

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	October 1, 2018
Time of Incident:	6:50 PM
Location of Incident:	5901 S. Ashland Avenue
Date of COPA Notification:	October 3, 2018
Time of COPA Notification:	10:00 AM

On October 1, 2018, at approximately 6:40 PM, Officer A (“Officer A”), and Probationary Police Officer B, (“PPO B”), working in the 7th District as Beat no. XXXX, stopped complainant Involved Individual 1, (“Involved Individual 1”) for a traffic violation at the Citgo Gas Station located at 5901 S. Ashland Avenue. Involved Individual 1 alleged that Officer A and PPO B stopped him no reason and believes that he was racially profiled.

II. INVOLVED PARTIES

Involved Officer #1:	Officer A, Star # XXXX, Employee ID # XXXX, DOA: XXXX, Rank: Police Officer, Unit of Assignment: 7 th District, DOB: XXXX /89, Male, White
Involved Officer #2:	Officer B/PPO B, Star #XXXX, Employee ID # XXXX, DOA: XXXX, Rank: Probationary Police Officer, Unit of Assignment: 7 th District, DOB: XXXX /88, Male, White

III. ALLEGATION

Officer	Allegation	Finding
Officer A	1. It is alleged that on October 1, 2018, at approximately 6:50 pm, at 5901 S. Ashland Ave., Officer A conducted a traffic stop on Involved Individual 1 without justification, in violation of Rules 1 and 2.	Unfounded
	2. It is alleged that on October 1, 2018, at approximately 6:50 pm, at 5901 S. Ashland Ave., Officer A racially profiled Involved Individual 1 for the purpose of conducting a traffic stop, in violation of Rules 1 and 2.	Unfounded

PPO B	<ol style="list-style-type: none"> 1. It is alleged that on October 1, 2018, at approximately 6:50 pm, at 5901 S. Ashland Ave., PPO B conducted a traffic stop on Involved Individual 1 without justification, in violation of Rules 1 and 2. 2. It is alleged that on October 1, 2018, at approximately 6:50 pm, at 5901 S. Ashland Ave., PPO B racially profiled Involved Individual 1 for the purpose of conducting a traffic stop, in violation of Rules 1 and 2 	<p>Unfounded</p> <p>Unfounded</p>
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IV. APPLICABLE RULES AND LAWS

Rules

1. **Rule 1:** Violation of any law or ordinance
 2. **Rule 2:** Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
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Special Orders

1. **S04-14-09:** Illinois Traffic Pedestrian Stop Statistical Study
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Federal Laws

1. 4th Amendment, U. S. Constitution
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Municipal Code

1. **Municipal Code:** Ch. 9-40-250 (A)

V. INVESTIGATION¹

a. Interviews

On October 3, 2018, complainant Involved Individual 1 gave an audio recorded interview to COPA. Involved Individual 1 stated that he got out of work and was driving eastbound on 59th Street when he observed the police conducting a traffic stop on a navy-blue vehicle on the opposite side of the street. While driving past, Involved Individual 1 stated that he looked at the officers interacting with a female black. Involved Individual 1 proceeded through the intersection and observed the officers following him into the gas station. While taking out his wallet to purchase gas, Involved Individual 1 was approached by the officers and told him to stop and come towards them. Involved Individual 1 asked the officers why he was being stopped and was told that the air fresher on his rear-view mirror was an obstruction and against the law. Involved Individual 1 provided his driver's license and insurance card to the officers. Involved Individual 1 was asked if he had anything in his car and he said no. Involved Individual 1 gave permission to search his car, but his vehicle was not searched. Involved Individual 1 stated that he was not patted down nor issued a citation. Involved Individual 1 stated that the officers questioned him about his job and told him that he looked suspicious. Involved Individual 1 stated that the officers pulled him over for no reason and believes they racially profiled him because he was driving a black Chrysler 300 that has 24 in. wheels.²

b. Digital Evidence

The In-car camera and Body Worn Camera (BWC) video shows Officer A and PPO B following Involved Individual 1 into a gas station and conducting a traffic stop. Involved Individual 1 parked his vehicle next to a gas pump and looks in the direction of the squad car. Involved Individual 1 then proceeds to walk toward the gas station and Officer A states, "Hey sir, can you hold on a second." Officer A then explains to Involved Individual 1 the reason for stopping him was because there was something hanging of his rear-view mirror which is consider as obstruction to the driver's view. Officer A requested to see Involved Individual 1's driver's license and proceeded to run his name on the portable data terminal. Involved Individual 1 was asked if he had anything inside his car and he replied, no. Involved Individual 1 gave the officers permission to search his vehicle, but the officers did not search his vehicle. Involved Individual 1 was not searched or patted-down and his driver's license was returned to him.

c. Documentary Evidence

The CPD Traffic Stop Statistical Study, Stop Report No. XXXX, states that on October 1, 2018, complainant Involved Individual 1, was driving a 2013 Chrysler and was stopped by

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² Att. 9, Audio interview of Subject 1.

Officer A and PPO B for violation 9-40-250(A) Obstructed Window/Windshields (obstruction of driver's view). The reports states that Involved Individual 1 and his vehicle were not searched.³

VI. ANALYSIS

1. *Stopped Involved Individual 1 without justification during a traffic stop and racially profiled him.*

Officer A approached Involved Individual 1 and explained to him the reason for being stopped. The entire interaction between Involved Individual 1 and the Officer A and PPO B was captured on the BWC and In-car camera videos. The manner in which Officer A and PPO B interacted with Involved Individual 1 did not appear to be racially motivated. Instead, Officer A and PPO B spoke to Involved Individual 1 with professionalism, dignity and respect and both officers were in compliance with the Mission Statement and Core Values established by CPD.

Officer A pointed and explained to Involved Individual 1 that something was hanging from his rear-view mirror and that it was consider an obstruction to a driver's view. Officer A completed a Traffic Stop Statistical Study that indicated that Involved Individual 1 was stopped for an obstruction on his rear-view mirror. Involved Individual 1 admitted to having an air freshener dangling for his rear-view mirror but was unaware that the air freshener constituted a material obstruction. However, pursuant to *Terry v. Ohio*, the officers could initiate a traffic stop to conduct an investigation into whether or not a crime had been committed (i.e. whether or not the air freshener did materially obstruct Involved Individual 1's view). 392 U.S. 1 (1968).

Chapter 9-40-250 (A), Municipal Code of Chicago, "No person shall drive a motor vehicle with any sign, poster, card, sticker or other non-transparent material upon the front windshield, or upon or protruding from any rear window, side window or roof which materially obstructs, obscures or impairs the view from both within or without the vehicle."

It is well established that an air freshener may support the reasonable articulable suspicion necessary to initiate a traffic stop pursuant to 625 ILCS 5/12-503(c). See, e.g., *People v. Jackson*, 335 Ill.App.3d (2d Dist. 2002) (holding that air freshener hanging from a rearview mirror can create a reasonable suspicion that 625 ILCS 5/12-503(c) is being violated); *United States v. Smith*, 80 F.3d 215 (7th Cir. 1996) (holding that where officers stopped motorist suspected of drug offenses based upon the presence of an air freshener hanging from his rear-view mirror, stop of automobile was valid and did not constitute an impermissible pretextual stop).

However, there is no bright-line test that determines when the size of a dangling object, such as a pendant, air freshener, or necklace, constitutes a material obstruction. See, e.g., *United States v. Garcia-Garcia* 633 F.3d 608 2011 U.S. App. Lexis 1463 (7th Cir. 2011) (holding that air fresheners may (or may not) constitute material obstructions depending on their size, their position

³ Att. 4, Traffic Stop Statistical Study.

relative to the driver’s line of vision, and whether they are stationary or mobile); People v. Mott, 359 Ill.App.3d 313 (4th Dist. 2009) (holding that size alone does not determine whether an object materially obstructs a driver’s view for 625 ILCS 5/12-503(c) of the Illinois Vehicle Code purposes; necklaces, pendants, parking passes, souvenirs, good luck charms, beads, crucifixes, St. Christopher medals, and sunglasses suspended from a rearview mirror may be material obstructions in the proper situation).

VII. CONCLUSION

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

Officer	Allegation	Finding
Officer A	<ol style="list-style-type: none"> 1. It is alleged that on October 1, 2018, at approximately 6:50 pm, at 5901 S. Ashland Ave., Officer A conducted a traffic stop on Involved Individual 1 without justification, in violation of Rules 1 and 2. 2. It is alleged that on October 1, 2018, at approximately 6:50 pm, at 5901 S. Ashland Ave., Officer A racially profiled Involved Individual 1 for the purpose of conducting a traffic stop, in violation of Rules 1 and 2. 	<p>Unfounded</p> <p>Unfounded</p>
PPO B	<ol style="list-style-type: none"> 1. It is alleged that on October 1, 2018, at approximately 6:50 pm, at 5901 S. Ashland Ave., PPO B conducted a traffic stop on Involved Individual 1 without justification, in violation of Rules 1 and 2. 2. It is alleged that on October 1, 2018, at approximately 6:50 pm, at 5901 S. Ashland Ave., PPO B racially profiled Involved Individual 1 for the purpose of conducting a traffic stop, in violation of Rules 1 and 2. 	<p>Unfounded</p> <p>Unfounded</p>

Approved:

COPA Deputy Chief Administrator A
Deputy Chief Administrator

Date

Appendix A

Assigned Investigative Staff

Squad#:	10
Investigator:	COPA Investigator A
Supervising Investigator:	COPA Investigator B
Deputy Chief Administrator:	COPA Deputy Chief Administrator A