

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

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| Date of Incident: | April 24, 2018 |
| Time of Incident: | 11:55 p.m. |
| Location of Incident: | 945 W. Belmont St., Chicago, Il 60657 |
| Date of COPA Notification: | April 26, 2018 |
| Time of COPA Notification: | 2:41 p.m. |

On April 24, 2018, Officers Johnetta Williams, Willie Carodine, and Paul Brandau were on-duty and responded to a dispatch call about a disturbance at the Red Line El station at 944 W. Belmont Ave. A CTA K-9 unit was on scene and told the responding officers that [REDACTED] sprayed mace towards or on [REDACTED]

The weight of evidence obtained in this case, including CPD records, party statements and recovered body-worn-camera (“BWC”) footage, showed that on or about the date, time and location alleged, Mr. [REDACTED] and his friend (verbally identified by Mr. [REDACTED] as [REDACTED] were seated on CTA property, outside the Belmont CTA station. Mr. [REDACTED] had some beer near his feet. Mr. [REDACTED] approached Messrs. [REDACTED] and [REDACTED] and offered Mr. [REDACTED] a cigarette. Mr. [REDACTED] accepted the cigarette, and Mr. [REDACTED] then asked for a beer. Mr. [REDACTED] refused [REDACTED] request. Mr. [REDACTED] became increasingly verbally aggressive and suggested he might just take the beer. Messrs. [REDACTED] and [REDACTED] then confronted each other, and Mr. [REDACTED] made apparently threatening or intimidating movements towards Mr. [REDACTED] and Mr. [REDACTED] sprayed mace at Mr. [REDACTED]. Mr. [REDACTED] then telephoned the Chicago Police. ¹

CTA and CPD officers and a CFD ambulance subsequently arrived on-scene, but Mr. [REDACTED] refused treatment and walked away, telling responding officers and paramedics to leave him alone. Mr. [REDACTED] was handcuffed and questioned, and officers warned him to leave the station and not return or else they would arrest him for trespassing. There were no arrests or other injuries complained of in this case.

Mr. [REDACTED] subsequently filed a complaint with COPA alleging the responding CPD officers took his mace spray and did not return it and had forcefully placed his arms behind his back and handcuffed him too tightly, causing severe pain. He also alleged officers damaged a laptop pc contained in his backpack.

The incident was captured on body-worn camera(s) (“BWC”).² CTA station video was unavailable for review by COPA as it was not retained and/or deleted shortly after the incident.³

¹ Attachment 11-Synopsis taken from audio interview given to COPA by [REDACTED] Attachment 7, narrative.

² Attachment 5.

³ Attachment 14.

II. INVOLVED PARTIES

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| Accused Officer #1: | Officer Paul S. Brandau, Star #9102, Employee ID # [REDACTED] Date of Appointment: September 30, 2002, Police Officer, 19th District, DOB: [REDACTED] 1971, M, Caucasian. |
| Accused Officer #2: | Officer Johnetta Williams, Star #8457, Employee ID # [REDACTED] Date of Appointment: December 2, 2002, Police Officer, 19th District, DOB: [REDACTED] 1973, F, Black. |
| Witness Officer #3 | Officer Willie A. Carodine, Star #11351, Employee ID # [REDACTED] Date of Appointment: September 27, 2014, Police Officer, 19th District, DOB: [REDACTED] 1965, M, Black. |
| Subject #1: | Complainant-Victim, [REDACTED] 57, Caucasian, [REDACTED] [REDACTED] ⁴ |
| Subject #2: | Witness [REDACTED] Age Unknown, Caucasian, [REDACTED] [REDACTED] |

III. ALLEGATIONS

| Officer | Allegation | Finding |
|----------------------|---|-----------------------|
| Officer Paul Brandau | 1. Overly tightened [REDACTED] handcuffs and/or forcibly pulled up on his arms during his detention and search, causing injury. | Not Sustained. |
| | 2. Forcibly removed [REDACTED] backpack and threw it onto the ground, damaging a laptop computer inside. | Unfounded. |
| | 3. Failed to return a chemical mace weapon to [REDACTED] seized during his detention and search of his person. | Not Sustained. |
| | 4. Failed to document the confiscation of [REDACTED] [REDACTED] mace spray incident to his detention and investigatory search. | Sustained. |

⁴ Alt. Address: [REDACTED].

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|----------------------------------|--|--|
| <p>Officer Johnetta Williams</p> | <ol style="list-style-type: none"> 1. Forcibly removed ██████████ backpack and threw it onto the ground, damaging a laptop computer inside. 2. Failed to return a chemical mace weapon to ██████████ seized during his detention and search of his person. | <p>Unfounded.</p> <p>Sustained.</p> |
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IV. APPLICABLE RULES AND LAWS

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| <p>Rules</p> <ol style="list-style-type: none"> 1. Rule 8: Prohibits disrespect to or maltreatment of any person, while on or off duty. 2. Rule 10: Prohibits inattention to duty. <p>Directives</p> <ol style="list-style-type: none"> 1. Special Order S04-13-09 “Investigatory Stop System.” 2. General Order G03-02-02 “Incidents Requiring the Completion of a Tactical Response Report.” |
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V. INVESTIGATION

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

a. Interviews

1. Complainant-Victim ██████████

In an interview with COPA on April 30, 2018,⁵ ██████████ stated that on the date and time alleged, he was sitting with a friend, ██████████ outside the Belmont Avenue CTA El station. At one point, Mr. ██████████ walked across the street to a Walgreens and bought a pack of beer. He returned with the beer in a bag. A black male, approximately 6’1” – 6’2” [now identified as ██████████ ██████████] was also waiting nearby and: “out of the blue, offers my buddy a cigarette. [...] ██████████ took it. [...] A few minutes later the guy comes back and asks ██████████ for a beer out of his bag. And he [██████████] said no, I’m taking these home. The guy said, ‘what if I just take it.’ An

⁵ Attachment 11.

altercation then ensued between Mr. [REDACTED] and Mr. [REDACTED] “I reached in my pocket [...] got my mace ready ’cause I had a feeling I might need it. And I did. [...] He comes at me like this. [...] I’m gonna assume that he’s gonna hit me. [...] He made a very aggressive forward motion towards me [...] He lunged towards me. [...] So, I maced his ass. Then I called the cops.”⁶

Officers arrived at the scene and asked what occurred. They requested and then attempted to confiscate Mr. [REDACTED] chemical mace spray, over his objections. “I said ‘I’m not giving you my mace, man, it’s perfectly legal to have. And I’ve looked it up on the Web, mace is perfectly legal for me to possess in the City of Chicago, State of Illinois [...] you have the lawful right to defend yourself.’”⁷

Two officers then stood behind him, grabbed his arms, a black female officer grabbed his mace, and then the white male officer “wrench[ed]” his hand “way up” behind his back, and put a severe strain on his elbow and shoulder. The officers then handcuffed him very tightly, hurting his left wrist. Mr. [REDACTED] complained the handcuffs were too tight, but the officers initially would not loosen them. Mr. [REDACTED] observed the black male was also handcuffed, but he was released first, without charges. The officers told Mr. [REDACTED] he was being detained longer to see if the injured individual wanted to press charges against him.

Mr. [REDACTED] told officers he rightfully defended himself and his friend. Officers released him with a warning and told him that if he didn’t leave the vicinity, they would arrest him for trespassing on CTA property. He repeatedly asked for his mace spray back, but the officers refused. “They stole my mace. That is theft.”⁸

During the incident, the officers also forcefully tossed Mr. [REDACTED] backpack onto the ground, damaging a laptop computer within. Mr. [REDACTED] said the laptop’s right front, and right rear corners were broken off, and the right area of the panel was damaged.

Mr. [REDACTED] was given an ISR receipt from a white, stocky, plain-clothed officer, approximately 6’2” in height. He did not seek medical care following the incident and his arm pain had since subsided.

2. Police Statements

In a statement to COPA on June 12, 2018,⁹ **Officer Paul Brandau** related he was on patrol, by himself, on the robbery mission team, and he overheard a radio call for a battery occurring at the CTA Belmont El station. He drove his patrol car to the location and arrived after Officers Williams and Carodine were already at the scene. Officer Brandau related that he arrived and exited his squad car, observed the parties and the other officers inside the CTA station entry, and walked over to them. He recalled the victim was pepper sprayed in the face. Upon entering the

⁶ Id. at 5:25

⁷ Id. at 5:46

⁸ Id. at 12:57

⁹ Attachment 20.

station, Officer Williams was observed demanding Mr. ██████ turn over his mace spray, and Mr. ██████ refused to comply. Officer Brandau grabbed Mr. ██████ right arm and a scuffle ensued, with Officers Brandau and Carodine attempting to handcuff Mr. ██████. The mace spray was dropped by Mr. ██████ however, Officer Brandau did not independently remember who recovered the mace or what ever became of it. Officer Brandau handcuffed Mr. ██████

Thereafter, the victim was irate and charged at Mr. ██████ so Officer Brandau separated the two by walking Mr. ██████ outside of the station towards his squad car. Officer Brandau then left Mr. ██████ outside with Officer Carodine while he [Officer Brandau] returned to his squad car to check Mr. ██████ identification. Officer Brandau did not independently recall hearing Mr. ██████ cry out or complain his handcuffs were too tight. He also did not recall Mr. ██████ complain his bag was damaged or arms were injured during the incident. Officer Brandau related that Mr. ██████ and the other men involved in the incident were all friends, were known to be homeless, were suspected of having been drinking, and one or more were using the address of a local shelter.¹⁰ Mr. ██████ had a record of being a ‘habitual loiterer’ and drinker with minor past offenses.

Officer Brandau recalled giving a copy of the ISR to Mr. ██████. Officer Brandau related he believed the use of mace inside closed areas was unlawful -- However, because the victim refused to press charges, the officers could not arrest Mr. ██████ and so Officer Brandau let him off with a warning. He recalled telling Mr. ██████ he could not have his mace back, and admitted he made no attempts to find the mace or recover it from Officer Williams to return to Mr. ██████. Likewise, Officer Brandau admitted he did not note in the ISR that a weapon was recovered, and that mace is considered a weapon. He stated he did not need to note the mace was recovered because it was not recovered during a pat-down itself, and because he was not the one who recovered it. “I didn’t recover anything. [...] The mace was already out of his hand before I even patted him down. [...] There was nothing discovered on pat-down.”¹¹ Officer Brandau related that he did not believe mace was lawful for civilians to carry in the City of Chicago or Cook County.¹² He likewise related that he did not recall what eventually happened to the mace canister.¹³ He did not take or inventory it.¹⁴ Officer Brandau related Mr. ██████ asked for his mace back,¹⁵ but that he told him “‘No,’ because I believed that he shouldn’t have it for this very ?, because he was using it as a weapon. For the safety of him and others.¹⁶ [...] He shouldn’t be in possession of it, not necessarily confiscated.”¹⁷ Officer Brandau related he did not possess or take the mace, and recalled that he did not tell the other officers to return the mace, and did not direct anyone to throw it out.¹⁸ Officer Brandau said that because Officers Williams and Carodine were assigned to the call it was their decision whether to charge any of the participants. “That’s

¹⁰ Officer Brandau remembered Mr. ██████ from a prior, unrelated CTA incident, and that he warned Mr. ██████ to not loiter and to leave a CTA station. He said he did so because he observed Mr. ██████ recharging electronic gear inside the CTA station, which he believed constituted a trespass.

¹¹ Attachment 20 at 20:07.

¹² Id. at 21:40.

¹³ Id. at 22:04.

¹⁴ Id. at 22:10.

¹⁵ Id. at 22:48.

¹⁶ Id. at 23:06.

¹⁷ Id. at 23:12.

¹⁸ Id. at 23:53.

their post, they work the Belmont [beat]”¹⁹ He believed they did not charge Mr. [REDACTED] because the victim refused to press charges, and so they chose to issue a warning instead.

When asked about if he was trained that officers who complete ISRs are obliged to ascertain and document the existence of, location of or disposition of any weapons – even if the officer was not personally in possession of such a weapon(s) – Officer Brandau responded he “[did not] recall that part of the training, but probably so. This is five, six, seven years ago [...]”²⁰ Officer Brandau confirmed his ISR did not note where the pepper spray was actually discharged, inside or outside the station, and said that he himself was not completely sure. He said he presumed it was inside the station because that was where the offender was standing with the other officers, when Officer Brandau arrived.²¹

In a statement to COPA on June 12, 2018,²² **Officer Johnetta Williams** related that on the date of the occurrence, she and her partner, Officer Willie Carodine, were on routine patrol, (1981C Belmont-Sheffield detail) and responded to a dispatch call for a disturbance of a person being maced. Officer Carodine drove their squad vehicle to 945 W. Belmont and observed two individuals standing inside the CTA station house. They were arguing back and forth, and one male, black individual’s face was red. She approached the black male, and he related that Mr. [REDACTED] had maced him. She asked if he needed medical assistance and told him to place his head outside the station window to allow the breeze to cool his face. She then asked Mr. [REDACTED] where the mace was, and he replied it was in his hand. She then asked for the mace, and he said “No.” He refused to give up the mace.²³ Officer Brandau then arrived and assisted. He then asked Mr. [REDACTED] to hand over the mace. A CPD K-9-unit officer was also present and said he witnessed the original incident. “He talked to us and told us what happened.”²⁴

He wouldn’t give the mace up and then Officer Brandau and she tried to grab it. Officer Brandau grabbed Mr. [REDACTED] arm. Mr. [REDACTED] dropped the mace and Officer Williams picked it up off the floor. Then Officers Carodine and Brandau attempted to handcuff Mr. [REDACTED] because he was resisting. “He was just going crazy at that point.”²⁵ Officers Williams and Brandau pulled off Mr. [REDACTED] backpack and placed it on the floor – it was never thrown. After they removed the bag and handcuffed him, Officer Brandau walked him towards the wall.

Officer Williams moved towards the victim because he tried charging towards Mr. [REDACTED] At that point, Officer Brandau walked Mr. [REDACTED] out of the station to separate the two. She blocked the mace victim from charging and recorded his personal details and asked dispatch for an ambulance. The ambulance thereafter arrived, but the victim refused care, refused to press charges, and then he just walked off. Officer Williams told the ambulance attendants that the victim refused care and they departed. She then returned to the other officers and Officer Brandau

¹⁹ Id. at 25:35.

²⁰ Id. at 31:40.

²¹ Id. at 32:32.

²² Attachment 19.

²³ Id. at 10:48.

²⁴ Id. at 12:30.

²⁵ Id. at 14:33.

talked to Mr. [REDACTED]. She spoke to the third man present, who witnessed the incident and he confirmed Mr. [REDACTED] sprayed the mace.

Officer Williams related she heard Mr. [REDACTED] complain to Officer Carodine that one of his handcuffs was too tight and painful.²⁶ She observed Officer Carodine then loosen the handcuff with a key. He did not complain of further pain or problems. He also did not complain of damage to any property.²⁷

She said she did not remember what she did with the mace,²⁸ and did not recall giving the mace to anyone else.²⁹ Officer Brandau checked Mr. [REDACTED] name, and Officer Carodine told both Mr. [REDACTED] and his friend that they should leave the station and that they shouldn't be seen around there anymore. Once the name was cleared, Officer Brandau released Mr. [REDACTED]. He then walked away. No one was arrested and no ANOVs issued because the victim had walked away and did not press charges.

She said after Mr. [REDACTED] walked away, she and Officer Carodine stayed at the scene and the victim returned to the area. "All three of them are buddies. [...] We explained the same thing we did to [Mr. [REDACTED]] to this gentleman. That he has to leave the CTA area."³⁰

She did not recall what happened to the mace. She believed Officer Brandau returned the bookbag.

She said that had there been an arrest, any weapon or property would have been inventoried. She said for an investigatory stop, her understanding of the protocol for ISRs is that if a weapon is taken, it would be "if it's something that's going [...] to harm someone [...] like a knife [...] yes, if it's a weapon, definitely we'd inventory it."³¹

Officer Williams related that the person expected to fill out an ISR is generally the same person who put the handcuffs on a detainee. When asked if she knew why the ISR completed in this case by officer Brandau did not state a weapon was involved, she said she did not know.³² She stated that she did receive training at the police academy about completing ISRs but did not remember what the training said about completing the form to reflect a weapon was involved, if in fact a weapon had been found during an ISR incident.³³

Prior to her COPA interview, Officer Williams pulled case reports alleging Mr. [REDACTED] maced other individuals.³⁴ "That's our beat so we meet him quite a bit. And he's maced, he continuously maces people."³⁵ She recalled last interacting with Mr. [REDACTED] on a prior call where

²⁶ Id. at 21:24.

²⁷ Id. at 21:53.

²⁸ Id. at 22:20.

²⁹ Id. at 22:51.

³⁰ Id. at 25:22.

³¹ Id. at 28:17.

³² Id. at 29:14.

³³ Id. at 29:58.

³⁴ Id. at 31:40.

³⁵ Id. at 32:06.

he maced someone.³⁶ She did not recall arresting him, however. “We can’t arrest somebody without a complainant. If the complainant states they don’t want, they walk away and they don’t want to press charges, you can’t.”³⁷ She did not believe mace to be illegal.

She did not recall returning the mace to Mr. [REDACTED] nor recall throwing it out.³⁸ She confirmed that Officer Carodine was the voice heard on the BWC recording stating to throw it out.

b. Digital Evidence

ICC and BWC footage were requested and BWC footage was produced by CPD.³⁹ The BWC video showed the accused officers’ interactions with Mr. [REDACTED]. The video depicted Mr. [REDACTED] being questioned, and Officer Williams demand he hand over his mace spray.⁴⁰ Mr. [REDACTED] refused and Officers Brandau and Williams again demanded the mace, and Officers Brandau and Carodine forcibly restrained him by the arms.⁴¹ Officers Brandau and Williams then warned him he would be tazed if he didn’t relinquish the mace.⁴² Mr. [REDACTED] refused and Officers Braudau and Williams forcibly maneuvered Mr. [REDACTED] arms behind his back,⁴³ at which point he surrendered the mace. His backpack was then forcibly removed by Officer Williams but was not thrown down or damaged.⁴⁴ Officer Brandau then maneuvered Mr. [REDACTED] over towards the station window and forcibly handcuffed him.⁴⁵ Several minutes later, BWC video depicted Mr. [REDACTED] tell Officer Carodine his handcuffs were too tight.⁴⁶ Officer Carodine responded and was shown manipulating the handcuffs and adjusting them with his key. Mr. [REDACTED] was shown on the video then crying out, apparently in pain.⁴⁷ Subsequently, the video depicted officers release Mr. [REDACTED] but refuse his request to return his mace spray. Officer Williams asked what she should do with it and can be overheard on the recording being told by another officer⁴⁸ – off-camera -- to throw it out. At the end of the video, when he was released, Mr. [REDACTED] repeatedly asked for his mace and was told by Officer Brandau, he could not have it back, that it was illegal, and that he would be arrested for trespassing if he returned to the CTA property. Audio was also overheard of officers stating off-camera that they had multiple prior run-ins with Mr. [REDACTED] at area CTA stations.

³⁶ Id. at 32:59. (See also RD #JB277489, Event #1814419107, May 24, 2018).

³⁷ Id. at 34:24.

³⁸ Id. at 41:00.

³⁹ Attachment 5.

⁴⁰ Id. at 4:56:15.

⁴¹ Id. at 4:56: 23

⁴² Id. at 4:56:33

⁴³ Id. at 4:56:40

⁴⁴ Id. at 4:56:56

⁴⁵ Id. at 5:57:10

⁴⁶ Attachment 5, (See also Officer Carodine’s BWC video at 5:00:07.)

⁴⁷ Id. at 5:00:12

⁴⁸ On information and belief, Officer Carodine.

c. Documentary Evidence

An **Investigatory Stop Report** (“ISR”) (#ISR000506211) and receipt issued to ██████ documented that on April 24, 2018, at 11:59 p.m., officers Paul Brandau, Johnetta Williams and Willie A. Carodine responded to a call about a disturbance on the sidewalk outside the Belmont Redline El station and observed William ██████ was present and uncooperative, refusing to tell police what happened.^{49 50} A CTA K-9 unit was present and told the responding CPD officers that Mr. ██████ gave his friend ██████ a cigarette and demanded a beer in return. “Both parties became irate and ██████ pulled out mace and sprayed in the air, causing mace to get into the victim[’s] eyes.”⁵¹ An ambulance was called and arrived, but Mr. ██████ refused care and walked away from the police, telling them he wanted to be left alone. ██████ also walked away, in the opposite direction, eastbound down Belmont Avenue. No one was taken into custody or arrested.⁵²

████████ documented a protective pat-down was performed on Mr. ██████ but not of his effects, and no mention was made about confiscating Mr. ██████ mace/pepper spray.⁵³ The ISR also documented that no contraband or weapons were found or inventoried.

The **Office of Emergency Management and Communications (OEMC) Event Query #1811417512**⁵⁴ documented that on April 24, 2018, at or about 12:52 p.m. Units 1933R, 1981B and 1967C responded to the CTA Red Line Belmont Station at 945 W. Belmont St., Chicago, IL, following a mobile phone call to 911 by a caller named ██████ who informed dispatch he sprayed chemical mace on a male, black individual at that location.

VI. ANALYSIS

1. Officer Paul Brandau

COPA finds **NOT SUSTAINED** for **Allegation #1** that **Officer Paul Brandau** overly tightened ██████ handcuffs and/or forcibly pulled up on his arms during his detention and search, causing injury. The objective, verifiable videotaped evidence and sworn statements by Mr. ██████ contradict the allegation, or, at best, do not support the claim by a preponderance of evidence. The BWC video footage showed Mr. ██████ detention and handcuffing, and, only later, Mr. ██████ complained of wrist pain.⁵⁵ Officer Carodine then immediately loosened the handcuffs, using a key. Officer Brandau related in his statement that he did not personally witness Mr. ██████ complain of pain to Officer Carodine, because he returned to his squad car to check Mr. ██████ ID card at the time. In addition, the BWC video depicted that after Mr. ██████

⁴⁹ Attachment 6.

⁵⁰ Attachment 7, ██████ ISR # ██████

⁵¹ *Id.*

⁵² Contra the ISR, the video evidence showed Mr. ██████ was initially handcuffed and questioned and did not walk away from the scene until he was thereafter released without charges.

⁵³ Attachment 6.

⁵⁴ Attachment 9.

⁵⁵ Attachment 5, *supra*.

was released, he made no further complaints of wrist injury or pain and did not request medical care. He likewise related during his statement to COPA that he did not seek subsequent medical care for handcuff-related trauma or suffer permanent wrist injury.

COPA finds **UNFOUNDED** for **Allegation #2** that **Officer Paul Brandau** forcibly removed ██████████ backpack and threw it onto the ground, damaging a laptop computer inside.” The BWC video footage showed Mr. ██████████ backpack being removed by Officer Williams, however it did not depict the bag being thrown onto the ground. Nor did Mr. ██████████ complain at the time of the encounter that the bag or laptop was thrown and damaged, or present objective evidence showing any such damage was not pre-existing. Officers Brandau and Williams stated to COPA that they did not throw or damage any backpack during their respective interactions with Mr. ██████████. At minimum, there is not a preponderance of objective evidence sufficient to sustain such an allegation.

COPA finds **NOT SUSTAINED** for **Allegation #3** that **Officer Paul Brandau** failed to return a chemical mace weapon to ██████████ seized during his detention and search of his person.

The basic underlying facts of this incident are undisputed: Mr. ██████████ was accused of -- and later admitted to -- intentionally spraying ██████████ with chemical mace at or near the open-air entrance to a CTA El station where he and friend ██████████ were seated. Mr. ██████████ told police he sprayed Mr. ██████████ defensively, while Mr. ██████████ denied that characterization and told officers the spraying was unjustified.

For COPA’s review, the dispute involves primarily a matter of law, including the reasonableness of the confiscation of ██████████ mace spray as contraband incident to an investigative search not resulting in arrest -- specifically, Officer Brandau’s claims on BWC that the mace was “illegal” and thus would not be returned, and Officer Williams’ retrieval and custody of the weapon. Officer Brandau’s claims the confiscation was justified because the incident occurred on “CTA property” must also be examined.

Possession of, and defensive use of chemical mace/pepper spray by adults over age 18 in the City of Chicago, and on CTA property, is legal. Pursuant to 720 Ill. Comp. Stat. 5/24-1 (2008) an adult may possess and carry in public an object containing a non-lethal gas, liquid, or substance for personal defense purposes only. Likewise, per Chicago Municipal Code Title 8, Ch 8-24-020 Subs. (e): “No person shall carry on or about his person or in any vehicle, a tear gas gun projector or bomb or any object containing noxious liquid gas or substance, other than an object containing a non-lethal noxious liquid, gas or substance designed solely for personal defense carried by a person 18 years of age or older; provided that this subsection shall not apply to any person listed in section 5/24-2(a)(1)-(14) of the Criminal Code, 720 ILCS 5/24-2(a).” [Emphasis added].⁵⁶

CTA Rules likewise expressly allow possession of chemical defense sprays on CTA property. Chicago Municipal Code Amended Chapter 10-8-526 expressly grants the Chicago Police Department the authority to enforce the provisions of CTA Ordinance N. 98-126 and any

⁵⁶ Chicago Municipal Code prohibits civilian discharge of chemical defense sprays in enclosed rooms, restaurants or bars where more than 20 people are present. See Ch. 8-24-045 “Noxious gas or liquid.”

subsequent amendments [...] within areas of its jurisdiction on the transit system. Pursuant to the Ordinance, as currently amended, under the CTA Rules of Conduct, it is prohibited and a violation of the Ordinance for any person on CTA property to:

“[...] [Rule] (28) Posses[s] or carr[y] any weapon including, but not limited to, guns, clubs, knives, stun guns, tasers and explosive devices. This does not apply to those individuals authorized under Section 5/24-2 of the Illinois Criminal Code to carry weapons onto transit or to pepper spray.” [Emphasis added.]

Applied here, ██████████ possession or defensive use of chemical defense spray (“mace”) outside the CTA station was thus not, *per se*, unlawful under state or local law, or CTA Rule. Its confiscation on that basis alone, therefore, was error, and unreasonable.⁵⁷

In addition to the foregoing, 725 ILCS 5/108-2 Ch. 38, par. 108-2 holds: “[...]Sec. 108-2. Custody and disposition of things seized. An inventory of all instruments, articles or things seized on a search without warrant shall be given to the person arrested and a copy thereof delivered to the judge before whom the person arrested is taken, and thereafter, such instruments, articles or things shall be handled and disposed of in accordance with Sections 108-11 and 108-12 of this Code. If the person arrested is released without a charge being preferred against him all instruments, articles or things seized, other than contraband, shall be returned to him upon release.”

Applied here, Mr. ██████████ was detained and searched without warrant, and his mace weapon was seized. Officer Brandau related in his statement that Officer Williams took the mace spray. He stated he did not recall what eventually happened to the mace once recovered by Officer Williams, although he admitted he told Mr. ██████████ he could not get it back.

Because Officer Brandau did not himself take possession or dispose of the weapon, a finding of Not Sustained is warranted.

It must be noted, in the context of this review, that Officer Brandau repeatedly told Mr. ██████████ that he would be arrested for “trespassing” on CTA property if he continued to hang around or return to the El station. The fact is, however, that the location at which this incident allegedly first occurred – the outdoor sidewalk/plaza area under the Belmont Red-Line El station – was outside the “paid” interior area of the CTA station. The “unpaid” area was, thus, *public property* and Mr. ██████████ was not trespassing.⁵⁸ The large sculpture on which Mr. ██████████ was allegedly seated at the time he sprayed the mace was a public art installation.⁵⁹ Again, this is not to preclude officers from properly charging him with other relevant ordinance or statutory violations, such as loitering or breaching the peace, but it must be noted that the outdoor, “unpaid” area at issue was not private CTA property on which he could be considered trespassing. Officer Brandau’s erroneous belief he was protecting CTA’s private property from trespassers is relevant

⁵⁷ Officer Williams’ statement to COPA alleging Mr. ██████████ had a known history of macing people (but *without* arrest or conviction) is not sufficient to, absent probable cause to arrest or court order, warrant confiscating his mace in this incident.

⁵⁸ CTA inherited ownership of the air-rights on which their elevated line tracks and stations are located, but not the ground-level public sidewalks, streets, plazas, and other public-access “unpaid” areas underneath the tracks.

⁵⁹ Jerald Jacquard, *Space Junction of Energy*, 1970 CTA Art Collection. (www.transitchicago.com/art/belmont/).

here because it appears the perception further negatively influenced his treatment of Mr. [REDACTED] and the officers' decision to confiscate and dispose of the mace.

COPA finds **SUSTAINED** for **Allegation #4** that **Officer Paul Brandau** failed to properly document the confiscation of [REDACTED] mace spray incident to his detention and investigatory search, in violation of Rule 10. "Inattention to Duty."

Officer Brandau completed # [REDACTED] and failed to document that officer found a personal-defense weapon on Mr. [REDACTED] or their handling and disposition of said weapon. Officer Brandau related in his statement to COPA that he drafted the ISR because he took the initiative to do so and/or because he was the officer who applied the handcuffs – an informal custom by him, and/or other officers, he said. The ISR narrative documented the subject admitted macing someone, but the ISR failed to note the existence or disposition of the weapon. Officer Brandau said during his sworn statement that he knowingly did not reference the weapon on the ISR because it was not recovered during a pat-down itself, and because he was not the one who recovered it. The weight of the evidence and text of the Department directives does not support Officer Brandau's rationale for omitting mention of the weapon. Per S04-13-09, ISRs must include all factors that support reasonable articulable suspicion to justify a stop and/or protective pat down. Here, Mr. [REDACTED] was admittedly forcibly detained, handcuffed and patted down expressly because he brandished and refused to relinquish mace spray observed in his hand.⁶¹ The observation of the weapon was thus the impetus of officers' reasonable articulable suspicion for Mr. [REDACTED] detention, forcible handcuffing, removal of his backpack, and protective pat down. The weapon's existence and disposition should thus have been documented in the ISR, per S04-13-09, and supports a finding of **SUSTAINED**.⁶²

2. Officer Johnetta Williams

COPA finds **UNFOUNDED** for **Allegation #1**, that **Officer Johnetta Williams** forcibly removed [REDACTED] backpack and threw it onto the ground, damaging a laptop computer inside for the reasons set forth above.

COPA finds **SUSTAINED** for **Allegation #2**, that **Officer Johnetta Williams** failed to return a chemical mace weapon to [REDACTED] seized during his detention and search of his person, in violation of Rule 10.

Because Mr. [REDACTED] was released without a charge being preferred against him, and because his mace spray was not, per se, unlawful contraband, it rightly should have been returned to him upon release per Sec. 108-2. The officers' failure to return his weapon directly violated the statute and directive and supports a sustained finding. Officer Williams' statement she could not

⁶⁰ Attachment 6, *supra*.

⁶¹ Per Officer Williams' statement, his finger was observed on the canister's trigger. See Attachment 19 at 09:40.

⁶² See also: CPD Education and Training Division, IDQC Section, 14 April 2016, "[Chicago Police Department Investigatory Stop System Basic Recruit Training 2016, Slide 11, 'What Happens When an RAS Narrative is Not Documented'](#)": "Whenever an RAS Narrative is not included in an ISR, or when the narrative is insufficient, it leaves the officer's motives for the stop open to speculation." *Id.*

remember what she eventually did with the mace once she recovered it off the floor is unpersuasive. Officer Williams admitted in her statement that Officer Carodine told her to throw out the mace, and the weight of the evidence shows that she most likely did so.

This is not to say, however, Mr. ██████'s actions, intentionally spraying and injuring Mr. ██████ with mace near the open-air entrance to a CTA station, was lawful under the circumstances. The fact remains outstanding whether the spraying was a truly defensive, justifiable use of the weapon. Officer Brandau appeared to recognize this distinction and told Mr. ██████ repeatedly that he should have fled the area and that he didn't have a duty to "defend" his friend -- that instead he should have summoned for help and not sprayed anyone. If Officers Williams, Carodine or Brandau believed Mr. ██████'s use of mace was not legally justifiable, they should rightly have charged and arrested Mr. ██████ with breaching the peace, battery, violating CTA Rule 19 or other proper violations – despite the fact the mace victim would not press charges.⁶³ Had officers done so, confiscating and inventorying the mace during an arrest would have been reasonable and according to policy. Instead, Officer Williams used her discretion and chose to not arrest Mr. ██████ yet still confiscated and disposed of his otherwise lawful weapon.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Paul Brandau

i. Complimentary and Disciplinary History

Officer Brandau's complimentary history consists of the following: (1) 2004 Crime Reduction Award; (1) 2009 Crime Reduction Award; (1) 2019 Crime Reduction Award; (1) Annual Bureau Award of Recognition; (1) Attendance Recognition Award; (6) Complimentary Letter; (3) Department Commendation; (8) Emblem of Recognition – Physical Fitness; (44) Honorable Mention; (1) Life Saving Award; (1) NATO Summit Service Award; (1) Police Officer of the Month Award; (1) Presidential Election Deployment Award 2008; (1) Special Commendation; (1) Superintendent's Honorable Mention. Total of (72) Awards

As of March 9, 2022, there is no Sustained Complaints History. There is no SPAR History.

ii. Recommended Penalty, by Allegation

1. Allegation No. 4: Violation Noted

b. Officer Johnetta Williams

i. Complimentary and Disciplinary History

Officer Williams' complimentary history consists of the following: (1) 2004 Crime Reduction Award; (1) 2009 Crime Reduction Award; (1) 2019 Crime Reduction Award; (4) Attendance

⁶³ "CTA Rule 19. Alarming or disturbing others or causing others to fear for their safety or provoking a breach of the peace or being under the influence of alcohol, narcotics or other drugs or engaging in boisterous or unruly behavior that seriously inconveniences, annoys or alarms other reasonable persons in their vicinity."

Recognition Award; (1) Complimentary Letter; (2) Department Commendation; (23) Honorable Mention; (1) NATO Summit Service Award; (1) Presidential Election Deployment Award 2008; (1) Special Commendation. Total of (36) Awards.

As of March 9, 2022, there is no Sustained Complaints History. There is no SPAR History.

ii. Recommended Penalty, by Allegation

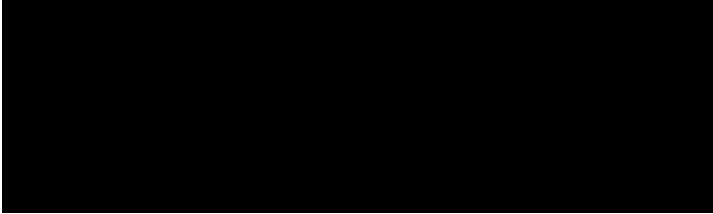
1. Allegation No. 2: Violation Noted

VIII. CONCLUSION

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

| Officer | Allegation | Finding |
|---------------------------|---|---|
| Officer Paul Brandau | <ol style="list-style-type: none"> 1. Overly tightened [REDACTED] handcuffs and/or forcibly pulled up on his arms during his detention and search, causing injury. 2. Forcibly removed [REDACTED] backpack and threw it onto the ground, damaging a laptop computer inside. 3. Failed to return a chemical mace weapon to [REDACTED] seized during his detention and search of his person. 4. Failed to document the confiscation of [REDACTED] mace spray incident to his detention and investigatory search, in violation of Rule 10. | <p>Not Sustained.</p> <p>Unfounded.</p> <p>Not Sustained.</p> <p>Sustained.</p> |
| Officer Johnetta Williams | <ol style="list-style-type: none"> 1. Forcibly removed [REDACTED] backpack and threw it onto the ground, damaging a laptop computer inside. 2. Failed to return a chemical mace weapon to [REDACTED] seized during his detention and search of his person, in violation of Rule 10. | <p>Unfounded.</p> <p>Sustained.</p> |

Approved:



Angela Hearts-Glass
Deputy Chief Investigator

12-13-2022

Date