand strike on ██████ because she was not complying with verbal commands, and she could have a weapon, due to the nature of the call, an armed robbery. ██████ continued to resist and not comply with verbal commands, so a taser was used. Once ██████ was in custody and officers assisted her up, Officer ██████ observed blood coming from her chest. Officers then called for an ambulance.³⁴

In a follow up **interview with COPA** on January 17, 2018, **Officer ██████** provided the following additional details. Speaking about the time after ██████ had exited the vehicle, Officer ██████ explained that it is difficult to remember the events from so many years ago, but, after watching the video, he remembers ██████ was taken to the ground by an officer using a maneuver that officers refer to as “an emergency takedown with handcuffing.” Officer ██████ explained that this maneuver is used when apprehending an offender to gain control. At the time of the takedown, Officer ██████ classified ██████ as an assailant because he believed ██████ had “just committed an armed robbery... obviously, there is a weapon involved, and we don’t know if that weapon is on her.”³⁵ “She drove throughout the whole, entire city, almost striking myself... and my partner that day, almost running us over... She demonstrated that day that she was a very, very

³² Attachment 118, page 16 lines 2-5.

³³ Attachments 117, 118.

³⁴ Attachments 150, 151.

³⁵ Attachment 193, page 19 lines 6-9.

violent offender.”³⁶ Officer █████ further stated that officers “were under the impression that there was a male and female that both committed this robbery with a weapon... and the officers “didn’t know where that second individual was. We just knew that they were in the vehicle, at one point.”³⁷ Officer █████ explained that just because █████ appeared to be cooperating when she exited the vehicle, did not mean she was a cooperative subject. █████ would remain an assailant until she was placed into custody.³⁸ Officer █████ stated that, in this situation, █████ was an assailant, which gives officers more than enough cause to perform an emergency takedown. However, since this incident happened over six years ago, Officer █████ could not remember where he was or if he personally saw █████ taken to the ground, and he would rely on his previous statement.

Regarding the use of a taser against █████ this evening, Officer █████ recalled that █████ was tased, but he could not recall by whom. Additionally, Officer █████ could not recall whether any officer did or did not say anything to indicate the officer would deploy a taser. After watching the video, Officer █████ admits that, at one point, it appears that someone made notifications that someone was going to deploy a taser. Officer █████ explained that, based on taser training, officers are supposed to yell out, “taser, taser, taser” before deploying their taser, but he could not recall whether that happened this night. In a concluding statement, Officer █████ stated that he did not see anything that night that would be considered excessive force, based on █████ being an assailant. Officer █████ reiterated the circumstances that he believed made █████ an assailant and violent criminal, and that if █████ did not want to “go this route, she would’ve just stopped, when the police initially tried to pull her over.”³⁹

b. Digital Evidence

The **Office of Emergency Management and Communications (OEMC)** recorded transmissions and related **Event Query** reflect multiple 911 calls regarding the armed robbery at McDonald’s and the CPD radio transmissions regarding the pursuit of suspects from the armed robbery, apprehension of █████ and further investigation of the armed robbery and second offender.

OEMC transmissions from █████ District from the night of the incident follow the pursuit of the vehicle suspected to be involved in an armed robbery. The pursuit begins at approximately minute 0:45 when █████ radios in that they are following the Lincoln Town Car down an alley around Hamlin and Ferdinand. Locations are continually called out. At minute 2:53, it is radioed that there are two subjects in the Lincoln. At minute 4:38, the Lincoln’s passenger door opens for a possible bailing situation. At minute 5:54, 1195 stated that the car got into an accident, and the Lincoln is going westbound down the alley. At minute 6:48, radioed that “officer down.” The dispatcher is trying to determine where the officer is down. At minute 6:58, someone says “at Kilbourn.” Others are trying to figure out where the Lincoln is located. At minute 7:08, it is radioed that the Lincoln is at the Citgo Gas Station. Then at minute 7:17, it is radioed “shots fired by

³⁶ Attachment 193, page 17 lines 13-20.

³⁷ Attachment 193, page 30 lines 23,24 and page 31 line 1.

³⁸ Officer █████ indicated that there are certain situations, which he did not describe, where an assailant could become a passive resister; however, Officer █████ had never experienced such a situation. Attachment 193, page 48.

³⁹ Attachment 193, page 97. Attachments 174, 175, 193.

police.” At minute 8:00, the dispatcher receives information that the “shots fired by police” was at Kilbourn and Madison, and the offender is in custody.⁴⁰

Video Surveillance Footage from Citgo Gas Station captures the Lincoln Town Car traveling down Madison Avenue followed by police cars. The Lincoln turns right into the Madison Avenue entrance of the Citgo Gas Station with two police cars directly behind. One police car is observed parking in the Kilbourn Avenue exit of the gas station, and the passenger of that car exits followed by, within seconds, the driver. Almost instantaneously, the Lincoln appears to accelerate and drive through the Kilbourn Avenue exit around the police car parked at that exit. As the Lincoln passes, a civilian standing near a gas pump island ducks his head and runs toward the store of the gas station. The Lincoln is observed exiting the gas station and coming to a stop on the opposite side of Kilbourn Avenue from the gas station and is blocked from view of the camera by a gas pump island. The video captures multiple police vehicles drive through the scene and several officers running on foot through the gas station over to where the Lincoln came to stop on Kilbourn Avenue.⁴¹

In-car video obtained from Beat Number [REDACTED] provided no additional information.⁴²

In-car video obtained from Beat Number [REDACTED] captures the incident from an angle of a vehicle that arrives as the Lincoln Town Car is moving through the Citgo Gas Station, comes to a stop on Kilbourn Avenue near an alley, and the driver, now known as [REDACTED] exits the Lincoln and is detained by officers. There is no audio to the video. The video illustrates that on the night of the incident, the scene was dark, it was raining, and puddles of water lined the sides of the street on Kilbourn Avenue.

Beat No. [REDACTED] in-car camera begins recording with the car’s emergency lights activated and the audio placed on mute. The car starts driving, with the camera periodically capturing other police cars with their lights activated. At one point, the car is driving through an alley and arrives on the scene of an accident. The car stops and other officers are observed on scene assisting the occupants of the involved vehicle. The car continues past the accident scene through the alley behind another police car. The car turns right out of the alley and approaches an intersection where other police vehicles can be seen. As the car drives northbound on Kilbourn Avenue the in-car camera captures, in the top left portion of the video footage, the Lincoln driving through the Citgo Gas Station, driving around the police car parked at the Kilbourn Avenue exit of the gas station, driving across to the right side of Kilbourn Avenue and quickly coming to a stop near an alley.

Approximately five seconds after the Lincoln stops, [REDACTED] opens the door and exits the Lincoln with her hands raised. Contemporaneously, an officer, now known as [REDACTED] can be seen approaching the Lincoln on the driver’s side with his handgun drawn. Once [REDACTED] is out of the car, Officer [REDACTED] approaches [REDACTED] places his left hand around [REDACTED] shirt collar and brings [REDACTED] to the ground. [REDACTED] lands on her stomach on the ground and her legs can be seen kicking in the air. Officer [REDACTED] immediately moves over [REDACTED] placing a knee toward [REDACTED] back, while other officers quickly move in to assist. [REDACTED] is observed moving her legs and officers are seen trying to control [REDACTED] arms or hands, but within seconds several other officers

⁴⁰ Attachments 106, 107.

⁴¹ Attachments 57-63.

⁴² Attachments 46-50, 66.

join the scene, and the view of [REDACTED] is obstructed. An officer, now known as [REDACTED] is seen moving in between the police car and the Lincoln, approaching the Lincoln on the passenger side and quickly looks inside the vehicle before leaving the camera's view.

Approximately twenty seconds after [REDACTED] was brought to the ground, Officer [REDACTED] is observed repositioning himself around [REDACTED] with his Taser drawn, pointed towards [REDACTED] and the ground, and moving officers away from [REDACTED] as shown in Figure 3 below. As officers back away from [REDACTED] she appears to stop moving her legs and arms. Officer [REDACTED] appears to take aim with his Taser, and [REDACTED] legs appear to start kicking again but her arms are not visible. Officer [REDACTED] is observed talking into his radio and looking away from where [REDACTED] is on the ground, while other officers attempt to handcuff [REDACTED]. Due to the number of officers on scene, it is difficult to see what is happening with [REDACTED] on the ground. Eventually, a female officer is seen searching [REDACTED] while she is lying on her side on the ground. Approximately five minutes after the video captures Officer [REDACTED] moving around [REDACTED] with his Taser out, [REDACTED] is stood up and moved to the back of a squad car. Approximately six minutes later, Chicago Fire Department paramedics arrive on scene.⁴³

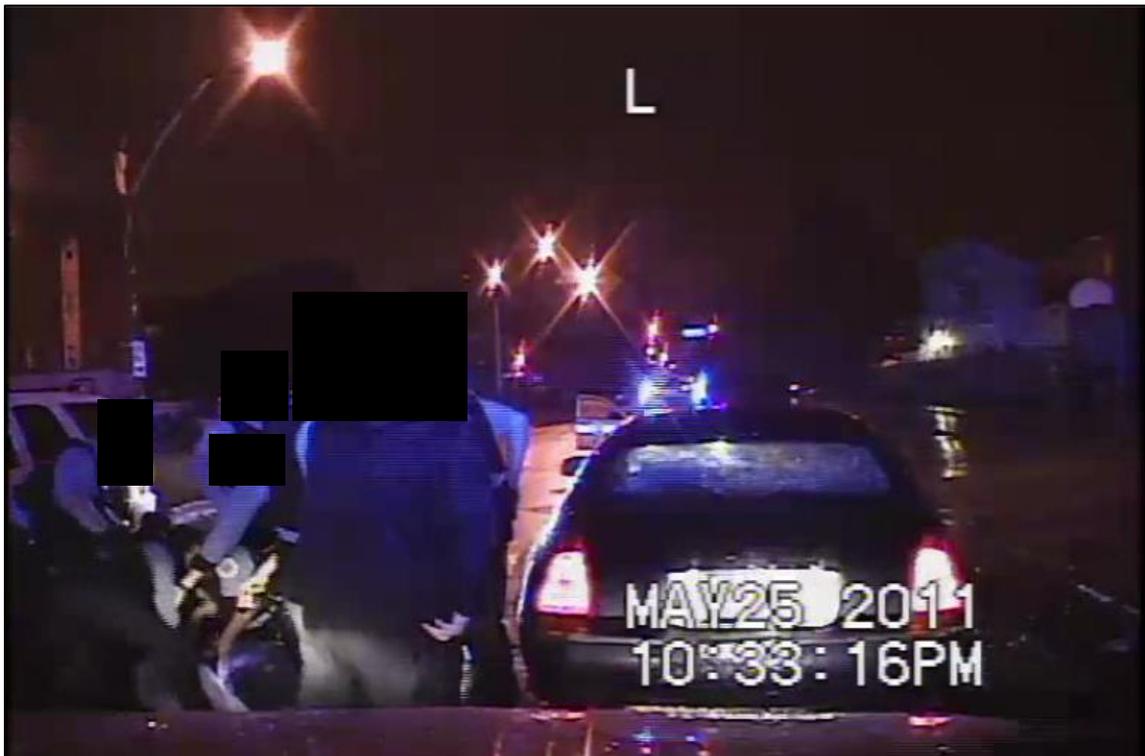


Figure 3, Officer [REDACTED] with his taser pointed toward [REDACTED] on the ground

c. Physical Evidence

The **Chicago Fire Department Ambulance Report** documents that, upon arrival, [REDACTED] was under the care of A.L.S. Engine Company. [REDACTED] had been tased and had received a gunshot

⁴³ Attachments 51-56, 67.

wound to the left underarm and left breast. ██████ stated that she had back pain and felt sick. Paramedics provided treatment to ██████ on scene. ██████ was transported to Mt. Sinai Hospital.⁴⁴

Medical Records from Mount Sinai Hospital document that, according to CPD, ██████ had been involved in a low speed motor vehicle crash, tased, and received two gunshot wounds to the chest. The report indicates ██████ was treated for two wounds to left breast;⁴⁵ one wound to right back (post axilla); two taser spikes in central back; two taser spikes in post cervical spine; taser spike in left hand; puncture on right forehead; abrasion on right cheek; and bruising on right face. ██████ was discharged from the hospital and transported to jail on May 29, 2011.⁴⁶

d. Documentary Evidence

According to the **Tactical Response Report (TRR)** completed by Officer ██████ did not comply with verbal commands, stiffened, and pulled away. Officer ██████ responded with member presence, verbal commands, and Taser (probe discharge).⁴⁷

According to the **Tactical Response Report (TRR)** completed by Officer ██████ did not comply with verbal commands, stiffened, and pulled away. Officer ██████ responded with member presence, verbal commands, take down, and Taser (probe discharge). ██████ was wanted for armed robbery and refused to show her hands.⁴⁸

According to the **Tactical Response Report (TRR)** completed by Officer ██████ did not comply with verbal commands, stiffened, and pulled away. Officer ██████ responded with member presence, verbal commands, wristlock, open hand strike, and emergency handcuffing.⁴⁹

According to the **Taser Download Reports** Officer ██████ discharged his Taser, Serial No. ██████ two times. The first taser discharge was at 22:29:50 for five seconds. The second taser discharge was at 22:30:35 for five seconds.

Officer ██████ discharged his Taser, Serial No. ██████ three times. The first taser discharge was at 22:30:00 for ten seconds. The second taser discharge was at 22:30:11 for five seconds. The third taser discharge was at 22:30:45 for five seconds.⁵⁰

No civil suit was filed relative to this incident.

VI. LEGAL STANDARD

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

⁴⁴ Attachment 41.

⁴⁵ An inconsistency was found on page 17 of this document, where a handwritten note indicated “2 wounds R breast,” but the anatomical drawing showed two wounds to the left breast. According to other sections of the medical report and evidence technician photographs, ██████ received two wounds to her left breast.

⁴⁶ Attachment 64.

⁴⁷ Attachment 14.

⁴⁸ Attachment 15.

⁴⁹ Attachment 16.

⁵⁰ Attachment 7.

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 the conduct occurred and violated 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 misconduct occurred, 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

A. Officer ██████████

1. **Allegation #1: On May 25, 2011, at approximately 2230 hours, while at the location 31 N. Kilbourn Ave, accused Officer ██████████ used excessive force in the manner in which he took ██████████ to the ground, in violation of Rules 8 and 9.**

COPA concludes Allegation #1, that Officer ██████████ used excessive force in the manner in which he took ██████████ to the ground is Sustained. According to General Order G03-02-01, the Chicago Police Department utilizes a Use of Force Model to provide guidance on the appropriate amount of force to be used to affect a lawful purpose. The primary objective of the use of force is to ensure control of a subject with the reasonable force necessary based on the totality of the circumstances. Department members will escalate or de-escalate to the amount of force which is reasonably necessary to overcome the subject's resistance and to gain control.⁵¹

⁵¹ General Order G03-02-01, "The Use of Force Model." G03-02-01 effective August 15, 2003 and rescinded on May 16, 2012, governs Officer ██████████ conduct in this matter.

G03-02-02, Force Options, further explains the various level of force options that are appropriate for Department members to use when interacting with cooperative subjects, resistive subjects, and assailants.⁵² A cooperative subject is defined as a person who is compliant without the need for physical force. A passive resister is defined as a person who fails to comply, by non-movement, to verbal and other direction. An active resister is defined by action taken, including evasive movement of the arm, to create distance between the individual and the Department member in an attempt to avoid physical control. An assailant is defined as a person who is using or threatening the imminent use of force against herself or another person. Assailants are further divided into three categories: a subject whose actions are aggressively offensive without weapons; a subject whose actions will likely cause physical injury; and a subject whose actions will likely cause death or serious physical injuries.⁵³

In addition to CPD's General Orders, the authorization to use of force is codified under 720 ILCS 5/7-5 (1986). The pertinent part of the statute states that:

“[a] peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person...”

Use of force, including non-deadly force such as a taser, is analyzed under the same Fourth Amendment reasonableness standard as delineated in the analysis set forth above for Officer [REDACTED] firearm discharge. Thus, COPA incorporates the same case law and legal standard when analyzing Officer [REDACTED] actions.

It is evident, according to G03-02-02, that while [REDACTED] was involved in a police pursuit, [REDACTED] was an assailant. [REDACTED] during the pursuit with police, took actions that would likely cause physical injury or death of another person or herself.⁵⁴ [REDACTED] drove throughout the city followed by police officers, she disregarded traffic regulations, she caused an accident, and she appeared to drive her car into the path of officers. However, an individual's level of resistance can escalate and de-escalate in a situation, just as an officer's use of force in a situation will escalate and de-escalate. When [REDACTED] pulled her vehicle to a stop on Kilbourn, Officer [REDACTED] instructed [REDACTED] to show her hands and get out of the vehicle. [REDACTED] complied by exiting her vehicle with her hands up. At this moment, [REDACTED] has moved from the category of an assailant to a cooperative subject, where officers are only permitted to use social and verbal control techniques.⁵⁵

⁵² General Order G03-02-02, “Force Options.” G03-02-02 effective October 1, 2002 and rescinded on May 16, 2012, governs Officer [REDACTED] conduct in this matter.

⁵³ G03-02 III.A-C.

⁵⁴ G03-02-02 III.A-C.

⁵⁵ G03-02-02 III.A.



Figure 4, shows [REDACTED] exiting her vehicle with her hands raised.

Officer [REDACTED] in his 2018 interview with COPA, stated that [REDACTED] was an active resister after she exited her vehicle for the following reasons: (1) she did not get on the ground, as he had instructed her, (2) she turned her back on him and may have been reaching for a weapon because he could not see one of her hands, (3) she attempted to create distance because her left hand was about to push off from the vehicle and she would break away, and (4) she stiffened when he got close enough to put his hand on her. Officer [REDACTED] in his 2018 statement to COPA, also, stated that he and Officer [REDACTED] were telling [REDACTED] to get on the ground. According to [REDACTED] in her 2011 statement to IPRA, [REDACTED] stated that she exited her vehicle with her hands raised to show officers that she did not have anything in her hands, and she was then tackled to the ground. Additionally, [REDACTED] who was at the Citgo Gas Station, stated that he saw the driver exit the vehicle with her hands raised, while a tall officer yelled to get out of the car. Then the officer ran up to the driver, grabbed her and slammed her to the ground.

The in-car video from Beat No. [REDACTED] did not have audio to confirm what types of verbal commands were given and whether those commands were followed. However, even if [REDACTED] did not follow the verbal command to get on the ground, that would place her into the category of a passive resister, one who “fails to comply (non-movement) with verbal or other direction.”⁵⁶ Officer [REDACTED] indicated that [REDACTED] turned her back on him and he could not see her hand. However, as the video shows, [REDACTED] exited the vehicle, slowly, with her hands raised the entire time. [REDACTED] was facing Officer [REDACTED] and, then, it appears [REDACTED] turns toward the vehicle. And, while Officer [REDACTED] stated that [REDACTED] was attempting to create distance because she could push off the vehicle and breakaway, in the video, it appears [REDACTED] is turning toward her vehicle with her hands raised in an attempt to put her hands on the vehicle in surrender. Simply stated, COPA does not agree with Officer [REDACTED] reason for believing [REDACTED] is still an assailant. Instead, although the situation was tense and rapidly evolving, it is clear that [REDACTED] surrendered, and Officer [REDACTED] acted excessively. Officer [REDACTED] stated that [REDACTED] stiffened when he placed his hand on her, which he believed to be a sign of resistance. But, from the video, it appears that Officer [REDACTED] raises his arm above [REDACTED] and, in one fluid motion, grabs [REDACTED] and takes her to the ground. Given this, it does not appear that enough time elapsed for what Officer [REDACTED] said

⁵⁶ G03-02-02 III.B.1.

happened, specifically Officer [REDACTED] had touched [REDACTED] she stiffened, and he then performed the takedown.

Additionally, Officer [REDACTED] stated that he took [REDACTED] to the ground in order to be in a better tactical position if there is a gun fight and because there may have been another person in the car. However, the video shows that [REDACTED] had her hands raised, close to her vehicle and appeared to be turning toward the vehicle where her hands could be placed on the vehicle. With the short distance between [REDACTED] and her car, and Officer [REDACTED] being positioned closely behind her, it would allow Officer [REDACTED] to easily push [REDACTED] against her car to gain control and quickly handcuff her, while allowing Officer [REDACTED] the ability to look inside the vehicle for any threats, including another individual inside. Instead, Officer [REDACTED] took [REDACTED] to the ground. As she fell on her stomach with her hands underneath her body, which was reasonably foreseeable. This action not only forced Officer [REDACTED] to turn his back towards the vehicle, where he could have reasonably believed a second suspect to be present, but it also forced [REDACTED] to turn her back on him. Once [REDACTED] was on the ground, a struggle ensued to handcuff [REDACTED] and Officer [REDACTED] was positioned with his back to the vehicle. From the video, it appears that Officer [REDACTED] did not look back toward the vehicle, and for approximately one minute, none of the other officers on scene attempted to secure the vehicle or looked inside to confirm whether another person was inside. This leads a reasonable person to believe that Officer [REDACTED] and other officers on scene, at the time, either knew no one else was inside the vehicle or were not alarmed by exposing themselves to injury by a person inside the vehicle. Therefore, COPA does not find Officer [REDACTED] explanation for the takedown to be credible.

In sum, based on the totality of the circumstances, a preponderance of the evidence establishes that at the time Officer [REDACTED] performed a take down on [REDACTED] was not actively resisting a lawful arrest; [REDACTED] was attempting to surrender; and Officer [REDACTED] applied a disproportionate and unreasonable amount of force to control [REDACTED]. Therefore, COPA finds that this allegation is **Sustained**.

2. Allegation #2: On May 25, 2011, at approximately 2230 hours, while at the location 31 N. Kilbourn Ave, accused Officer [REDACTED] violated Department policy and directives when he discharged his taser without justification.

COPA finds Allegation #2, that Officer [REDACTED] violated Department policy and directives when he discharged his taser without justification, is Sustained. According to G03-02-02, when an officer is faced with an active resister, that officer may, in addition to the force options allowed against a passive resister, use stunning, Oleoresin Capsicum (OC) spray, canines used by Canine Handlers, and a taser.⁵⁷ Uniform and Property U04-02, "Department Approved Weapons and Ammunition," further defines a police officer's responsibilities when using a taser as a use of force.⁵⁸

- a. [REDACTED] was an active resister while on the ground.

⁵⁷ G03-02-02 III.B.2.

⁵⁸ U04-02 XIII. E. Uniform and Property U04-02, "Department Approved Weapons and Ammunition," effective July 24, 2007 and rescinded on June 14, 2012, governs Officer [REDACTED] conduct in this matter.

According to G03-02, an active resister is someone who attempts to create distance between themselves and an officer's reach. This includes gestures ranging from evasive movement of the arm and flailing arms, to full flight by running.⁵⁹ It is undisputed that when [REDACTED] was on the ground, she was lying on her stomach with her hands beneath her body. According to [REDACTED] she tried to put her hands behind her back to be handcuffed, however, she could not because she was in pain from being shot. Officer [REDACTED] and other officers on scene, stated that they did not know that [REDACTED] had been shot or that she was injured until after [REDACTED] was handcuffed. In addition to officer statements that [REDACTED] was swinging her hand and pulling away, the video from Beat No. [REDACTED] shows [REDACTED] kicking and moving her arm, while officers are attempting to handcuff her. Ultimately, however, the analysis rests solely on what the officers thought at the time of the occurrence. Officers were dealing with someone they suspected was involved in an armed robbery. The officers did not know whether [REDACTED] was armed, and they were unable to extract her hands from beneath her. Therefore, based on the foregoing, it is reasonable for Officer [REDACTED] to have considered [REDACTED] an active resister when she was on the ground.

b. It was not reasonable for Officer [REDACTED] to discharge his taser a second time.

According to G03-02-02, an officer may use a taser when interacting with an active resister, in certain circumstances. According to both [REDACTED] and Officer [REDACTED] fell on her stomach with her hands beneath her body. The in-car video supports these statements, and further shows that once [REDACTED] was on the ground, other officers quickly appeared on scene and began struggling to gain control of [REDACTED] hands. The video shows the scene becoming more confusing and chaotic with several officers arriving and surrounding [REDACTED]. According to his 2018 statement, Officer [REDACTED] said he ordered [REDACTED] to show her hands and stop resisting, while Officer [REDACTED] in his 2018 statement, could only remember yelling "hands, hands." Since the video does not have audio, it is unclear what type of commands officers were giving [REDACTED] and whether any officer instructed [REDACTED] to put her hands behind her back. According to the video, approximately thirty seconds after [REDACTED] was brought to the ground, while kicking with her legs and with at least one hand under her body, and surrounded by several officers attempting to handcuff her, Officer [REDACTED] appears to reach for his taser and move around [REDACTED] using his left hand to move officers away from [REDACTED] and position himself to deploy his taser. At about this time, according to the video, [REDACTED] appears to stop moving for approximately four seconds. Then, officers appear to move in to handcuff [REDACTED] as [REDACTED] begins to kick and move around again. In sum, although it was Officer [REDACTED] actions that brought [REDACTED] to the ground and it is unclear what commands officers were providing [REDACTED] own actions placed her in the category of an active resister while on the ground. Therefore, a preponderance of the evidence establishes that Officer [REDACTED] was within CPD policy to initially discharge his taser toward [REDACTED].

The question then becomes whether it was reasonable for Officer [REDACTED] to discharge his taser the second time against [REDACTED]. According to U04-02, after deploying a taser for the initial five second cycle, an officer will give the individual an opportunity to comply with commands and the officer will evaluate the situation to determine whether the individual is under control. If the individual is still not under control, then the officer may consider using the taser again either by drive stun or another cycle, or the officer may use another use of force option.⁶⁰ U04-02 further

⁵⁹ G03-02 III.B.2.

⁶⁰ U04-02 XIII.E.1.d.

notes that “It is advisable to minimize the stress to the subject as much as possible. Multiple five-second cycles, cycles continuing longer than five seconds, and discharges by multiple Tasers will increase stress on the subject.”⁶¹ In his 2018 statement to COPA, Officer ██████ stated that he did not know that he tased ██████ a second time until after reviewing his Taser Download Report during that interview. Officer ██████ could only speculate why he discharged his taser a second time. Additionally, Officer ██████ in that same 2018 statement, stated that although he did not know Officer ██████ also used his taser against ██████ at the time, that information would not have changed his assessment to use his own taser. Officer ██████ indicated that he would use the taser if ██████ was still fighting. ██████ and ██████ in their interviews stated that ██████ was tasered after she was placed in handcuffs.

Officer ██████ could not explain whether ██████ was complying with officer commands or whether ██████ was under control, at the time of his second taser discharge. Even if Officer ██████ had been interviewed closer in time to the incident, he would, more than likely, not be able to provide this information because he claims he did not know that he had discharged his taser a second time. Additionally, Officer ██████ response that the knowledge that Officer ██████ discharged his taser toward ██████ that same night would not have influenced his decision to discharge his taser again, further demonstrates that Officer ██████ did not consider the amount of stress police action was putting on ██████ as is advised under U04-02. Considering Officer ██████ claims he did not know he discharged his taser a second time, a preponderance of the evidence establishes that Officer ██████ failed to perform the required evaluation of the situation, he did not make the decision to use his taser as a force option to gain control of ██████ and he discharged his taser without justification. Therefore, COPA finds that this allegation is **Sustained**.

- 3. Allegation #3: On September 12, 2013, at 1615 West Chicago, accused Officer ██████ gave false oral statement regarding ██████ refusal to comply with his verbal commands to show her hands, in that Investigator Q: “And so, what happened once the Lincoln came to a stop?” A: “The driver exited the vehicle; female.” Q: “Did the female say anything? A: “No, she was not following my verbal directions to show me her hands.” Q: “What was her demeanor when she exited the vehicle?” A: “She turned her back on us.” Q: “Were her hands raised? Where were her hands at that time?” A: “She kept them by her side by her waistband, she didn’t keep them raised,” in violation of Rule 14.**

COPA finds Allegation #3, that on September 12, 2013, at 1615 West Chicago, accused Officer ██████ gave false oral statement regarding ██████ refusal to comply with his verbal commands to show her hands, in violation of Rule 14 is Not Sustained. According to Rule 14, an officer is prohibited from making a false report, written or oral. Pursuant to Section 6.1(M) of the Agreement between Fraternal Order of Police Chicago Lodge No. 7 and the City of Chicago (the “collective bargaining agreement” or “CBA”), “In any event, the Employer shall not charge an Officer with a Rule 14 violation unless it has determined that: (1) the Officer willfully made a false statement; and (2) the false statement was made about a fact that was material to the incident under investigation.” In order to find that an officer violated Rule 14, COPA must

⁶¹ U04-02 XIII.E.1.d.(2)(d)NOTE.

determine by a preponderance of the evidence that the officer's statement meets each of three criteria: false; willful; and material.

a. Officer ██████ provided a false statement in his 2013 statement to IPRA

A false statement is a statement that is factually incorrect. In his original 2013 statement to IPRA, Officer ██████ stated ██████ exited her vehicle, and would not follow his verbal directions to "show her hands." Officer ██████ stated that ██████ kept her hands by her side, by her waistband, and that she did not keep them raised. However, the in-car video from Beat No. ██████ shows that ██████ exited her vehicle with her hands raised. ██████ hands remained raised until she was taken to the ground by Officer ██████. Additionally, in his 2018 follow up interview with COPA, after reviewing the video, Officer ██████ admitted that when ██████ exited her car, she obviously had her hands raised. Based on the foregoing, a preponderance of the evidence establishes that Officer ██████ provided a false statement in his 2013 statement to IPRA.

b. It is unclear whether Officer ██████ "willfully" made a false statement in his 2013 statement to IPRA.

Under the CBA, an officer violates Rule 14 if the officer willfully makes a false statement. Willful requires more than negligence on behalf of the officer. The question is whether the officer made a false statement with actual or deliberate intent. Officer ██████ conceded that, after reviewing the video, it is obvious that his statement was inaccurate, and that ██████ hands were, in fact, raised when she exited the vehicle. However, Officer ██████ explained that by the time of his first interview, which was almost two and half years after the incident, his brain remembered the incident differently. Officer ██████ stated that he was not given the opportunity to review the video at that time of his first interview, and so he was unable to provide an accurate statement.⁶²

On this night, Officer ██████ was responding to an incident where officers were pursuing an armed robbery suspect, and when Officer ██████ joined the scene, he saw an unidentified officer fire at the vehicle, he heard shots fired and thought he saw an officer get hit by the suspect's vehicle. Officer ██████ adrenaline level was high, and, after a struggle involving multiple other officers, Officer ██████ did place ██████ under arrest. Then, Officer ██████ provided only one statement regarding this incident, which took place more than two years after the incident. There is insufficient evidence to determine by a preponderance of the evidence that Officer ██████ "willfully" made a false statement.

c. The false statement was made about a fact material to the incident.

The next question is whether Officer ██████ false statement was material to the incident, meaning the statement has to relate to something significant or important to the incident. Here, Officer ██████ false statement was material. Officer ██████ indicated that ██████ was hiding her hands after she exited her vehicle and refused to follow officer commands to show her hands. This statement is material because if it were true, then Officer ██████ was allowed to use different types

⁶² If, prior to taking an officer's statement, COPA is in possession of any video evidence, it may elect not to allow the officer to review the video prior to taking the officer's statement. However, under the CBA, an officer "who is not allowed to review the video . . . prior to giving a statement shall not be charged with a Rule 14 violation unless the officer has been presented with the video . . . and given the opportunity to clarify and amend the Officer's original statement." CBA, Section 6.1(M)

of force than if [REDACTED] was cooperating or surrendering. Based on a preponderance of the evidence, Officer [REDACTED] statement that [REDACTED] refused to comply with his verbal commands to show her hands and kept them by her waistband was material.

While COPA finds that Officer [REDACTED] statement was both false and material, there is insufficient evidence that Officer [REDACTED] made the statement willfully. All three conditions must be met to prove a Rule 14 violation, and in this case, only two are met. Therefore, COPA finds that this allegation is **Not Sustained**.

B. Officer [REDACTED]

1. Allegation #1: On May 25, 2011, at approximately 2230 hours, while at the location 31 N. Kilbourn Ave, accused Officer [REDACTED] violated Department policy and directives when he discharged his taser without justification.

COPA finds Allegation #1, that Officer [REDACTED] violated Department policy and directives when he discharged his taser without justification, is Sustained. In his 2013 statement to IPRA, Officer [REDACTED] stated that, when he arrived on scene, officers were attempting to handcuff [REDACTED] who was being combative towards officers. Officer [REDACTED] described [REDACTED] combative actions as refusing to follow verbal commands, kicking, and swinging her free arm. Before deploying his taser, Officer [REDACTED] unsuccessfully attempted to reach under [REDACTED] to grab her arm and handcuff her, and he heard a request for someone to get a taser. As indicated earlier, [REDACTED] was an active resister while officers were attempting to handcuff her on the ground, and Officer [REDACTED] feared [REDACTED] may have a weapon that she could use against officers. Because the in-car video did not have audio, it is unclear what type of commands were given to [REDACTED]. It is also unclear what actions [REDACTED] took at the time Officer [REDACTED] deployed his taser. Taser Download Reports indicated that Officer [REDACTED] deployed his taser ten seconds before Officer [REDACTED] deployed his, which means that Officer [REDACTED] taser deployment was five seconds after the taser cycle from Officer [REDACTED] discharge ended. The proximity of the officers' first taser deployment, raises the question of whether Officer [REDACTED] heard an officer request a taser or if he heard Officer [REDACTED] warning that he was deploying his taser. Additionally, the video does show that at about the time Officer [REDACTED] walks around indicating he is going to deploy his taser, [REDACTED] appears to stop moving for approximately four seconds. COPA cannot determine where Officer [REDACTED] was when Officer [REDACTED] initially, deployed his taser or when [REDACTED] went still, and there is no audio to determine what was being said at the time Officer [REDACTED] deployed his taser. Therefore, there is insufficient evidence to determine by a preponderance of the evidence whether Officer [REDACTED] initial taser discharge was within CPD policy.⁶³

Although it is unclear whether Officer [REDACTED] first taser discharge was within policy, the question remains as to whether Officer [REDACTED] was within CPD policy when he discharged his taser the second time. Force is reasonable only when exercised in proportion to the threat posed, *see Oliver v. Fiorino*, 586 F.3d 898, 907 (11th Cir.2009) ("Quite simply, though the initial use of force (a single Taser shock) may have been justified, the repeated tasering ... was grossly disproportionate to any threat posed and unreasonable under the circumstances."), and as the threat changes, so too should the degree of force, *see Santos v. Gates*, 287 F.3d 846, 853 (9th Cir.2002).

⁶³ See G03-02-02 III.B.2.

Force also becomes increasingly severe the more often it is used; striking a resisting suspect once is not the same as striking him ten times. It is the totality of the circumstances not the initial use of force that determines objective reasonableness.⁶⁴ As indicated above, an officer must give an individual time to comply with commands after the initial taser cycle.⁶⁵ According to Taser Download Reports, Officer ██████ deployed his taser toward ██████ for a five second cycle, then, five seconds later, Officer ██████ initially deployed his taser against ██████ for a ten second cycle. Then, one second later, Officer ██████ discharged his taser a second time for a five second cycle.

Because Officer ██████ stated that he was not aware that Officer ██████ discharged his taser until after the incident, he could not have factored that into his assessment of the situation, including ██████ compliance and the stress caused by officers' use of force on ██████ he was aware that he had already discharged his taser against ██████. And although, Officer ██████ said one second is long enough for an individual to grab a weapon and use it against an officer, he could not say that is what he saw ██████ doing nor could he provide any specific reason for why he discharged his taser the second time. Considering his interview with COPA was over six years after the incident, it is reasonable that Officer ██████ would not recall specific details regarding why he discharged his taser the second time. However, the in-car video from Beat No. ██████ shows that, in addition to Officer ██████ and ██████ using their tasers, there were several other officers on scene, circled around ██████ using force against her trying to control her. It is unlikely that, in one second or less, ██████ would have been able to recover from the electric shock of the taser and overcome the force applied by these other officers to a level of threat that a reasonable officer would deploy their taser a second time within one second of the first taser cycle ending. Thus, Officer ██████ used his taser inappropriately in that he did not allow ██████ an opportunity to comply with officers' commands before redeploying his taser.

Although COPA finds that Officer ██████ second taser discharge is outside of policy, the question remains as to whether Officer ██████ was within CPD policy when he discharged his taser the third time. As indicated above, an officer will evaluate the situation to determine whether an individual is under control, and, if the individual is still not under control, consider using the taser again or another force option.⁶⁶ According to ██████ she was tasered after she was placed into handcuffs. Additionally, ██████ stated that he heard at least one "pop" of a taser gun after the ██████ was handcuffed on the ground. Officer ██████ could not explain why he used his taser this third time, he acknowledged that some time had passed between his second and third deployments, but he denied discharging his taser after ██████ was handcuffed. The in-car camera showed, while ██████ was on the ground, several officers surrounded ██████ obstructing the view of ██████ and making it impossible to determine the separate times ██████ was tasered. The Taser Download Report showed that ██████ was tasered five times. There is insufficient evidence to determine by a preponderance of the evidence whether Officer ██████ third taser discharge happened after ██████ was handcuffed. Therefore, there is insufficient evidence to determine whether Officer ██████ third taser discharge was within CPD policy.

⁶⁴ *Cyrus v. Town of Mukwonago*, 624 F. 3d 856 - Court of Appeals, 7th Circuit 2010.

⁶⁵ G03-02-02 III.B.2

⁶⁶ G03-02 III.B.2.

Based on the foregoing, a preponderance of the evidence establishes that Officer [REDACTED] second taser discharge violated Department policy and directives. Therefore, COPA finds that this allegation is **Sustained**.

- 2. Allegation #2: On May 25, 2011, at approximately 2230 hours, while at the location 31 N. Kilbourn Ave, accused Officer [REDACTED] violated Department policy and directives when he discharged his taser for more than five seconds.**

COPA finds Allegation #2, that Officer [REDACTED] violated Department policy and directives when he discharged his taser for more than five seconds, is Sustained. In the appropriate circumstances, U04-02 allows for an officer to have an initial taser deployment for a five-second cycle, then the officer will assess the situation for further action.⁶⁷ According to Officer [REDACTED] Taser Download Report, Officer [REDACTED] initially, deployed his taser for a ten-second cycle. In his 2018 statement with COPA, Officer [REDACTED] could not explain why his taser cycled for longer than the allotted five-second cycle, other than he possibly miscounted the time. Based on the foregoing, a preponderance of the evidence establishes that Officer [REDACTED] violated Department policy and directives when he discharged his taser for more than five seconds. Therefore, COPA finds that this allegation should be **Sustained**.

C. Officer [REDACTED]

- 1. Allegation #1: On May 25, 2011, at approximately 2230 hours, while at the location 31 N. Kilbourn Ave, accused Officer [REDACTED] failed to report misconduct committed by Officer [REDACTED] in violation of Rule 22.**

COPA finds Allegation #1, that Officer [REDACTED] failed to report misconduct committed by Officer [REDACTED] is Not Sustained. According to General Order G08-01-02, “when misconduct is observed or a complaint relative to misconduct is received by a non-supervisory member, such member will immediately notify a supervisory member and prepare a written report to the commanding officer containing the information received, observations made, and any action taken.”⁶⁸ As indicated above, Officer [REDACTED] emergency takedown on [REDACTED] was misconduct. Therefore, the question is whether Officer [REDACTED] observed Officer [REDACTED] misconduct.

In his 2013 statement to IPRA, Officer [REDACTED] stated that [REDACTED] was ordered out of her vehicle, she complied and exited the vehicle, and then an officer took [REDACTED] to the ground. In his 2018 statement to COPA, Officer [REDACTED] indicated that he was not sure where he was positioned that evening when Officer [REDACTED] took [REDACTED] to the ground, and Officer [REDACTED] was unsure whether he saw the takedown with his own eyes. Officer [REDACTED] further stated that he did not see any excessive force by Officer [REDACTED] because, based on the totality of the circumstance, [REDACTED] was an assailant when her vehicle came to a stop on Kilbourn, and regardless of her actions as she

⁶⁷ U04-02 XIII.E.

⁶⁸ General Order G08-01-02, “Allegations of Misconduct – Specific Responsibilities,” effective May 24, 2001 and rescinded on March 17, 2013, governs Officer [REDACTED] conduct in this matter.

exited the vehicle, [REDACTED] remained an assailant until she was placed into handcuffs. While the in-car camera from Beat No. [REDACTED] captures [REDACTED] being taken to the ground, it does not show where Officer [REDACTED] was located or what he could see from his perspective during this time period.

Based on the foregoing, there is insufficient evidence to determine by a preponderance of the evidence whether Officer [REDACTED] observed Officer [REDACTED] misconduct. Therefore, COPA finds that this allegation is **Not Sustained**.

D. Officer [REDACTED]

1. Allegation #1: On May 25, 2011, at approximately 2230 hours, while at the location 31 N. Kilbourn Ave, accused Officer [REDACTED] failed to report misconduct committed by Officer [REDACTED] in violation of Rule 22.

COPA finds Allegation #1, that Officer [REDACTED] failed to report misconduct committed by Officer [REDACTED] is Not Sustained. According to G08-01-02, “when misconduct is observed or a complaint relative to misconduct is received by a non-supervisory member, such member will immediately notify a supervisory member and prepare a written report to the commanding officer containing the information received, observations made, and any action taken.”⁶⁹ As indicated above, Officer [REDACTED] emergency takedown on [REDACTED] was misconduct. Therefore, the question, here, is whether Officer [REDACTED] observed the situation where Officer [REDACTED] actions are considered misconduct.

In his 2018 statement with COPA, Officer [REDACTED] explained that he was near the front passenger side of his police car when [REDACTED] exited her vehicle and was taken to the ground by Officer [REDACTED]. From his vantage point, Officer [REDACTED] classified [REDACTED] somewhere between a passive and active resister because she was not complying with police commands, she was an armed robbery suspect, and Officer [REDACTED] heard shots fired. Officer [REDACTED] believed it was acceptable to take [REDACTED] down to the ground. Officer [REDACTED] added that while he believed [REDACTED] was a passive resister, he does not know how Officer [REDACTED] viewed [REDACTED]

The in-car video from Beat No. [REDACTED] did not have audio to confirm what types of verbal commands were given and whether those commands were followed. The video shows that Officer [REDACTED] is off camera until after [REDACTED] is taken to the ground. From Officer [REDACTED] statement and from the video, where Officer [REDACTED] runs in between the front of the squad car and the back of [REDACTED] Lincoln, it is likely that the Lincoln obstructed Officer [REDACTED] view of [REDACTED] body and much of her actions on the night of the incident. Additionally, it was unclear from Officer [REDACTED] 2018 interview with COPA whether Officer [REDACTED] was providing details that he recalled from the night of the incident or whether he was explaining the situation based on what he saw from the video.

In sum, while Officer [REDACTED] saw Officer [REDACTED] take [REDACTED] to the ground, there is insufficient evidence to determine by a preponderance of the evidence whether Officer [REDACTED] on

⁶⁹ General Order G08-01-02, “Allegations of Misconduct – Specific Responsibilities,” effective May 24, 2001 and rescinded on March 17, 2013, governs Officer [REDACTED] conduct in this matter.

the night of the incident, had enough information to consider Officer ██████ takedown disproportionate and unreasonable. Therefore, COPA finds that this allegation is **Not Sustained**.

VIII. CONCLUSION

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

Officer	Allegation	Finding
Officer ██████	<p>1. It is alleged that on May 25, 2011, at approximately 2230 hours, while at the location 31 N. Kilbourn Ave, you used excessive force in the manner in which you took ██████ to the ground.</p> <p>2. It is alleged that on May 25, 2011, at approximately 2230 hours, while at the location 31 N. Kilbourn Ave, you violated Department policy and directives when you discharged your taser without justification.</p> <p>3. It is further alleged that in an interview to IPRA dated 12 September 2013, at 1615 West Chicago, you gave false oral statement regarding ██████ refusal to comply with his verbal commands to show her hands, in that Investigator Q: “And so, what happened once the Lincoln came to a stop?” A: “The driver exited the vehicle; female.” Q: “Did the female say anything? A: “No, she was not following my verbal directions to show me her hands.” Q: “What was her demeanor when she exited the vehicle?” A: “She turned her back on us.” Q: “Were her hands raised? Where were her hands at that time?” A: “She kept them by her side by her waistband, she didn’t keep them raised,” in violation of Rule 14.</p>	<p>Sustained</p> <p>Sustained</p> <p>Not Sustained</p>
Officer ██████	<p>1. It is alleged that on 25 May 2011, at approximately 2230 hours, while at the location 31 N. Kilbourn Ave, you violated Department policy and directives when you discharged your taser without justification.</p> <p>2. It is alleged that on 25 May 2011, at approximately 2230 hours, while at the location 31 N. Kilbourn Ave, you violated Department policy and directives when you discharged your taser for more than five seconds.</p>	<p>Sustained</p> <p>Sustained</p>

Officer [REDACTED]	1. It is alleged that on 25 May 25 2011, at approximately 2230 hours, while at the location 31 N. Kilbourn Ave, you failed to report misconduct committed by Officer [REDACTED]	Not Sustained
Officer [REDACTED]	1. It is alleged that on 25 May 2011, at approximately 2230 hours, while at the location 31 N. Kilbourn Ave, you failed to report misconduct committed by Officer [REDACTED]	Not Sustained

IX. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer [REDACTED]

Officer [REDACTED] training, complimentary and disciplinary histories were considered when recommending discipline in this case. Officer [REDACTED] does not have a history of discipline. COPA sustained the allegation that Officer [REDACTED] used excessive force when taking [REDACTED] a cooperative subject, to the ground. COPA also finds Officer [REDACTED] tactical explanation flawed and potentially created a more dangerous situation for himself and other officers.

COPA also sustained the allegation that Officer [REDACTED] discharged his taser without justification. At the time of his interview, Officer [REDACTED] was unaware that [REDACTED] had been tasered by another officer and refused to acknowledge the need to evaluate the effect of that discharged taser, as required by order. Officer [REDACTED] inattention after his discharge, led to him arcing his taser again, for which he was also unaware.

Therefore, COPA recommends retraining in Force Options, Taser Recertification training and a suspension of 25-days.

Officer [REDACTED]

Officer [REDACTED] training, complimentary and disciplinary histories were considered when recommending discipline in this case. Officer [REDACTED] does not have a history of discipline. Officer [REDACTED] admitted that he did not comply with orders when he discharged his taser. COPA recommends Officer [REDACTED] receive Taser Recertification training and a suspension of 10-days.

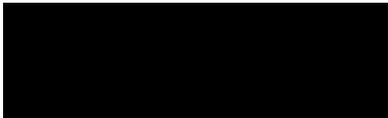
Approved:



December 30, 2019

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date



December 30, 2019

Sydney Roberts
Chief Administrator

Date

Appendix A

Assigned Investigative Staff

Squad#:

Investigator:

Supervising Investigator:

Deputy Chief Administrator:



Jay Westensee