

**SUMMARY REPORT OF INVESTIGATION<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Date of Incident:	August 10, 2017
Time of Incident:	12:01 A.M.
Location of Incident:	9647 S. Chappel
Date of COPA Notification:	October 24, 2017
Time of COPA Notification:	12:34 P.M.

On August 10, 2017, just before midnight at 9647 S. Chappel Ave., Officer Samuel Brienzo and Officer Michael Brideson pulled over complainant's, [REDACTED], vehicle. [REDACTED] was detained and cuffed for failing to have two working taillights. The officers searched the complainant's vehicle and [REDACTED] was arrested on August 11, 2017, at approximately 12:00 A.M.

**II. INVOLVED PARTIES**

Involved Officer #1:	Officer Samuel Brienzo, Star 17883, [REDACTED], August 31, 2012, Police Officer, 004, [REDACTED], 1986, Male, Caucasian
Involved Officer #2:	Officer Michael Brideson, Star 19552, [REDACTED], February 19, 2013, Police Officer, 004, [REDACTED], 1982, Male, Caucasian
Subject #1:	[REDACTED], 1978, Male, Black

**III. ALLEGATIONS**

Officer	Allegation	Finding
Officer Brienzo	1. Conducted a traffic stop on [REDACTED] without justification in violation of his 4 <sup>th</sup> Amendment rights, in violation of Rule 2, Rule 6 in relation to the 4 <sup>th</sup> Amendment of	Sustained

<sup>1</sup> 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.

	<p>the United States Constitution, and Rule 6 in relation to CPD Special Order S04-13-09</p> <ol style="list-style-type: none"> <li>2. Detained [REDACTED] in handcuffs in violation of his 4<sup>th</sup> Amendment Rights, in violation of Rule 2 and Rule 6 in relation to the 4<sup>th</sup> Amendment of the United States Constitution</li> <li>3. Searched [REDACTED] vehicle in violation of his 4<sup>th</sup> Amendment Rights, in violation of Rule 2 and Rule 6 in relation to the 4<sup>th</sup> Amendment of the United States Constitution</li> <li>4. Gave [REDACTED] a citation R.E. Chicago Municipal Code 09-76-050(c) without justification, in violation of Rule 2, Rule 6 in relation to Chicago Municipal Code 09-76-050(c), and Rule 6 in relation to the 4<sup>th</sup> Amendment of the United States Constitution</li> </ol>	<p>Sustained</p> <p>Exonerated</p> <p>Sustained</p>
<p>Officer Brideson</p>	<ol style="list-style-type: none"> <li>1. Conducted a traffic stop on [REDACTED] without justification in violation of his 4<sup>th</sup> Amendment rights, in violation of Rule 2, Rule 6 in relation to the 4<sup>th</sup> Amendment of the United States Constitution, and Rule 6 in relation to CPD Special Order S04-13-09</li> <li>2. Entered [REDACTED] vehicle without permission to turn on his taillight in violation of his 4<sup>th</sup> Amendment Rights, in violation of Rule 2 and Rule 6 in relation to the 4<sup>th</sup> Amendment of the United States Constitution</li> <li>3. Searched [REDACTED] vehicle in violation of his 4<sup>th</sup> Amendment Rights, in violation of Rule 2 and Rule 6 in relation to the 4<sup>th</sup> Amendment of the United States Constitution</li> <li>4. Gave [REDACTED] a citation R.E. Chicago Municipal Code 09-76-050(c) without justification, in violation of Rule 2, Rule 6 in relation to Chicago Municipal Code 09-76-050(c), and Rule 6 in relation to the 4<sup>th</sup> Amendment of the United States Constitution</li> </ol>	<p>Sustained</p> <p>Not Sustained</p> <p>Exonerated</p> <p>Sustained</p>

IV. APPLICABLE RULES AND LAWS

Rules

**Rule 2:** Prohibits, "Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department."

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

Special Orders

**CPD Special Order S04-13-09, Investigatory Stop System:** "An officer may conduct an Investigatory Stop if it is based on specific and articulable facts which, combined with rational inferences from these facts, give rise to Reasonable Articulable Suspicion that criminal activity is afoot. The sole purpose of the temporary detention is to prove or disprove those suspicions."

Federal Laws

**Fourth Amendment to the United States Constitution:** The Fourth Amendment to the Constitution of the United States guarantees protection from unlawful arrest and unreasonable search and seizure to all persons in this country.

State Laws

**Chicago Municipal Code 09-76-050(c), Required Lighting:** "When upon any roadway, subject to exceptions with respect to parked vehicles [...] Each motor vehicle, trailer or semitrailer shall also exhibit at least one lighted lamp which shall be so situated as to throw a red light visible for at least 500 feet in the reverse direction." (Att. 33)

V. INVESTIGATION<sup>2</sup>

a. Interviews

Complainant Interviews, [REDACTED]

[REDACTED] stated that on August 10-11, 2017, he was in his vehicle with his girlfriend, [REDACTED] outside of his residence at 9647 S, Chappel. [REDACTED] related that he had already parked and turned off his vehicle before the CPD vehicle's lights turned. An officer (believed to be Officer Brideson) told [REDACTED] that his right taillight was not working. An officer

<sup>2</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

(believed to be Officer Brideson) then entered [REDACTED] vehicle, opened the car door, and turned on [REDACTED] "parking light"<sup>3</sup> without permission. Once that occurred, [REDACTED] started calling for his mother to come be a witness because he was being "harassed."

[REDACTED] related that he then "surrendered" himself and Officer Brienzo placed the complainant in handcuffs. Officer Brideson began searching [REDACTED] vehicle and asked [REDACTED] where his guns and drugs were. According to [REDACTED] he told the officers he was not "smoking" but a cigar paper might be inside the car. [REDACTED] in a separate interview, admitted that he had been smoking marijuana prior to being detained. After officers searched his car, [REDACTED] was told he was being arrested for "possession." [REDACTED] related that he had previously been "searched, stopped, detained" by Officers Brienzo and Brideson. (Att. 7, 18)

### **Accused Interview, Officer Samuel Brienzo**

Officer Brienzo stated that on August 11, 2017, he was partnered with Officer Brideson. Officer Brienzo remembered [REDACTED] and stated he stopped [REDACTED] for a traffic violation. Officer Brienzo first saw [REDACTED] vehicle near 97<sup>th</sup> and Chappell and they followed his vehicle for approximately one block. [REDACTED] had a "taillight that was not operating properly." Officer Brienzo related that [REDACTED] pulled over and "jumped out" of his car. Officer Brienzo was not aware that [REDACTED] was outside of his home when he stopped. Officer Brienzo related the CPD vehicle's lights were engaged "just before" the traffic stop. Officer Brienzo stated that [REDACTED] was not stopped sooner because the officers followed [REDACTED] for one block and did not have an opportunity to do so during that one block.

Officer Brienzo placed [REDACTED] into handcuffs because [REDACTED] was "being loud" and he was angry that the officers had stopped him. The officers searched [REDACTED] vehicle because they noticed the smell of cannabis. Officer Brienzo noticed this smell "shortly after" [REDACTED] was stopped. Officer Brienzo reported that they decided to search [REDACTED] vehicle because [REDACTED] stated that he smoked cannabis earlier. Officer Brienzo related that [REDACTED] was irate and claimed the "stop was not lawful." After reviewing his and Officer Brideson's BWC footage Officer Brienzo stated he and Officer Brideson had reasonable suspicion to search [REDACTED] vehicle due to the smell of cannabis. Officer Brienzo stated that he smelled weed prior to Officer Brideson entering [REDACTED] car. Finally, Officer Brienzo also related that one of [REDACTED] taillights was working. (Att. 23)

### **Accused Interview, Officer Michael Brideson**

According to Officer Brideson, on August 11, 2017, he was partnered with Officer Brienzo. Officer Brideson stated that he and Officer Brienzo "made a traffic stop on [REDACTED] vehicle due to a rear light that was out." Officer Brideson reported first seeing [REDACTED] vehicle "shortly before" making the stop after "observing the violation." Officer Brideson stated that he had his lights on but "no sirens were necessary." Officer Brideson related that [REDACTED] stopped "quickly" after he turned on his emergency lights. Officer Brideson stated that at the time, he was not aware [REDACTED] was parked outside of his residence. Officer Brideson said [REDACTED] was detained in handcuffs because of the smell of cannabis coming from his vehicle and because of [REDACTED]

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<sup>3</sup> [REDACTED]

“erratic behavior.” Officer Brideson related that he smelled cannabis when he “first walked up to the vehicle.” Officer Brideson initially entered [REDACTED] vehicle because of the cannabis smell and to display that [REDACTED] had a broken taillight. Officer Brideson elaborated that only one of [REDACTED] taillights was out. Officer Brideson reiterated that he smelled cannabis upon initially approaching [REDACTED] and before he entered [REDACTED] vehicle. Officer Brideson related that they searched [REDACTED] vehicle due to the smell of cannabis and because [REDACTED] admitted to smoking marijuana. (Att. 28)

### **b. Digital Evidence**

Body Worn Camera (BWC) and In-Car Camera (ICC) footage was obtained from [REDACTED] arrest. Pertinent details from this footage are detailed below. (Att. 17)

Officer Brideson’s BWC exits his vehicle and approaches [REDACTED] and Officer Brideson start talking and [REDACTED] appears agitated and gestures at his vehicle. [REDACTED] reaches for his wallet and hands it to Officer Brideson. Officer Brideson asks [REDACTED] why he exited his vehicle and [REDACTED] states it is because he arrived at home. Officer Brideson asks [REDACTED] if he has anything to hide. [REDACTED] denies having anything to hide. [REDACTED] states that the officers’ actions are against the law. Officer Brideson tells [REDACTED] he has a taillight out and continues asking [REDACTED] to come towards him. [REDACTED] and [REDACTED] girlfriend, later identified as [REDACTED] both deny that the taillight is out. Officer Brienzo moves to presumably show [REDACTED] the taillight and [REDACTED] puts his hands in the air. [REDACTED] then starts yelling towards his residence at his mother about the police harassing him. [REDACTED] states that he “already has a lawsuit going.” [REDACTED] attempts to enter the car to show the officers that the taillight is working, but Officer Brienzo does not allow her to re-enter the vehicle. Officer Brideson says that when he proves the taillight does not work, he will write [REDACTED] a ticket. [REDACTED] argues with Officer Brideson while Officer Brienzo places [REDACTED] in handcuffs.

Officer Brideson then enters [REDACTED] vehicle and apparently turns on the car to demonstrate that only one taillight is working. Additional officers arrive on scene at this approximate time. [REDACTED] insists his taillight is working but the officers relate that he needs two working taillights. Officer Brideson enters a CPD vehicle and gets a ticket book. At this same approximate time, Officer Brideson is heard commenting that it smells like “weed” and [REDACTED] exits his vehicle “real fast.” [REDACTED] admits to smoking cannabis and states it is in the “ashtray.” Officer Brienzo and Officer Brideson enter [REDACTED] vehicle from each side and appear to searched [REDACTED] car. Eventually, Officer Brideson is heard asking how much cannabis is “in there.” Officer Brienzo is heard stating there is a can with cannabis in it. The two officers continue searching until Officer Brideson tells officers on scene to transport [REDACTED] and that the car is going to be impounded. Officer Brideson then re-enters his police vehicle and shuts off his body worn camera.

Officer Brienzo’s BWC shows [REDACTED] interacting with Officer Brideson. Officer Brienzo can be seen opening the passenger side front door and telling [REDACTED] that he does not care about “weed.” Officer Brideson is heard asking [REDACTED] if he has a gun and notes an National Rifle Association (NRA) sticker on [REDACTED] car. Officer Brienzo’s camera also shows [REDACTED] yelling for his mother about police harassment. [REDACTED] continues complaining that he is “in front of his

house” and “just got out of the car.” While [REDACTED] is speaking with Officer Brideson about the escalating situation, Officer Brienzo goes behind [REDACTED] and places [REDACTED] into handcuffs. [REDACTED] does not resist or ask why he is being handcuffed. Officer Brienzo then says he smells cannabis. [REDACTED] acknowledges he has been smoking and that it is in the ash tray. Officer Brienzo then appears to be searching [REDACTED] vehicle. Officer Brienzo finds a “cannabis grinder with cannabis in it and a prescription bottle of a liquid that appears to be codeine.” Officer Brienzo is then seen taking the top off a Mountain Dew can and removing at least one plastic baggie. Officer Brienzo and Officer Brideson continue to search [REDACTED] vehicle. One of the officers is heard stating enough has been found in [REDACTED] vehicle to establish “intent to deliver.” Officer Brienzo turns off his camera after searching [REDACTED] vehicle. Officer Brienzo turns his camera back on and the footage shows him approaching the back seat of a marked CPD vehicle, opening the door, and speaking to [REDACTED]. Officer Brienzo removes a set of keys from [REDACTED] pocket. Officer Brienzo then starts [REDACTED] car and drive off. Officer Brienzo is heard saying, “let’s get the fuck out of here” before shutting off his camera.

Officer Mitera’s BWC starts while [REDACTED] is being placed in handcuffs. Officer Mitera appears to be primarily standing to the side while Officers Brienzo and Brideson interact with [REDACTED]. [REDACTED] is heard complaining that no one pulled him over for the taillight “all day.” [REDACTED] asks Officer Mitera multiple times if she could go get [REDACTED] mother and is told no. [REDACTED] is heard asking how the situation “constitutes an arrest.” Later, Officer Mitera is heard asking if [REDACTED] is in the back of his CPD vehicle before stating, “let’s go.” Officers Mitera and Jones drove off with [REDACTED]. Once the officers park at the police station, Officer Mitera takes [REDACTED] out of the vehicle, escorts him into the station, and then into what appears to be a holding cell.

The In-Car Camera from Beat 431R (Officers Jones and Mitera) shows their police vehicle pulling up to Officers Brienzo and Brideson, who have already detained [REDACTED]. The officers from Beat 431R approach the scene. Additional officers arrive on scene, including an officer who appears to be a sergeant. At approximately 11:45 P.M., Beat 431R drove off with [REDACTED] in the back seat and eventually parks at the police station.

### **c. Documentary Evidence**

An Arrest Report with RD #JA386298 was located for [REDACTED] arrest on August 11, 2017. [REDACTED] was arrested in the street outside of 9647 S. Chappel Ave for cannabis manufacture/delivery, three counts of possession of a controlled substance, and taillights required. The recovered narcotics included suspected cannabis and suspected controlled substances in the form of pills and hits/liquid. [REDACTED] vehicle was impounded. Officers reportedly saw [REDACTED] committing a minor traffic infraction and “conducted a traffic stop.” [REDACTED] “began yelling” at the arresting officers. Officer Brienzo saw [REDACTED] passenger “moving about around the center console of the vehicle” and the arresting officers smelled cannabis “emitting from the vehicle.” [REDACTED] female passenger was asked to exit the vehicle and Beat 431R (Officers Jones & Mitera) was called to assist. [REDACTED] was described as “irate” and he was handcuffed. The smell of cannabis was determined to be coming from a pop can inside the front driver-side door pocket. The can contained “a green leafy substance” believed to be cannabis. Furthermore, a “ cursory search of the vehicle center console where the passenger

was seen reaching” returned a “pill of suspect codeine/Tylenol,” and a “4.5 ounce [...] bottle of suspect codeine.” Additionally, seven “pills suspect MDMA,” and a “green leady substance suspect cannabis” were recovered from the aforementioned pop can. This report states that ██████████ “is a document Black Disciple.” The arresting officers were Officers Brienzo and Brideson. It was also reported that ██████████ has “serious medical problems” in the form of kidney disease. In addition to Officer Jones and Officer Mitera, assisting officers were Officers Otten, Damato, and Graber. An Original Case Incident Report was located for RD #JA386298 which contained similar content. (Atts. 8, 10)

#### d. Additional Evidence

#### Cook County Circuit Court

A municipal and felony case number were located within the Cook County Circuit Court for charges against ██████████ stemming from his August 11, 2017 arrest:

- Case number ██████████ was filed on August 11, 2017 with a felony charge of cannabis – manufacture/delivery, three felony charges of possession of a controlled substance, and one traffic citation. ██████████ was also placed on electronic monitoring on August 11, 2017. On September 8, 2017, the case was transferred to the criminal division with a court date of September 22, 2017 and a case number of 17CR ██████████. (Att. 22)
- Case Number 17CR ██████████ was filed on September 13, 2017 with a felony charge of possession of methamphetamine and a felony charge of possession of a controlled substance. ██████████ pleaded not guilty on September 29, 2017. At the time of this report, the criminal case is still pending. (Att. 35)

#### VI. ANALYSIS

COPA recommends the finding that **allegation 1** against Officer Samuel Brienzo and Officer Michael Brideson, that they conducted a traffic stop on ██████████ without justification, be **Sustained**.

Traffic stops are seizures under the Fourth Amendment. *Whren v. United States*, 517 U.S. 806, 809-10 (1996). The lawfulness of a traffic stop is analyzed under *Terry*. *People v. Bunch*, 207 Ill. 2d 7, 14 (2003). The test is “(1) whether the officer’s action was justified at its inception, and (2) whether it was reasonably related in scope to the circumstances which justified the interference in the first place.” *Id.* (citations and quotations omitted).

At the outset, Officers Brideson and Brienzo curbed and detained ██████████ for driving with a single working taillight. The officers asserted that ██████████ violated Chicago Municipal Code 09-76-050(c). However, the officers were incorrect in their understanding of the ordinance. In fact, the ordinance states, “Each motor vehicle, trailer or semitrailer shall also exhibit at least *one* lighted lamp which shall be so situated as to throw a red light visible for at least 500 feet in the reverse direction.” Chicago Municipal Code 09-76-050(c) (emphasis added). Both officers acknowledged that one of ██████████ two taillights was operational. Furthermore, the BWC footage

also shows that [REDACTED] had at least one lighted lamp emitting a red light. Officers Brideson and Brienzo provided no other justification for initiating the traffic stop and no other lawful basis is apparent from the record. Therefore, the initiation of the traffic stop was a violation of [REDACTED] constitutional rights.<sup>4</sup>

COPA recommends the finding that **allegation 2** against Officer Samuel Brienzo, that he detained [REDACTED] in handcuffs in violation of his 4th Amendment Rights, be **Sustained**.

A police officer may temporarily detain an individual for an investigatory stop when “the officer's decision is based on specific, articulable facts which warrant the investigative stop intrusion.” *People v. Moore*, 286 Ill. App. 3d 649, 653 (3d Dist. 1997) (citing *Terry v. Ohio*, 392 U.S. 1, 21, (1968)); *People v. Stewart*, 242 Ill. App. 3d 599, 605 (1993)). “The police officer must have an ‘articulable suspicion’ that the person has committed or is about to commit a crime. *Moore*, 286 Ill. App. 3d at 653 (citations omitted). An officer may not detain an individual based on mere hunches or unparticularized suspicions. *Id.* (citations omitted).

The evidence demonstrates that Officer Brienzo smelled cannabis almost immediately after the initiation of the traffic stop. Officer Brienzo’s statement to COPA that he noticed the smell of cannabis almost immediately is corroborated by his BWC footage in which he clearly tells [REDACTED] that he does not care about “weed.” Therefore, at that point in time, there were specific, articulable facts to warrant an investigatory stop.<sup>5</sup> However, Officer Brienzo did not simply detain [REDACTED] rather he subsequently placed [REDACTED] in handcuffs.

“A restriction of movement that is brief may amount to an arrest rather than a *Terry* stop if it is accompanied by use of force usually associated with an arrest, unless such use of force was reasonable in light of the circumstances surrounding the stop.” *People v. Johnson*, 408 Ill. App. 3d 107, 113 (2d Dist. 2010) (citing *People v. Delaware*, 314 Ill. App. 3d 363, 370 (1st Dist. 2000)). Courts have found that “handcuffing is the type of action that may convert an investigatory stop into an arrest because it heightens the degree of intrusion and is not generally part of a stop.” *See id.* (citing *People v. Wells*, 403 Ill. App. 3d 849, 857 (1st Dist. 2010)); *Delaware*, 314 Ill. App. 3d at 370; *People v. Tortorici*, 205 Ill. App. 3d 625, 628 (3d Dist. 1990)). But handcuffing, an even

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<sup>4</sup> The Fourth Amendment is not violated if an officer makes an objectively reasonable mistake of law. *Heien v. North Carolina*, 135 S. Ct. 530, 535-540 (2014). This case is clearly distinguishable from *Heien*. In *Hein* the Supreme Court held that the North Carolina statute regarding brake lights was ambiguous because it did not clearly specify whether vehicles were required to have one or two working brake lights. In contrast, the Chicago Municipal Code unambiguously requires only one working taillight. Officers Brideson and Brienzo correctly did not cite or otherwise rely on 625 ILCS 5/12-201(b), which requires vehicles to have two working taillights when operating on any highway in the state. The City of Chicago is a home rule municipality and Chapter 12 of the Illinois Vehicle Code does not contain any prohibition on exercising concurrent home rule authority regarding the required number of taillights for motor vehicles. 5 ILCS 70/7 (West 2010); *Palm v. 2800 Lake Shore Drive Condo. Ass'n*, 2013 IL 110505, ¶32 (“to restrict the concurrent exercise of home rule power, the General Assembly must enact a law *specifically* stating home rule authority is limited.”) (emphasis in original). Officers Brideson and Brienzo encountered [REDACTED] in the City of Chicago and therefore Chicago Municipal Code 09-76-050(c) governed the number of working taillights that [REDACTED] was required to have on his motor vehicle.

<sup>5</sup> COPA recognizes that it appears from the record that Officer Brienzo subjective motivation for detaining [REDACTED] at this point of the incident did not relate to his observations regarding the cannabis, but the inquiry is objective. *United States v. Barnett*, 505 F.3d 637, 639-40 (7th Cir. 2007).



placing a person into a squad car, does not *automatically* convert an investigatory stop into an arrest. *See, e.g., United States v. Stewart*, 388 F.3d 1079, 1084–85 (7th Cir. 2004); *People v. Starks*, 190 Ill. App. 3d 503, 509 (2d Dist. 1989).

In both the *Tortorici* and *Delaware* cases, the court held that the handcuffing converted a justified *Terry* stop into an arrest because at the time of handcuffing the officers had no indication that the suspect was armed or dangerous. 205 Ill. App. 3d 625, 628 (3d Dist. 1990); 314 Ill. App. 3d 363, 370 (1st Dist. 2000). In contrast, the court in *Starks* held the handcuffing did not convert the *Terry* stop into an arrest because the officers believed the defendant was armed and matched a robbery suspects description. 190 Ill. App. 3d 503, 509 (2d Dist. 1989).

In the instant case, the BWC footage shows multiple angles of the interaction between [REDACTED] and the officers. [REDACTED] is seen arguing with the officers regarding his taillight and Officer Brideson is heard pleading with [REDACTED] to calm down and listen. While the conversation between the officers and [REDACTED] was loud and excitable, at no time did [REDACTED] present himself as a threat or danger to the officers. Furthermore, [REDACTED] had already calmed down prior to the handcuffing. Officer Brienzo had no information, aside from the presence of NRA sticker affixed to [REDACTED] car, that [REDACTED] was or likely to be armed. COPA finds that Officer Brienzo handcuffed [REDACTED] because he was arguing with them and not because he presented a legitimate threat to his safety. COPA further finds that an objectively reasonable officer would not have believed that [REDACTED] was armed and dangerous.<sup>6</sup>

COPA recommends the finding that allegation 2 against Officer Michael Brideson, that he entered [REDACTED] vehicle without permission to turn on his taillight in violation of his 4th Amendment Rights, be **Not Sustained**.

Both Officer Brideson and the complainant [REDACTED] agree that Officer Brideson entered [REDACTED] car without consent. Additionally, the BWC footage depicts Officer Brideson entering the driver's side and turning on the lights. While Officer Brienzo likely had probable cause to search the vehicle for cannabis, Officer Brienzo did not communicate his observations to Officer Brideson and Officer Brideson appears to enter the vehicle simply to demonstrate to [REDACTED] that the taillight was not working. Nonetheless, Officer Brideson told COPA investigators that he smelled cannabis before entering the vehicle. While COPA recognizes that Officer Brideson's statement is not corroborated by his BWC footage, there is insufficient evidence to demonstrate that Officer Brideson did not in fact smell the cannabis before entering the vehicle.<sup>7</sup> Officer Brideson's subjective motivations are not controlling; probable cause existed to lawfully enter the vehicle if Officer Brideson's smelled cannabis *prior* to entering. Because COPA does not have sufficient evidence to determine the exact moment when Officer Brideson first smelled the cannabis, there is not an adequate evidentiary basis to sustain allegation 2 against Officer Brideson.

COPA recommends the finding that allegation 3 against Officer Samuel Brienzo and Officer Michael Brideson, that they searched [REDACTED] vehicle in violation of his Fourth Amendment Rights, be **Exonerated**.

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<sup>6</sup> Officer Brienzo also did not have probable cause to arrest [REDACTED] at the time he initially handcuffed [REDACTED]

<sup>7</sup> Officer Brideson almost certainly smelled cannabis upon entering the vehicle.

Officer Bienzo and Brideson searched [REDACTED] car and recovered narcotics. Officer Brienzo stated that he observed the passenger attempt to hide something and upon approach he smelled marijuana which provided lawful justification for their search. Officer Brienzo’s BWC shows Officer Brienzo approach the passenger side of the car. The passenger is seated in the front seat with the door open. The passenger is seen leaning forward toward the foot well. Officer Brienzo can be heard instructing her to step out and informing her that he can smell marijuana and that if she is hiding “weed” the officers do not care about “weed.” Officer Brienzo’s statements from the BWC are consistent with the articulation made in the reports. Furthermore, [REDACTED] admitted that there was cannabis in the vehicle prior to the search. COPA finds that Offices Bienzo and Brideson had probable cause to search the vehicle.

COPA recommends the finding that allegation 4 against Officer Samuel Brienzo and Officer Michael Brideson, that they gave [REDACTED] a citation R.E. Chicago Municipal Code 09-76-050(c) without justification, be **Sustained**.

As articulated in allegation 1, the officers were mistaken as the elements of the offense cited. The BWC shows [REDACTED] had one taillight working, therefore the citation was given without justification.

**VII. CONCLUSION**

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

Officer	Allegation	Finding
Officer Brienzo	1. Conducted a traffic stop on [REDACTED] without justification in violation of his 4 <sup>th</sup> Amendment rights, in violation of Rule 2, Rule 6 in relation to the 4 <sup>th</sup> Amendment of the United States Constitution, and Rule 6 in relation to CPD Special Order S04-13-09	Sustained
	2. Detained [REDACTED] in handcuffs in violation of his 4 <sup>th</sup> Amendment Rights, in violation of Rule 2 and Rule 6 in relation to the 4 <sup>th</sup> Amendment of the United States Constitution	Sustained
	3. Searched [REDACTED] vehicle in violation of his 4 <sup>th</sup> Amendment Rights, in violation of Rule 2 and Rule 6 in relation to the 4 <sup>th</sup> Amendment of the United States Constitution	Exonerated
	4. Gave [REDACTED] a citation R.E. Chicago Municipal Code 09-76-050(c) without justification, in violation of Rule 2, Rule 6 in relation to Chicago Municipal Code 09-	Sustained

	<p>76-050(c), and Rule 6 in relation to the 4<sup>th</sup> Amendment of the United States Constitution</p>	
<p>Officer Brideson</p>	<ol style="list-style-type: none"> <li>1. Conducted a traffic stop on [REDACTED] without justification in violation of his 4<sup>th</sup> Amendment rights, in violation of Rule 2, Rule 6 in relation to the 4<sup>th</sup> Amendment of the United States Constitution, and Rule 6 in relation to CPD Special Order S04-13-09</li> <li>2. Entered [REDACTED] vehicle without permission to turn on his taillight in violation of his 4<sup>th</sup> Amendment Rights, in violation of Rule 2 and Rule 6 in relation to the 4<sup>th</sup> Amendment of the United States Constitution</li> <li>3. Searched [REDACTED] vehicle in violation of his 4<sup>th</sup> Amendment Rights, in violation of Rule 2 and Rule 6 in relation to the 4<sup>th</sup> Amendment of the United States Constitution</li> <li>4. Gave [REDACTED] a citation R.E. Chicago Municipal Code 09-76-050(c) without justification, in violation of Rule 2, Rule 6 in relation to Chicago Municipal Code 09-76-050(c), and Rule 6 in relation to the 4<sup>th</sup> Amendment of the United States Constitution</li> </ol>	<p>Sustained</p> <p>Not Sustained</p> <p>Exonerated</p> <p>Sustained</p>

Approved: [REDACTED]

[REDACTED]

Andrea Kersten  
Deputy Chief Administrator

*2/28/18*

Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	4
<b>Investigator:</b>	Kelsey Fitzpatrick
<b>Supervising Investigator:</b>	James Murphy-Aguilu
<b>Deputy Chief Administrator:</b>	Andrea Kersten