

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	January 25, 2018
Time of Incident:	7:45 p.m.
Location of Incident:	7900 S. La Salle St., Chicago, IL 60620
Date of COPA Notification:	January 26, 2018
Time of COPA Notification:	10:40 a.m.

Complainant, [REDACTED] alleged he was unlawfully stopped by Chicago Police Officers while driving and that the Chicago police officers then illegally searched his [REDACTED] [REDACTED] was initially stopped for violating the Municipal Code of Chicago. The stop occurred during a gang/violence suppression mission in the vicinity of Simeon Career Academy High School. [REDACTED] was not issued a citation and was free to go after a search of his vehicle. COPA’s investigation concluded that while the initial traffic stop was proper, officers lacked proper consent to search [REDACTED] vehicle.

**II. INVOLVED PARTIES**

Involved Officer #1:	Alexandra Brandt, Star #17272, Employee ID [REDACTED], Date of Appointment: March 15, 2013, Rank: Police Officer, Unit of Assignment: 006, DOB: [REDACTED] 1985, Female, Black.
Involved Officer #2:	Emma Bryant, Star #17393, Employee ID [REDACTED], Date of Appointment: February 18, 2014, Rank: Police Officer, Unit of Assignment: 006, DOB: [REDACTED] 1982, Female, Hispanic.
Involved Civilian #1:	[REDACTED] DOB: [REDACTED] 1985, Male, Black.

**III. ALLEGATIONS**

Officer	Allegation	Finding
Officer Alexandra Brandt	1. On January 25, 2018, at approximately 7:45 p.m., at the approximate location of 7900 S. La Salle St., Chicago, IL 60620, Officer Alexandra Brandt without reasonable suspicion unlawfully stopped [REDACTED] in violation of the Fourth Amendment to the U.S. Constitution.	Exonerated



## V. INVESTIGATION<sup>3</sup>

### a. Interviews

#### █████ Interview

COPA investigators interviewed █████ on March 12, 2018. █████ told investigators that on January 25, 2018, at approximately 7:25 p.m., on 79<sup>th</sup> Street just east of Vincennes Avenue, two female officers initiated a traffic stop on █████. An officer approached █████ vehicle and requested his driver's license and proof of insurance. █████ agreed to provide both items. The officer then inquired as to why █████ was in the neighborhood, where was he going, and if he had anything in the car he was not supposed have. Following these questions, the officer asked █████ if she could search his vehicle. █████ told the officer that he would rather not have them search the vehicle and that he wanted to know why he was stopped. Just before returning to her patrol vehicle to "run" █████ driver's license, the officer told █████ he was stopped for driving with an obstructed view.

A second female officer then approached █████ and questioned him about where he was going, why was he in the neighborhood, and other related questions. She demanded that █████ look at her while she questioned him. And as █████ searched for his proof of insurance, the officer told █████ to keep his hands visible at all times, not to worry about the insurance information, and to just let the officers search his car. █████ told the officer he had somewhere to go and he would rather not have the officers search his vehicle. In response, the officer countered that if █████ would just let the officers search his vehicle, he could be on his way. After this third request, █████ stepped out of the car and let them search it. Once the officers completed their search of █████ vehicle, both officers returned to their patrol vehicle and left without issuing any citation or written \*warning to █████.

Initially, █████ felt that the officers were doing their job, but at some point during the traffic stop, he stopped feeling like a citizen and more like a suspect or criminal, e.g., when the officer demanded that █████ keep his hands visible. When asked why he gave consent to search, █████ told investigators that despite not having anything to hide in the vehicle, he felt as if a search would violate his rights; however, he finally consented, after being asked three times, because he felt intimidated and harassed.<sup>4</sup>

#### *Officer Brandt Interview*

During an interview with COPA on May 10, 2018, Officer Brandt responded to the allegations listed above. Officer Brandt explained that on the night of January 25, 2018, she and her partner, Officer Bryant, were detailed to the area surrounding Simeon Career Academy High

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

<sup>4</sup> Attachment 10.

School for a gang/violence suppression mission.<sup>5</sup> The officers had orders that night to aggressively patrol the area which required them to perform numerous traffic stops. With regard to the traffic stop on [REDACTED] Officer Brant was unsure of the exact moment she observed the violation, driving with an obstructed view, but she was certain she saw something in the windshield prior to stopping [REDACTED]. However, Officer Brandt had no independent recollection of what she initially observed in the windshield.

During the traffic stop, the officers asked [REDACTED] for consent to search his vehicle. Drawing on her experience as an officer, Officer Brandt felt [REDACTED] was nervous, failed to make eye contact with her, was shaky, and looked towards areas of a vehicle known to her to possibly conceal weapons. [REDACTED] demeanor raised her suspicion that something illegal may be in the [REDACTED]. [REDACTED] gave consent to search the vehicle. Following the search, [REDACTED] was free to go and was not issued any citation.

Officer Brandt was unsure if driving with an obstructed view was codified under state or local law and did not know the relevant applicable portions of Illinois law or the Chicago Municipal Code. Nonetheless, Officer Brandt believed it was illegal to have something hanging from the review mirror. Officer Brandt told investigators that she primarily relied upon her FOP Handbook<sup>6</sup> when deciding what is a possible driving violation.<sup>7</sup>

### *Officer Bryant Interview*

During an interview with COPA on May 11, 2018, Bryant responded to the allegations listed above. Officer Bryant's interview was generally consistent with the statement provided by her partner, Officer Brandt.<sup>8</sup>

#### **b. Digital Evidence**

The Body Worn Camera (BWC) footage from Officers Brandt and Bryant captured the traffic stop on [REDACTED] conducted on January 25, 2018. Generally, the footage showed that Officer Brandt informed [REDACTED] that he was pulled over because he had something hanging from his rearview mirror. The footage demonstrates that [REDACTED] had a lanyard and an air freshener hanging from his rearview mirror as well as an object affixed to his windshield. Prior to returning to her patrol vehicle, Officer Brandt asked [REDACTED] for consent to search his vehicle, but [REDACTED] refused. Next, Officer Bryant approached the vehicle, and among other questions, also asked [REDACTED] for consent to search his vehicle. Officer Bryant first asks, "Would you mind if we take a quick look and then you can go on your way?" [REDACTED] was hesitant in answering and Officer Bryant followed up by stating, "If everything is cool...we'll just go with a warning." [REDACTED] then consented to a

<sup>5</sup> According to Officer Brandt, a gang suppression mission occurs in an area with possible narcotics, gang violence, guns, and other suspected criminal activity. On the night of the incident, Simeon Career Academy High School hosted a major athletic event and the officers had intel of rival gangs armed with guns in the area. The officers were instructed to actively patrol the area to suppress violence.

<sup>6</sup> The FOP Handbook is a pocket sized, quick-reference handbook disseminated to Chicago Police Department members by the Fraternal Order of Police, Chicago Lodge No. 7. It provides abridged information on a wide range of topics related to an officer's job.

<sup>7</sup> Attachment 29.

<sup>8</sup> Attachment 32.

search of his vehicle. Officer Brandt searched [REDACTED] vehicle while Officer Bryant spoke with [REDACTED] at the rear of his vehicle.<sup>9</sup> Officer Brandt did not locate any weapons or contraband. At the end of the video, following the search, Officer Bryant returned [REDACTED] identification.

### c. Documentary Evidence

The Office of Emergency Management and Communications Unit History Report documented that a traffic stop was conducted near 7900 S. La Salle St. on January 25, 2018, at approximately 7:52 p.m. and that the officers ran [REDACTED] driver's license.<sup>10</sup>

The Office of Emergency Management and Communications Chicago Police Department Event Query Report documents that a traffic stop was conducted near 7900 S. La Salle St. on January 25, 2018, at approximately 7:52 p.m. and that the officers ran [REDACTED] driver's license.<sup>11</sup>

The Office of Emergency Management and Communications GPS Report documented Car 4756, which was the police vehicle assigned to Officers Brandt and Bryant on January 25, 2018, driving around the area of 7900 S. La Salle St. between 7:30 p.m. and 8:15 p.m.<sup>12</sup>

The Chicago Police Department Attendance & Assignment sheets documented that Officers Brandt and Bryant were working out of Unit 006 on the 4th watch and assigned to Beat 665E and Car 4756 on January 25, 2018.<sup>13</sup>

The Chicago Police Department Traffic Stop Statistical Study Contact Card documents a traffic stop by Officers Brandt and Bryant of [REDACTED] on January 25, 2018.<sup>14</sup>

## VI. ANALYSIS

### a. Allegation 1

COPA recommends a finding of exonerated for Allegation 1 against Officers Brandt and Bryant. The issue is whether Officers Brandt and Bryant unlawfully stopped [REDACTED]. The Municipal Code of Chicago provides that "No person shall drive any motor vehicle upon a roadway with any

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<sup>9</sup> The conversation consisted of small talk and not questions about the items hanging from the wind shield or suspected criminal activity.

<sup>10</sup> Attachment 4.

<sup>11</sup> Attachment 5.

<sup>12</sup> Attachment 7.

<sup>13</sup> Attachment 9.

<sup>14</sup> Attachment 22. The Traffic Stop Statistical Study data was entered into CLEAR incorrectly because it does not reflect that the officers requested consent to search [REDACTED] vehicle or that the officers searched the system. COPA does not possess an actual copy of the Contact Card filled out by Officers Brandt and Bryant.

object so placed in or upon the vehicle as to obstruct the driver's clear view through the windshield, except required or permitted equipment of the vehicle."<sup>15</sup>

The Fourth Amendment of the United States Constitution guarantees the right of individuals to be free from unreasonable searches and seizures. U.S. Const., amend. IV. Traffic stops are seizures under the Fourth Amendment. *Whren v. United States*, 517 U.S. 806, 809-10 (1996). The officer's subjective motivation for initiating the stop is irrelevant. *Id.* The lawfulness of a traffic stop is analyzed under *Terry*. *People v. Bunch*, 207 Ill. 2d 7, 14 (2003). Therefore, the relevant analysis is whether Officers Brandt and Bryant had reasonable, articulable suspicion that [REDACTED] had violated any law, including traffic laws, or was about to engage in criminal activity.

In the instant case, the purported reason Officers Brandt and Bryant stopped [REDACTED] was because they observed him driving with items hanging from his rearview mirror. Neither Officer Brandt nor Officer Bryant could recount exactly what they observed in [REDACTED] windshield or who initially observed the suspected violation. However, COPA finds it is more probable than not that one of the two officers observed items hanging from [REDACTED] rearview mirror or affixed to his windshield which could have materially obstructed [REDACTED] view prior to initiating the traffic stop on [REDACTED].<sup>16</sup>

First, both officers unequivocally explained during their interviews that they did observe some obstruction in [REDACTED] windshield prior to the traffic stop. Second, the officers briefly followed [REDACTED] before stopping him providing them an opportunity to observe the items hanging from [REDACTED] rearview mirror or affixed to the windshield. Third, BWC footage demonstrates direct evidence of multiple objects affixed to [REDACTED] windshield and hanging from the rearview mirror. This video evidence corroborates both officers' assertion of observing a possible obstruction prior to conducting the traffic stop. Finally, the BWC footage demonstrates that Officer Brandt contemporaneously told [REDACTED] that the officers stopped [REDACTED] because of the items hanging from his rearview mirror. For these reasons, COPA finds it is more likely than not that the officers observed a possible material obstruction in [REDACTED] windshield prior to the traffic stop and therefore had sufficient reasonable, articulable suspicion to stop and detain [REDACTED]. Accordingly, COPA recommends a finding of exonerated for both officers for Allegation 1.<sup>17</sup>

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<sup>15</sup> CHICAGO, ILL., CODE §9-40-250. Illinois law provides that "[n]o person shall drive a motor vehicle with any objects placed or suspended between the driver and the front windshield, rear window, side wings or side windows immediately adjacent to each side of the driver which materially obstructs the driver's view." 625 ILCS 5/12-503(c). Illinois law further provides that "A home rule unit may not regulate motor vehicles in a manner inconsistent with this Section." 625 ILCS 5/12-503(m). Therefore, §9-40-250 of Chicago Municipal Code must be interpreted consistently with the Illinois law. COPA interprets "obstructs the driver's clear view" from the Chicago ordinance to mean a material obstruction as outlined in the Illinois statute.

<sup>16</sup> Officers' Brandt and Bryant were not required to be certain that the items they observed materially obstructed [REDACTED] view to pull him over. Officers may detain citizens to investigate suspected violations of the law.

<sup>17</sup> COPA recognizes that the evidence suggests that Officers Brandt and Bryant pretextually stopped [REDACTED] to investigate more serious criminal activity pursuant to their gang/violence suppression mission. Indeed, Officers Brandt and Bryant did not even issue [REDACTED] a citation or warning. [REDACTED] frustration with the stop is understandable. However, pretextual stops are legal in the United States if the officers have a lawful basis for the stop at its inception. The suspected material obstruction to the windshield provided Officers Brandt and Bryant a lawful basis to stop [REDACTED]. There is also no evidence that the officers stopped [REDACTED] based on some improper consideration such as his race or ethnicity.

## Allegation 2

COPA recommends a finding of sustained for Allegation 2 against Officers Brandt and Bryant. The issue is whether Officers Brandt and Bryant illegally searched [REDACTED] vehicle in violation of the Fourth Amendment to the United States Constitution.

It is clear that Officers Brandt and Bryant did not have probable cause to search [REDACTED] vehicle and instead relied on [REDACTED] alleged consent to search the vehicle. A search conducted with valid consent does not violate the Fourth Amendment. *Schneckloth v. Bustamonte*, 412 U.S. 218, 222 (1973). “For the consent to be voluntary, the consentor must have been under no duress or coercion, actual or implied, and the consent must have been unequivocal, specific, and freely and intelligently.” *People v. Cardenas*, 237 Ill.App.3d 584, 587 (3d 1992) (internal quotations and citations omitted). “The question of whether the consent was voluntary or the product of duress or coercion, express or implied, is determined from the totality of the surrounding circumstances.” *People v. Manke*, 181 Ill. App. 3d 374, 377 (3d Dist. 1989).

COPA finds it is more likely than not that [REDACTED] purported consent to search his vehicle was the product of duress and coercion and therefore not voluntary. First, although not determinative, it is undisputed that Officers Brandt and Bryant did not tell [REDACTED] that he was free to leave before he consented to the search. *Schneckloth*, 412 U.S. (noting that “knowledge of the right to refuse consent is one factor to be taken into account” when analyzing whether consent is voluntarily provided); *Ohio v. Robinette*, 519 U.S. 33 (1996) (noting that whether a motorist is told he or she is free to leave is a factor in determining whether consent is voluntary).

Second, [REDACTED] was clearly detained and not free to leave when he purportedly consented to the search. Officers Brandt and Bryant possessed [REDACTED] driver’s license and did not return it until after they completed the search. Therefore, it would have been unlawful for [REDACTED] to drive off and a reasonable person would not feel free to leave.

Third, Officers Brandt and Bryant repeatedly asked [REDACTED] for consent during the stop even after he initially refused. *People v. Sinclair*, 281 Ill.App.3d 131, 138 (3d Dist. 1996) (noting that “once a driver states that he will not consent to a search, the police are obliged to release the driver, car and passengers” in the absence of probable cause or reasonable, articulable suspicion to detain them); *Cardenas*, 237 Ill.App.3d at 588 (noting that “initial refusal is an important factor in assessing whether a subsequent consent is voluntary.”) [REDACTED] unequivocally refused to provide consent to Officer Bryant. Furthermore, a preponderance of the evidence demonstrates that [REDACTED] was being unconstitutionally detained at the time he purportedly consented to the search.<sup>18 19</sup> “A consent obtained during an illegal detention is ordinarily ineffective to justify an otherwise invalid search.” *People v. Cosby*, 231 Ill. 2d 262, 298 (2008); see also *People v. Brownlee*, 186 Ill. 2d 501, 521 (1999). Although Officers Brandt and Bryant initially had reasonable, articulable suspicion to

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<sup>18</sup> The additional factors articulated by Officers Brandt and Bryant to support their suspicion of [REDACTED] such as [REDACTED] alleged nervousness were vague and insufficient to independently justify [REDACTED] continued seizure (i.e. provide separate reasonable, articulable suspicion to suspect [REDACTED] had committed a crime or was about to commit a crime).

<sup>19</sup> Because COPA considered the unconstitutional detention a strong factor in support of a sustained finding for allegation 2 against both officers, and therefore it could be considered duplicative if an additional allegation was brought, COPA ultimately decided not to bring an additional allegation to address the unconstitutional detention.

stop ██████ to investigate the possible obstruction to the windshield, the BWC footage demonstrates they took no action to investigate the alleged obstruction or to write ██████ a ticket for that alleged violation during the stop. Officers Brandt and Bryant had also already completed all ancillary tasks related to the traffic stop such as running ██████ driver's license. Indeed, it appears the primary focus of the traffic stop was attempting to obtain ██████ consent to search the vehicle. The unlawful seizure tainted ██████ purported consent.<sup>20</sup>

Fourth, Officers Brandt's statements were coercive. Officer Brandt asked for ██████ consent after he already expressly refused to provide consent to Officer Bryant. Officer Bryant asked ██████ "Would you mind if we take a quick look and then you can go on your way?" ██████ was hesitant in answering and Officer Bryant followed up by stating, "If everything is cool...we'll just go with a warning." Officer Brandt's statements would be understood by a reasonable person as *quid pro quo*: ██████ would be allowed to leave without a ticket, which would have monetary consequences for ██████ if he consented to a search of his vehicle. Officer Brandt's statements could also be reasonably interpreted as implying that the only way ██████ would be allowed leave in a timely manner would be if he consented to the search. Officer Brandt's statements were improper. *See, e.g., Manke*, 181 Ill. App. 3d at 377 (finding that the defendant's "consent" to search his trunk was a product of duress or coercion where, after defendant refused to consent, the officer threatened to have the car impounded and to obtain a search warrant).

Taken collectively, COPA finds ██████ statement that he consented because he felt intimidated and harassed by Officers Brandt's and Bryant's actions credible and corroborated by the BWC footage and that ██████ subjective beliefs were objectively reasonable under the circumstances. For these reasons, a preponderance of the evidence demonstrates that ██████ did not voluntarily consent and therefore the search of ██████ vehicle violated the Fourth Amendment.<sup>21</sup> Accordingly, COPA recommends a finding of sustained for Allegation 2 for Officers Brandt and Bryant.<sup>22</sup>

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<sup>20</sup> Assuming *arguendo* that ██████ continued detention was lawful, the fact that he was seized is a relevant consideration in determining the voluntariness of the consent and a preponderance of the evidence would still demonstrate that ██████ consent was not voluntary.

<sup>21</sup> To be pellucidly clear, there is no evidence that Officers Bryant and Brandt knowingly attempted to coerce ██████ to provide consent in violation of his rights. Rather, the evidence demonstrates that Officers Bryant and Brandt subjectively believed that they were properly fulfilling the Department's mission of violence suppression. Nonetheless, Officers Bryant's and Brandt's techniques for obtaining ██████ consent were improper that need to be addressed through additional training.

<sup>22</sup> Officers Brandt and Bryant both contributed to the unlawful search. Officer Bryant ultimately got the improper consent from ██████ and Officer Brandt physically searched the vehicle. COPA finds Officers Bryant and Brandt equally responsible.





**Appendix A**

Assigned Investigative Staff

<b>Squad#:</b>	3
<b>Investigator:</b>	Michael Bratta
<b>Supervising Investigator:</b>	Matthew Haynam
<b>Deputy Chief Administrator:</b>	Andrea Kersten