

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	January 22, 2016
Time of Incident:	Approximately 12:25 a.m.
Location of Incident:	████████████████████ Chicago, IL 60653
Date of IPRA Notification:	January 22, 2016
Time of IPRA Notification:	Approximately 8:31 p.m.

On January 22, 2016, ██████████ (██████████) punched his neighbor, ██████████ in the mouth. ██████████ called 911 and Sergeant Lolita Starling (“Sgt. Starling”)², then and still a field training officer (“FTO”) and Officer Sofia Velasquez, then a probationary police officer (“PPO”), responded to the scene.

Sgt. Starling and Officer Velasquez first spoke with ██████████ and then requested ██████████ to step outside so they could speak with him. ██████████ refused and moved to close the door during which Sgt. Starling’s wrist became caught in the door. During their investigation and attempts to speak with and arrest ██████████ Sgt. Starling deployed her taser at ██████████ ran to the bathroom with the taser prongs still attached. Assisting units arrived and engaged ██████████ in the bathroom. Sgt. Starling deployed her taser again. Assisting officers ultimately handcuffed and arrested ██████████

Chicago Fire Department (“CFD”) transported ██████████ to Mercy Hospital and Medical Center for removal of taser prongs.³ Sgt. Starling’s Taser Download Report documented two cartridge deployments with a total of four trigger events.⁴ On March 10, 2016, ██████████ pled guilty to resisting arrest⁵ such that he slammed a door in the face of Sgt. Starling and ran away in an effort to defeat arrest.⁶

On January 22, 2016, IPRA received notification of the taser discharge from Sergeant (“Sgt.”) Thomas Bachelder, star #2096, under log #1078966. On March 31, 2016, IPRA administratively closed the case with the comments “no allegations of misconduct.” (Attachments

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 (“CPD”). 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 of COPA.

² Sergeant Starling was promoted to Sergeant at some point after this incident.

³ Attachments 41 and 50.

⁴ Attachment 5.

⁵ CPD charged ██████████ with two misdemeanor offenses: 720 ILCS 5.0/12-3-A-2 (Battery against ██████████ and 720 ILCS 5.0/31-1-A (resisting arrest by Officer Starling)

⁶ Attachment 42, pg. 6. (16 MC1 187584 (16118758401)).

4 and 20). COPA reopened the investigation under log #1083909 based on the filing of a civil suit by [REDACTED]⁷

II. INVOLVED PARTIES

Involved Officer #1:	STARLING, Lolita, star #16680, employee # [REDACTED] Date of Appointment: December 2, 2002, Sergeant/Field Training Officer, Unite of Assignment: 005, Date of Birth (“DOB”): [REDACTED], 1975, Female, African-American ⁸
Involved Subject #1:	[REDACTED] DOB: [REDACTED], 1968, Male, African-American ⁹

III. ALLEGATIONS

Officer	Allegation	Finding/ Recommendation
Sergeant Lolita Starling	It is alleged that on January 22, 2016, at approximately 12:25 a.m., at [REDACTED] Chicago, IL 60653, while on duty, Officer Lolita Starling: <ol style="list-style-type: none"> 1. Discharged her taser at [REDACTED] and 2. Did not have a current and/or valid taser certification. 	Exonerated Sustained/ Reprimand

IV. APPLICABLE RULES AND LAWS

Rules

Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.

Rule 5: Failure to perform any duty.

Rule 6: Disobedience of an order or directive, whether written or oral.

⁷ captioned 16 CV 11253

⁸ Alpha/Star Query, a database accessed through CPD’s intranet, lists Officer Starling as 5’10” and 165 lbs.

⁹ The Arrest Report lists [REDACTED] height and weight as 6’0” and 170 lbs. (Attachment 9).

Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Orders

1. G03-02: Use of Force Guidelines, Effective Date: October 1, 2002¹⁰
2. G03-02-01: The Use of Force Model, Effective Date: May 16, 2012¹¹
3. G03-02-02: Force Options, Effective Date: January 1, 2016¹²
4. G03-02-07: Other Weapon Discharge Incidents, Effective Date: October 30, 2014¹³
5. U04-02-04: Taser Devices, Effective Date: January 21, 2016¹⁴

Special Orders

1. S11-03-01: Annual Prescribed Weapon Qualification Program and Taser Re-certification, Effective Date: January 13, 2016¹⁵

V. INVESTIGATION¹⁶

a. Interviews

i. ██████████ ██████████

Statement Date: November 13, 2017

During an interview with COPA investigators, ██████████ related that he was in a confrontation¹⁸ with his next-door neighbor in which he punched ██████████ in the mouth. ██████████ called the police. Sgt. Starling and Officer Velasquez arrived about twenty minutes later and knocked on his door. ██████████ opened the front door, and Sgt. Starling told ██████████ they would like to talk with him and asked him to step outside.¹⁹ ██████████ said no and began closing the door. As he closed the door, Sgt. Starling discharged her taser, hitting him in the lower part of his neck. ██████████ estimated his door had been about fifty percent closed. Sgt. Starling never warned him or said anything other than asking him to step outside to talk. After the taser prongs hit him, ██████████ ran to the bathroom,

¹⁰ Attachment 84.

¹¹ Attachment 72.

¹² Attachment 52.

¹³ Attachment 73.

¹⁴ Attachment 80.

¹⁵ Attachment 75.

¹⁶ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

¹⁷ Attachment 23.

¹⁸ occurring outside his apartment door in the hallway involving him and his then fiancé ██████████ arguing and being loud when ██████████ came out of his apartment, told them they were being loud and tried to tase ██████████ so ██████████ punched him in the mouth. ██████████ picked him up and ██████████ returned to his apartment. ██████████ did the same.

¹⁹ ██████████ first stated that Officer Starling had a taser in her hand while outside the apartment: "ready to go." When asked to provide more details, ██████████ responded that he did not see the Taser, but by "ready to go," he meant that Officer Starling must have had it ready because as soon as he said no to stepping outside, she discharged the taser.

closed, and then locked the door.²⁰ He felt shock when the first taser prongs hit him. ██████ told investigators that the taser did not stop him and instead it made him run. Officers²¹ kicked in the bathroom door and gave him an order to “cuff up” and told him that he was under arrest.²² ██████ repeatedly said to them that he did not do anything. He was tasered again in his hand via taser prongs, possibly his right hand.²³ Subsequently, officers handcuffed him. After, ██████ went to Mercy Hospital to get the taser prongs removed and then to jail.

██████ denied being told he would be tasered if he did not comply orders or became physical with any officer. ██████ denied having accidentally or intentionally slammed Sgt. Starling’s wrist and/or hand in the apartment door. He stated he had been closing the door when Sgt. Starling reached in to taser him and the door caught her hand.

ii. ██████ Civilian Witness^{24 25}
Statement Date: March 20, 2018

██████ told COPA investigators that on the night of the incident, ██████ and ██████ got into a verbal altercation, moving from the apartment into the hallway. ██████ neighbor, ██████ heard the verbal altercation and knocked on the door to defend ██████ then remained in the apartment while ██████ and ██████ got into an altercation in the hallway.²⁶ ██████ returned inside the apartment, and maybe thirty or forty minutes later, she and ██████ heard a knock on their door stating Chicago police. At that time, music played and the situation between ██████ and her had settled down. ██████ was located in the living room seated at the dining room table facing the front door and recalled ██████ opening the door a little (maybe four inches, just enough to peek out). She heard the officers tell ██████ that they wanted to talk to him and/or ask him some questions to which ██████ responded no. The officers kicked the door open and tasered ██████ She could not discern any specific statements as everyone spoke and yelled at once. Six or seven officers²⁷ entered the apartment and instructed ██████ to sit at a table.²⁸ Once tasered, ██████ hit the ground and she next remembered the officers following ██████ down the hallway to the bathroom. She could not recall the specifics of how ██████ got to the bathroom. She could not see anything at this point, but she heard ██████ screaming and calling her name, as well as heard a taser. ██████ and the officers were in the bathroom for about an hour. Officers escorted ██████ handcuffed, out of the apartment. She described ██████ as upset, yelling, screaming and cursing out the officers.

²⁰ ██████ thought he had been shot by a firearm. In the bathroom, he unsuccessfully attempted to remove the taser prongs from his neck.

²¹ Aside from Officer Starling and her partner, ██████ did not see the additional officers arrive. He estimated six or seven officers were present in the apartment when he was in the bathroom. He did not see who kicked in the bathroom door.

²² He found out the reason for his arrest – told simple battery against his neighbor – at the hospital.

²³ ██████ stated the prongs in his hand came out. When handcuffed, he still had prongs in his neck.

²⁴ Attachment 71.

²⁵ ██████ stated she and her boyfriend ██████ had been together for ten years. She did not speak with ██████ regarding her statement to COPA. Per ██████ the apartment belonged to a friend. Regarding the apartment layout, she described the main door as opening into the living room. The kitchen is visible from the living room. When you walk in the living room, there is a couch and behind the couch is a dining room table. It is a small apartment.

²⁶ ██████ did not tell her what had taken place in the hallway. Later, she recalled that ██████ after being released from jail, had told her that ██████ had pulled a taser on him.

²⁷ ██████ specifically recalled one female officer with a short hairstyle similar to a male hairstyle. She identified her as the officer who kicked in the apartment door.

²⁸ After the initial taserings of ██████ she had been cursing and being a little aggressive. However, she sat down when instructed to by the officer(s).

██████████ and she had been drinking beer that night, but that they had just started and had been drinking and talking for about an hour. When the officers arrived, she would not have classified ██████████ as drunk but “feeling pretty good” and answered that “tipsy” would be accurate.²⁹ She characterized herself as “feeling pretty good” and “tipsy.” Still, she could remember everything.

██████████ did not see ██████████ get physical with any officer or she see him close the front door on any officer. She did not see ██████████ lunge or make any forward movements towards a female officer. She did not hear any statements regarding handcuffing. She did not hear any officers make statements to the effect of taser, taser or ██████████ would be tasered if he did not comply. She did not hear or know if ██████████ made statements to the effect of he would hit his neighbor again while the officers had been there. She did not hear any officer tell ██████████ that he was under arrest for battery.³⁰

iii. Officer Sofia Velasquez, Witness Officer^{31 32 33}
Statement Date: March 22, 2018

During an interview with COPA investigators, Officer Velasquez told investigators that at the time of the incident he was assigned to the 2nd District during her second cycle as a PPO and remained there for approximately a month.³⁴ She was also assigned to Sgt. Starling, her FTO, for possibly three weeks.

She and Sgt. Starling arrived at the incident address via an OEMC dispatch for a battery that just occurred. Upon arrival, she observed the victim, ██████████ with a bleeding mouth. He told them that his neighbor had punched him in the mouth.³⁵ She and Sgt. Starling knocked on ██████████ door and announced themselves as Chicago police. ██████████ cracked the door open, and she recalled him stating that he had punched ██████████ and beat his wife.³⁶ Sgt. Starling told him to come out of the apartment, so they could speak with him. ██████████ did not comply. With the knowledge that ██████████ had struck ██████████ Sgt. Starling with her handcuffs out told him to come out, place his hands behind his back and that he was under arrest for battery.³⁷ She recalled the front door being cracked open a little³⁸ and Sgt. Starling moving to handcuff ██████████ and asking him to place his hands behind his back when ██████████ slammed³⁹ the door on Sgt. Starling’s wrist.⁴⁰

²⁹ Neither of them had taken drugs or smoked marijuana that night. Regarding any medications taken by ██████████ she answered that at that time, he had been taking clozapine, trazadone and risperidone for schizophrenia; however, she did not know if had taken any medication on the incident night.

³⁰ She thought officers told her later that they were there because a neighbor had called the police.

³¹ Attachment 74.

³² Officer Velasquez said this incident was her “first hands-on experience” and her first “scene” of this nature. Only Officer Starling had a taser that shift due to a taser shortage in the district resulting in one taser per car.

³³ Alpha/Star Query, a database accessed through CPD’s intranet, list Officer Velasquez’s height and weight at 5’2” and 143 lbs., respectively.

³⁴ Officer Velasquez’s date of appointment to CPD, per the CLEAR database, is February 23, 2015.

³⁵ Additional information received upon arrival included that ██████████ had become involved in an altercation between ██████████ and a female, referred to as his wife by Officer Velasquez, and that ██████████ told ██████████ to mind his business. ██████████ then punched ██████████

³⁶ She did not recall hearing yelling from inside the apartment.

³⁷ Officer Velasquez asserted ██████████ knew why he was being placed under arrest, and that he even stated himself that he had “beat” people.

³⁸ She could not recall exact measurements of how open or closed the door had been other than cracked.

³⁹ Officer Velasquez did not perceive the slamming of the door as an accident, stating ██████████ did not want to be placed into custody.

⁴⁰ Officer Velasquez observed Officer Starling’s wrist as swollen.

Seeing Sgt. Starling's wrist stuck in the door, Officer Velasquez either pushed or kicked in the door in order to free her wrist. She succeeded in gaining entry to the apartment. ██████ made statements to the effect of fuck you, I am not going to jail, and you better call for backup. Sgt. Starling requested backup over the radio. She recalled ██████ "sizing up" Sgt. Starling, balling his fists, and being in a "fighting stance."⁴¹ More than once, Sgt. Starling gave verbal commands to ██████ to put his hands behind his back and warned him that he would be tasered if he did not comply, which he did not. Attempts to calm ██████ also proved unsuccessful. Sgt. Starling said "taser" multiple times before deploying her taser at ██████. The prongs either did not hit and/or land or it did and did not stick. Either the taser prongs fell off or ██████ yanked them off, but he proceeded to run into the bathroom. Based on her own experience of being tasered during the CPD academy, Officer Velasquez stated if the taser had landed properly there would have been no way for ██████ to have merely walked away.

Officer Velasquez remembered ██████ running into the bathroom and several officers⁴² arriving. She recalled being pushed to the side and did not recall what occurred after with ██████. She did not physically enter the bathroom. She recalled hearing verbal commands to the effect of give me your hands and put your hands behind your back.

Officer Velasquez recalled a female being in the apartment with ██████ describing her as distressed and either the wife or girlfriend of ██████. She characterized ██████ as intoxicated by an unknown substance stating he stunk of alcohol, had red eyes and an erratic behavior. At the time that Sgt. Starling tasered ██████ at the front door, Officer Velasquez characterized his behavior and actions as that of an assailant. She answered affirmatively to whether she felt in danger and whether ██████ actions posed an immediate threat to her and Sgt. Starling's safety. Officer Velasquez answered that at that time she would have taken the same action as Sgt. Starling.

iv. Sergeant Lolita Starling^{43 44 45}
Statement Date: April 25, 2018

During an interview with COPA investigators, Sgt. Starling said that on the night of the incident she arrived on scene with Officer Velasquez following a call of a battery that just occurred and spoke with ██████. She observed blood on the wall outside of ██████ apartment, in addition to ██████ having a swollen lip and blood on his shirt. ██████ identified ██████ as having hit him. ██████ stated ██████ had been beating his girlfriend and that he stepped outside to stop it, and ██████ punched him in his face.

⁴¹ Officer Velasquez described ██████ fighting stance as a boxing stance with raised, balled up fists and him looking Officer Starling up and down.

⁴² She did not know any of the officers that arrived.

⁴³ Attachment 87, *See also* Attachment 88, Exhibit 1.

⁴⁴ At the time of the statement, Officer Starling had been an FTO for approximately five years. Officer Starling had been partnered with Officer Velasquez as her FTO for less than thirty days.

⁴⁵ During her statement, the COPA Investigator addressed and showed Officer Starling: Exhibit C titled "Officer Lolita Starling Affidavit," undated, signed and notarized – filed January 31, 2018, to *Defendant's Motion for Summary Judgment*, civil suit caption 16 CV 11253. (Attachment 49, Document #42-4). Officer Starling indicated that her statement of events to COPA is more accurate than the document as written.

Sgt. Starling knocked on [REDACTED] door and announced herself as Chicago police. [REDACTED] opened the door yelling "what." She observed [REDACTED] to be verbally aggressive, irate/angry, irrational, shirtless, taller than her⁴⁷, poking his chest out and putting his chin out with balled up fists and either under the influence⁴⁸ or possibly a "mental situation." she asked him what happened and if he hit his neighbor. [REDACTED] answered yes and that he would hit him again.⁴⁹ She observed [REDACTED] "size up" her and Officer Velasquez, i.e., looked them up and down, [REDACTED] shoulders broadened with his chest out.

Sgt. Starling removed her taser, placed it by her side and called for backup over the radio. She told [REDACTED] to step outside and put his hands behind his back. He responded by screaming, that he is not going anywhere, and he is not going to jail, etc. [REDACTED] moved to slam the door, and she and Officer Velasquez pushed against the door. Sgt. Starling's hand became caught in the door. Sgt. Starling explained that she did not charge him with aggravated battery to a police officer because [REDACTED] intention was not to slam/hurt her hand in the door rather her hand became caught when she put her hand in the door. She and Officer Velasquez succeeded in opening [REDACTED] door.

Sgt. Starling, with her taser out, yelled at [REDACTED] that she did not want to have to taser him; stating let me see your hands and put your hands behind your back.⁵⁰ [REDACTED] continued to scream that he was not going to jail. While yelling, [REDACTED] stepped forward. Sgt. Starling yelled taser multiple times and deployed her taser at him.⁵¹ Two prongs connected/landed right above his clavicle and on his chest but did not do anything. [REDACTED] stepped back and then stepped forward again, and Sgt. Starling pulled the taser trigger again. [REDACTED] stopped, ran into the bathroom and attempted to slam the door.

Sgt. Starling with Officer Velasquez followed [REDACTED] and pushed the bathroom door open. She observed [REDACTED] sitting on the toilet with blood coming from one of the prongs. She stated the threat was over. At this time, she heard sirens. When the additional officers and Sgt. Bachelder⁵² arrived, Sgt. Starling left the bathroom. She no longer could see [REDACTED] From outside the bathroom, she heard officers stating, show me your hands, let me put the 'cuffs on you and come on let's make this easy. She heard officers repeatedly tell [REDACTED] that they needed him to comply and that they would taser him again. She heard [REDACTED] yelling "fuck y'all" and being belligerent and verbally aggressive. After some time, either Sgt. Bachelder instructed Sgt. Starling to tase [REDACTED] again or she asked him if he wanted her to pull the taser trigger again. She pulled the taser trigger, but it again did not do anything because the wires had broken/were no longer connected due to having been slammed in the bathroom door. She does not recall the fourth taser trigger pull,

⁴⁶ [REDACTED] never left the apartment but stood on the threshold.

⁴⁷ Officer Starling stated that she had to look up at him. She noted that the arrest report listed him as 6'0"; however, she took him to be 6'1" to 6'2" and maybe 210 to 220 lbs. Officer Starling stated she is 5'9" to 5'10" and weighed less than [REDACTED] She estimated Officer Velasquez's height at 5'3" to 5'4" and tiny, also weighing less than [REDACTED] She added that Officer Velasquez had been on the street 90 days or less, and she did not know what Officer Velasquez could do. Officer Starling did not feel that the two of them could take him hands-on.

⁴⁸ she assumed he was "high" over drunk but she did not remember smelling alcohol.

⁴⁹ Officer Starling considered [REDACTED] under arrest when he made these statements.

⁵⁰ She heard [REDACTED] who she referred to as "the girlfriend," in the background, but she did not observe her in the apartment. [REDACTED] screamed at them to get out and not to touch [REDACTED] never left the kitchen area, located to the left upon entering inside. To her belief, [REDACTED] could not have seen the taser deployment as she was not in Officer Starling's view.

⁵¹ In tasing [REDACTED] Officer Starling wanted to stop [REDACTED] from moving and have him place his hands behind his back, so she could handcuff him. At the time she tasered him, she answered yes as to whether she felt a threat to her and her partner's safety.

⁵² Approving supervisor on the Original Case Incident Report ("OCIR").

referring to the Taser Download Report⁵³. Officers ultimately succeeded in handcuffing ██████. Based on the controlling General Order at the time, Sgt. Starling characterized ██████ as an active resister throughout the entire incident.

Sgt. Starling stated that she thought she had been taser certified at the time of this incident. She indicated she has been taser certified since 2010 with yearly refreshers. Procedurally, she stated that in the first quarter of every year, an officer undergoes qualifying with their weapon and taser. Supervisors are provided lists of officers who have not qualified, and they instruct those officers to attain their qualifications. Based on these procedures, she believed she had/would have been qualified and would not have known she was not qualified. Sgt. Starling acknowledged that CPD directives are written such that responsibility is placed upon the individual officers to maintain qualifications/certifications. Reviewing the Education and Training Records received by COPA (Att. 79), she acknowledged that it did not show her to be taser certified at the time of the incident, stating the possibility of a human error element. She did not have evidence to refute the records. She noted that she did qualify with her weapon⁵⁴, and that she should have also qualified with her taser. She did not know of any reason for why she would not have been taser certified nor did she have specific recollection of attending the taser certification. Sgt. Starling provided the COPA Investigator with a printout of her accessible eLearning records, and a search by taser showed only a completed certification in August 2010.⁵⁵ At the time of her statement, she indicated she had only a couple days ago become aware of being able to search CLEAR for her education and training records.

The COPA Investigator also showed Sgt. Starling selected Administrative Messages from CPD's intranet (Att. 83) regarding taser recertification in 2015. Reading the messages, she recalled attending a meeting and/or training on the Taser X2 transition but did not recall if that had been in 2015. Sgt. Starling added that while the records did not show her to be taser certified at the time of the incident, she had been certified since 2010, her knowledge of how to use a taser had not dissipated, and she knew the use of force model on when to use or not use a taser. In being asked the allegation directly, Sgt. Starling answered that the lack of taser certification had not been intentional.

b. Digital Evidence⁵⁶

i. OEMC Event Queries⁵⁷

OEMC Event Query #1602116147 details that the taser deployment occurred “a couple of separate times” by Sgt. Starling. Remarks detail that ██████ neighbor in ██████ punched him in his mouth and no further information (“NFI”).⁵⁸

⁵³ Attachment 5.

⁵⁴ Attachment 79, qualified with a J.P. Sauer, semi-automatic pistol, P228 Model on October 25, 2016.

⁵⁵ Attachment 88.

⁵⁶ COPA requested BWC footage for Officers Sterling and Valazquez, as well as video pertaining to the recorded event number. CPD responded that they did not find any video, adding that the 2nd District did not have BWC until June 28, 2016

⁵⁷ Attachment 12, 94-96

⁵⁸ Attachment 12.

OEMC Event Query #1602200268 details that caller ██████ ██████ called to request a sergeant stating that police are tasing her boyfriend.⁵⁹

ii. CPD Crime Scene Photographs^{60 61}

Among the Evidence Technician (“ET”) photographs of the incident scene (apartment complex hallway and interior ██████ apartment) and ██████ there is shown: (1) apparent blood on the ground by a welcome mat in the hallway of the apartment complex – Crime Scene Report #293587 documented the location as in front of ██████, ██████ apartment; (2) apparent blood drops on the floor of a bathroom and toilet; (3) damage to the bathroom door’s lock and (4) injury to ██████ upper lip.

c. Documentary Evidence

i. Original Case Incident Report (“OCIR”), RD# HZ124034⁶²

Responding officers (“R/O’s”) responded to the incident address where victim ██████ stated that ██████ had punched him in the mouth. The report’s narrative relates that the R/Os observed ██████ mouth bleeding, as well as blood on the floor. R/Os knocked on ██████ door. When ██████ opened the door, he appeared heavily intoxicated and was very belligerent. R/Os informed ██████ that he was under arrest and directed him to place his hands behind his back. As they approached, ██████ slammed the door, hitting Sgt. Starling’s wrist. ██████ continued to push the door close as the officers tried to gain entry. Once inside the apartment, R/Os yelled at ██████ to again place his hands behind his back to which he responded, “fuck you, I’m not going to jail.” R/Os told ██████ that he would be tasered if he did not comply. Subsequently, ██████ was tasered. ██████ stopped momentarily then ran into the bathroom and tried to slam the door. Not knowing what was in the bathroom, R/Os forced the bathroom door open. Additional assist units are noted as being on scene. Due to ██████ not allowing R/Os to handcuff him and after several minutes of verbal directions and talking, he was tasered again for his failure to comply. The taser deployment proved ineffective because the wires were broken. ██████ then was placed into custody and taken to Mercy Hospital for taser prong removal and treatment for a laceration to his right hand, described as resulting from the struggle.

ii. ██████ Arrest Report⁶³

The arrest report’s narrative corresponds to the OCIR. In the section for “Lockup Keeper Processing,” the visual check of arrestee section indicates ██████ was not under the influence of alcohol and drugs and he appeared to be irrational. The questionnaire remarks section detail that ██████ takes medication for schizophrenia and that he appears irrational. Additionally, ██████ answered that he presently takes prescribed medication as needed for mental illness.

⁵⁹ Attachment 95.

⁶⁰ Attachment 15.

⁶¹ See also Attachment 13.

⁶² Attachment 10.

⁶³ Attachment 9.

iii. Taser Download Report – Serial # [REDACTED]

On January 22, 2016, cartridge one deployed at 12:27:05 a.m. (sequence #1925) for five seconds. Cartridge two deployed at 12:27:06 a.m. (sequence #1926)⁶⁵ for five seconds. At 12:43:57 a.m. (sequence #1927)⁶⁶, cartridge two deployed for three seconds. At 12:44:39 a.m. (sequence #1933), cartridge two deployed for five seconds. All cartridge deployments are marked as a trigger event, indicating that cartridges deployed with prongs as opposed to a drive stun, i.e., direct contact to skin.

iv. Sgt. Starling’s Tactical Response Report (“TRR”)^{67 68}

The TRR, prepared by Sgt. Starling, classified [REDACTED] as a passive resister such that he did not follow verbal direction to which she responded with her presence and verbal commands. She further classified [REDACTED] as an active resister such that he fled, pulled away and slammed door to defeat arrest.

v. [REDACTED] Emergency Medical Services Record⁶⁹

Responding paramedics described [REDACTED] as alert and agitated with CPD. CPD informed them that [REDACTED] had been angry with them and had been tasered. [REDACTED] denied all complaints. The paramedics transported him to the hospital.

**vi. [REDACTED] Medical Records⁷⁰
Date of Service: January 22, 2016**

[REDACTED] received medical treatment at Mercy Hospital and Medical Center in Chicago. The admitting diagnosis is “hand cut.” The history of present illness indicated that he arrived in police custody following being tasered and he required removal of taser spikes, patient was uncooperative and refused to give history. A nursing triage note lists the chief complaint as: CPD stating that patient is here for laceration to the left hand and he refused to have his wound checked.⁷¹ Social history details that [REDACTED] uses alcohol and tobacco regularly. Marijuana is also listed.⁷² Taser prongs removed from his right shoulder and mid-chest.⁷³ [REDACTED] affect and behavior is noted in one entry as impulsive and uncooperative and in another entry, hostile, inappropriate and restless.⁷⁴ [REDACTED] ultimately was diagnosed with a puncture wound.

⁶⁴ Attachment 5.

⁶⁵ Officer Starling identified sequence #s 1925 and 1926 as the taser events in the entrance of [REDACTED] apartment. (Attachment 87).

⁶⁶ To the best of her knowledge, Officer Starling identified sequence #1927 as the taser event occurring in the bathroom. She did not recall sequence #1933. (Attachment 87).

⁶⁷ Attachment 6 and 37.

⁶⁸ Listed taser serial number corresponds to the provided Taser Download Report – [REDACTED] Cartridge numbers listed are [REDACTED] and [REDACTED]

⁶⁹ Attachment 41.

⁷⁰ Attachment 50, Medical Records received as an Exhibit to Dr. [REDACTED]’s civil lawsuit deposition.

⁷¹ Attachment 50, pg. 11 of the Medical Records, Bate Stamped 12.

⁷² Attachment 50, pg. 12 of the Medical Records, Bate Stamped 13.

⁷³ Attachment 50, pg. 13 of the Medical Records, Bate Stamped 14.

⁷⁴ Attachment 50, pgs. 13 and 16 of the Medical Records, Bate Stamped 14 and 17, respectively.

vii. ██████ Civil Lawsuit, 16 CV 11253**1. Deposition of ██████
Deposition Date: August 30, 2017**

In excerpt and summarized relative to his COPA statement, ██████ said he had not drank alcohol or taken illegal drugs on January 21, 2016.⁷⁶ The police knocked on his door and announced themselves as police. He opened the door wide. The two officers asked if they could speak to him outside. He responded no and went to close the door. As he did, one officer stuck a taser through the door and tasered him twice: by his right collar bone area and his chest. The door never closed all the way. Initially, he thought he had been shot, so he ran to the bathroom. The taser prongs remained in him at this time. The officers ran after him, kicked the door in and tasered him again. He elaborated that the officers told him to come with them before they tasered him. ██████ tried to tell them that ██████ had tasered him and he had been trying to defend himself. ██████ stated the officers tasered him only once in the chest in the bathroom.⁷⁷ Later, he stated he was tasered once in his chest and once in his hand.⁷⁸ ██████ stated neither officer was injured during the incident and denied that a door hit any officer. He recalled additional officers arrived. Officers handcuffed him in the bathroom and walked him out. Officers drove him in a police car to Mercy Hospital. He believed he was bleeding from his hand.⁷⁹

**2. Deposition of ██████
Deposition Date: September 15, 2017**

In excerpt and summarized, ██████ stated that on the incident night he opened his door following a loud knock and observed a female, referred to by ██████ as ██████ girlfriend, laying down in front of his door and asking for help. ██████ stood by his own open door and began arguing with ██████ ultimately punching ██████ in the face. ██████ smelled marijuana and alcohol from ██████ returned to his apartment, closed the door and called the police. When the police⁸¹ arrived, he directed them to ██████ apartment, stating he had punched him and that he had been beating his girlfriend. At that time, ██████ was in his apartment.⁸²

While standing in front of his apartment door, ██████ observed the police knock multiple times on ██████ door. ██████ heard ██████ getting loud and cursing. Eventually, ██████ opened the apartment door to the point it was ajar, approximately five or six inches. He described ██████ as not wanting the police to enter the apartment, stating “so it’s like he was struggling with the police.”⁸³ He heard the female stating to let the police into the apartment. For roughly four to five minutes, the police told ██████ to let them in and ask him what happened. ██████ stated the police

⁷⁵ Attachment 31.

⁷⁶ ██████ takes the medication for schizophrenia. He testified he took the medication the night before his deposition at 8:00 p.m. but stated it would not affect his ability to testify truthfully and accurately. He takes the medication for schizophrenia.

⁷⁷ Attachment 31, pg. 59.

⁷⁸ Attachment 31, pgs. 59 and 60.

⁷⁹ Attachment 31, pg. 60.

⁸⁰ Attachment 29.

⁸¹ ██████ stated two male officers initially arrived. However, CPD evidence is indisputable that Officers Starling and Velasquez, two female officers, arrived first.

⁸² ██████ stated that while ██████ resided in the apartment, he was not the legal tenant.

⁸³ Attachment 29, pg. 41, lines 13-14.

pushed (the door), while █████ pushed back (the door), and the police ultimately pushed opened the door.

Once the police entered the apartment, █████ could not see the events inside the apartment. He heard “fighting” and the police say, “if you don’t, we’re going to Tase you.”⁸⁴ He also heard the female, who he had referred to as █████ girlfriend, crying and shouting. He repeatedly characterized █████ as struggling with the police and not listening to them.⁸⁵ █████ described the initial two officers as calm and just wanting to talk to █████ One officer came outside the apartment, called for backup and went back inside. When additional officers arrived, █████ heard, but did not see, them tell █████ to calm down. █████ again heard struggling and warnings, roughly four to six times, that if █████ did not stop he would be tasered again. █████ heard the female begging █████ to stop. He also heard hitting against the wall. He did not see when █████ left the apartment.

█████ answered that before the initial two officers entered █████ apartment, he did not see either officer pull out a taser.

viii. Sgt. Starling’s Taser Certification/Qualification Records⁸⁶

COPA requested and received Sgt. Starling’s Taser certification and qualification records. The received response revealed that Sgt. Starling did not have a record showing re-certification for the 2015 calendar year, but she did re-certify on February 18, 2016, for the 2016 calendar year, excluding the dates prior. Prior to February 18, 2016, the last qualification date listed is July 16, 2014. Her initial qualification date is August 13, 2010.⁸⁷

Selected messages from CPD Intranet’s Administrative Message Center show that CPD offered taser recertification training at various times in 2015, including dates in April, July to September and December 2015.⁸⁸ An administrative message dated June 29, 2015, reference #218939, stated: “officers who trained with the X2 in 2015 do not have to recertify at this time.”⁸⁹ An administrative message dated December 19, 2015, reference #221625, stated: “all members who were certified with the Taser X2 in 2014 must re-certify before 31 December 2015.”⁹⁰ An administrative message dated December 31, 2015, reference #221770, stated: “taser re-certifications will continue into 2016” and “members who have been certified on the Taser X2 will be allowed to re-certify.”⁹¹

CPD Employee Training Record shows that Sgt. Starling passed a Taser X2 Recertification Course on July 16, 2014 and a Taser X2 8-hour Certification Course on February 18, 2016.⁹²

⁸⁴ Attachment 29, pg. 41, lines 20-23.

⁸⁵ █████ stated he could not see inside the apartment. Thus, his characterization is based on what he could hear.

⁸⁶ Attachments 56 and 79.

⁸⁷ Attachment 79. *See also* Attachment 81.

⁸⁸ Attachment 83.

⁸⁹ Attachment 83, pg. 4 of the overall PDF.

⁹⁰ Attachment 83, pg. 12 of the overall PDF.

⁹¹ Attachment 83, pg. 14 of the overall PDF.

⁹² Attachment 56, pg. 1.

IV. LEGAL STANDARD

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

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

V. ANALYSIS

Creditability Assessment

In the instant case, there is no video or audio evidence, only testimonial evidence. Sgt. Starling and Officer Velasquez provided substantially similar, detailed credible statements to COPA. Although COPA did not interview ██████ his deposition is a sworn statement under penalty of perjury.

█████ and ██████ also provided forthright and broadly similar narrative of events to COPA. Although COPA does not consider ██████ and ██████ to have been non-credible or dishonest in their statements, there is an issue of reliability in that ██████ and ██████ admit to consuming alcohol - several beers, prior to the officers' arrival.⁹³ It is noted that ██████ and ██████ deny memory issues stemming from alcohol consumption. However, as an example of unreliability, ██████ stated six or seven officers entered the apartment once the front door had been broken into and before the initial

⁹³ ██████ also indicated he had taken psychotropic drugs but did not know of any side effects.

taser event. Yet, [REDACTED] and Sgt. Starling and Officer Velasquez all corroborate that only the latter officers were present for the initial taser. Another example includes [REDACTED] statement that while in the bathroom he was tasered (taser prongs) in the hand. [REDACTED] medical records contradict this statement in that it recorded taser prongs/spike removal only from his right shoulder and mid-chest; a hand-cut is recorded as his initial diagnosis with his final diagnosis being a puncture wound.⁹⁴ In his deposition, [REDACTED] initially stated that in the bathroom he had been tasered once in the chest, and later, he stated he was tasered once in his chest and once in his hand.

Bearing in mind the reliability concerns of [REDACTED] and [REDACTED] statements, Sgt. Starling and Officer Velasquez's account of events are viewed more credible. Also bolstering the favorability of the officers' accounts over [REDACTED] and [REDACTED] are 1) the substantial similarities in their statements, 2) their detailed recollection of events after approximately two years and considering, per their estimations, they only were partnered in the same district together for approximately a month, 3) the corroboration of the medical records to Sgt. Starling's account of where she tasered [REDACTED] 4) [REDACTED] corroborating testimony to the officers' account of [REDACTED] behavior before the initial taser, and 5) various similarities in events between their statements and [REDACTED]. Though not independently controlling, it is recognized that [REDACTED] changed his plea to guilty to the charge of resisting arrest.

[REDACTED] does not deny punching [REDACTED] prior to the officers' arrival. There is no disagreement from any party ([REDACTED] Sgt. Starling and Officer Velasquez) that [REDACTED] responded no and moved to close the front door after being asked to step outside the apartment to talk. It is also agreed that either Sgt. Starling or Officer Velasquez subsequently kicked or pushed the front door. [REDACTED] and Sgt. Starling and Officer Velasquez also agree that the initial taser in the living room area of the apartment did not impact [REDACTED] and he ran to the bathroom and locked the door.

It is also undisputed that Sgt. Starling discharged her taser at [REDACTED] in the living area and the bathroom of the apartment. Thus, analysis is focused on whether Sgt. Starling's use of force followed CPD policies and applicable laws.

Allegation #1: Sgt. Starling discharged her taser at [REDACTED]

Graham v. Connor states that: "the central inquiry in every use of force is whether the amount of force used by the officer was objectively reasonable in light of the particular circumstances faced by the officer."⁹⁵ General Order, G03-02, Use of Force Guidelines, issued on September 23, 2002 and effective on October 1, 2002, continues that: "department members will use an amount of force reasonably necessary based on the totality of the circumstances to perform a lawful task, effect an arrest, overcome resistance, control a subject, or protect themselves or others from injury."⁹⁶ The order outlines several circumstances that may govern the reasonableness of a force option. They include 1) "the severity of the crime at issue"; 2) "whether the subject poses an immediate threat to the safety of officers or others; and 3) "whether the subject is actively

⁹⁴ Attachment 50.

⁹⁵ Attachment 84.

⁹⁶ Attachment 84.

resisting arrest or attempting to evade arrest by flight.”⁹⁷ Reasonableness of a use of force is to be “judged under the totality of the circumstances viewed from the perspective of a reasonable officer on the scene.”

G03-02-02, Force Options, effective January 1, 2016, defines a resister as one who is uncooperative, and is subcategorized into passive and active resisters. An active resister is “a person whose actions attempt to create distance between that person and the member’s reach with the intent to avoid physical control and/or defeat the arrest.” Qualifying resistive actions range from evasive movements of the arms, flailing arms to full flight through running. Use of a taser first becomes permissible when encountering an active resister. An assailant is defined as “a subject who is using or threatening the imminent use of force against himself/herself or another person.” A taser is also a permissible force option for assailants.⁹⁸

By ██████’s own account, he did not comply with Sgt. Starling’s request to step outside the apartment and discuss the incident, and he moved to close the door. Such actions combined with the officers’ information that ██████ had just committed a battery against ██████ – reinforced by his swollen lip and apparent blood on the floor and the officers’ accounts of ██████ admitting to punching ██████ and Sgt. Starling’s informing ██████ that he was under arrest for battery, elevated ██████ from a passive resister to an active resister. ██████’s action of closing the door after refusing to comply with Sgt. Starling’s request to step outside is a clear action of attempting to create distance between himself and Sgt. Starling and based on the officers’ account that Sgt. Starling told him he was under arrest, an action intended at defeating arrest. ██████’s sworn testimony also depicts ██████’s actions upon the officers’ arrival as “struggling with the police” and not wanting them to enter the apartment.⁹⁹ He also testified that he heard the officers state, “if you don’t, we’re going to tase you.”¹⁰⁰

Sgt. Starling and Officer Velasquez’s descriptions of ██████ sizing them up, standing in a fighting stance, being aggressive, angry/irate, having balled up fists, appearing under the influence – ██████ admitted to consuming alcohol, stating probably a six pack of beer, ██████ stepping towards the officers, and stating that he would not go to jail adds to the reasonableness of Sgt. Starling’s decision to use her taser under concern for officer safety. COPA also finds credible and pertinent Sgt. Starling’s statement that she considered ██████’s height and weight, which she perceived as 6’1” to 6’2” (recorded as 6’0” and 170 lbs. in the arrest report), in her decision to use a taser as opposed to “hands-on” force, against that of her, recorded as 5’10”, and Officer Velasquez’s, a PPO who she had been partnered with for less than thirty days, and whose height is recorded as 5’2”, and she could not be certain of her physical abilities.

Based on the totality of the circumstances and in accordance with *Graham v. Connor* - including ██████’s actions equating to an active resister, Sgt. Starling’s and Officer Velasquez’s credible, detailed descriptions of ██████’s behavior and actions, and Sgt. Starling’s perceptions relative to her and Officer Velasquez’s safety and ability to engage ██████, Sgt. Starling’s initial use of force (taser deployment) in the living room was objectively reasonable.

⁹⁷ Attachment 84.

⁹⁸ Attachment 52.

⁹⁹ Attachment 29, pg. 41.

¹⁰⁰ Attachment 29, pg. 41, lines 20-23.

█████ stated additional officers kicked in the bathroom door, exactly who he did not know, and ordered him to ‘cuff up and told him he was under arrest. █████ repeatedly told them that he had done nothing wrong. Sgt. Starling and Officer Velasquez remained outside the bathroom at the time the additional officers, including Sgt. Bachelder, arrived. █████ also did not see anything that occurred in the bathroom but recalled hearing him screaming and calling her name. █████ also testified that he remained outside the apartment the entire time but when the additional officers arrived, he heard, several times, warning █████ that if he did not stop he would be tasered again. Officer Velasquez remembered hearing verbal commands to the effect of give me your hands and put your hands behind your back.

Sgt. Starling stated she heard, from outside the bathroom, statements to the effect of show me your hands, let me put the ‘cuffs on you and come on let’s make this easy. She also heard the officers inform █████ that he would be tasered again if he did not comply with their requests, and █████ yelling fuck y’all and being verbally aggressive and belligerent. Sgt. Starling recalled the tasing of █████ in the bathroom occurring as a result of either Sgt. Bachelder independently directing her to pull her taser trigger or her asking him if he wanted her to pull the taser trigger again. Sgt. Starling told COPA that her trigger pulls had no effect as the wires had been slammed in the bathroom door when █████ ran to the bathroom and closed the door with them still attached. Sgt. Starling’s Taser Download Report confirms that the last two taser trigger events – cartridge two, first deployed in the living room area at 12:27:06 a.m., were trigger pulls and not cartridge deployments.

Assessing the preceding statements in consideration of the above credibility and reliability analysis, Sgt. Starling’s taser trigger events at the direction of the on-scene supervisor and against the backdrop of the testimonial and deposed statements, relative to when █████ was in the bathroom given by Sgt. s Starling and Velasquez, █████ and also █████ and █████ COPA recommends a finding of exonerated for allegation 1. A reasonable officer under the totality of the circumstances delineated – i.e., multiple requests by police to cooperate with handcuffing efforts following failure to submit to arrest for battery - would have discharged the taser if directed by an on-scene supervisor under the totality of the circumstances.

Allegation #2: Sgt. Starling did not have a current and/or valid taser certification

CPD records show that Sgt. Starling did not have a current and/or valid taser certification on January 22, 2016 or for the 2015 calendar year when she tasered █████¹⁰¹ Sgt. Starling did re-certify on February 18, 2016.¹⁰² She had previously re-certified on July 16, 2014.

Uniform and Property Order U04-02-04¹⁰³ “Taser Devices,” effective on January 21, 2016, dictates that taser requalification is to be completed annually.¹⁰⁴ Email conversation with Sgt. John F. Pardell, Range Master of the Education and Training Division, on March 22, 2018, informed COPA that “annually” has been interpreted to mean sometime within a calendar. The preceding

¹⁰¹ Attachment 79.

¹⁰² Attachment 79.

¹⁰³ “Taser Devices”, issued on January 13, 2016 and effective on January 21, 2016

¹⁰⁴ Attachment 80.

order, effective October 17, 2014, also dictated that taser requalification be completed annually.¹⁰⁵ Special Order, S11-03-01, “Annual Prescribed Weapon Qualification Program and Taser Recertification,” issued and effective December 21, 2012, states¹⁰⁶ “it is the responsibility of every Department member to ensure that their unit of assignment schedules them to attend one of the Prescribed Weapon Qualification Program.”¹⁰⁷ The preceding order, effective January 13, 2016, states the same.¹⁰⁸

Administrative messages from CPD’s intranet demonstrate that CPD offered taser certification training and testing dates throughout 2015. The administrative message dated June 29, 2015, dictated that “officers trained with the X2 in 2015 did not have to recertify at this time”¹⁰⁹ Although Sgt. Starling recalled attending an X2 meeting or training, she could not recall when that took place. A search of Sgt. Starling’s attendance and assignment records list her as working throughout 2015 eliminating absences as a potential hindrance to obtaining recertification/requalification.

Sgt. Starling outlined the procedures in place to ensure compliance with recertification requirements. To the best of her knowledge, Sgt. Starling believed she had been taser certified at the time of [REDACTED] arrest and had no reason to believe otherwise. She stated that non-compliance was unintentional. Sgt. Starling acknowledged that CPD records¹¹⁰ showed that she did not have a valid taser certification at the time of [REDACTED] arrest. Regarding the possibility of human error in the maintenance of Sgt. Starling’s training records, CPD records must control in the absence of compelling and credible evidence to the contrary. COPA finds Sgt. Starling credible in her statements that she believed she had been taser certified at the time. However, without Sgt. Starling being able to provide evidence that she completed taser recertification during the 2015 calendar year, COPA recommends a finding of sustained allegation 2.

VI. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Sgt. Lolita Starling

- i. **Complimentary and Disciplinary History:** Emblem of Recognition – Physical Fitness, 4; Presidential Election Deployment Award 2008, 1; Other Awards, 1; 2004 Crime Reduction Ribbon, 1; Honorable mention, 17; Complementary Letter, 1; NATO Summit Service Award, 1; and 2009 Crime Reduction Award, 1. Sergeant Starling has a single SPAR from January of 2019 related to improper registration/valid city sticker for her personal vehicle.

¹⁰⁵ Attachment 100.

¹⁰⁶ S11-03-01 IX. *Scheduling for Taser Recertification Training*

¹⁰⁷ Attachment 101.

¹⁰⁸ Attachment 75.

¹⁰⁹ Attachment 83, pg. 4 of the overall PDF.

¹¹⁰ Attachment 79.

ii. Recommended Penalty, by Allegation

1. **Allegation No. 1:** Officer Starling did not have a current and/or valid taser certification. **Penalty:** Reprimand.

VII. CONCLUSION

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

Officer	Allegation	Finding/ Recommendation
Officer Lolita Starling	It is alleged that on January 22, 2016, at approximately 12:25 a.m., at [REDACTED] Chicago, IL 60653, while on duty, Officer Lolita Starling: <ol style="list-style-type: none"> 1. Discharged her taser at [REDACTED] and 2. Did not have a current and/or valid taser certification. 	Exonerated Sustained/ Reprimand

Approved:

[REDACTED]

August 27, 2019

 Andrea Kersten
 Deputy Chief Investigator

 Date

Appendix A

Assigned Investigative Staff:

Squad#:	3
Investigator:	
Supervising Investigator:	Matthew Haynam
Deputy Chief Administrator:	Andrea Kersten