



MEMORANDUM

DATE: January 22, 2021

TO: PACO BALDERRAMA, Chief of Police
Office of the Chief

THROUGH: PHIL COOLEY, Deputy Police Chief
Administrative Services

MICHAEL LANDON, Lieutenant
Internal Affairs Bureau Commander

FROM: ALFONSO CASTILLO, Sergeant
Policy & Procedures Unit

SUBJECT: BIAS-BASED PROFILING REVIEW

On January 15, the Policy & Procedures Unit conducted a review of all inquiries and complaints involving biased-based profiling allegations made against Department members in 2020. The annual review of all 2020 biased-based policing allegations was based on information obtained from Internal Affairs records.

This review intends to identify enforcement trends that may be of concern to the department and the community. Profiling in itself, can be a useful tool to assist law enforcement officers in carrying out their duties. Bias-based profiling is defined as selective enforcement of law based solely on the common trait of a group, including, but not limited to: Race, ethnic background, gender, gender expression, sexual orientation, religion, economic status, age, or culture.

The Fresno Police Department does not condone the use of bias-based profiling, as it may lead to constitutional rights violations against the citizens we serve.

Methodology

All documented bias-based inquiries and complaints received by the Department in 2020 were examined. The IA PRO program was used to complete this audit.

Twelve bias-based complaints were handled by the Department in 2020. Eleven complaints were handled by a field level supervisor and reviewed by our Internal Affairs Bureau. One complaint is being investigated by the Internal Affairs Bureau and the results are still pending.

Synopsis of Complaints

On January 31, 2020, the Fresno Police Department's dispatch center received a complaint regarding illegal search and seizure and racial-based profiling. The complainant made several allegations in which it was not clear if the complainant was referring to himself as the alleged victim, or something they witnessed. The complainant framed their complaint in the first person, third person and as a hypothetical person. The inconsistencies in the allegations made it difficult to track an actual police report, and vague references to a part of town were made. The majority of the allegations this complainant made were in reference to incidents in which no specific time frame of occurring was given. In one of the allegations of an illegal search, the complainant gave an address and a case that occurred in 2017. A field supervisor documented their investigation into the matter on an Inquiry Complaint Form. This supervisor researched an incident that occurred at the given address in 2017 and found it was a lawful search warrant. Furthermore, no one at the residence knew of the complainant and had no information of why a complaint on that incident was made. Several phone attempts were made to re-contact the complainant to no avail. After exhausting all means to contact the complainant, a field supervisor closed the investigation as unfounded.

On February 10, 2020, officers conducted a traffic stop on a vehicle due to an expired registration response from the officer's DMV inquiry. The officers used their onboard terminal computer to check the vehicle's license plate with the Department of Motor Vehicles. The inquiry revealed that the registration was expired. The officers then conducted a traffic stop. The driver/complainant was contacted and asked for proper registration and drivers license. After a lengthy traffic stop and a resisting arrest charge, the complainant was arrested, and their vehicle was impounded. On February 11, 2020, the complainant emailed the Fresno Police Department stating that there was no legal justification to conduct the traffic stop, their registration was current and paid, and that the involved officers only conducted the traffic stop due to the complainant's race.

After receiving the complaint, a patrol supervisor conducted an investigation into the matter and documented the findings on an Inquiry Complaint Form. The supervisor reviewed the event report; police reports; reviewed all body camera videos from the officers on scene; spoke to the complainant; and the Department of Motor Vehicles. The supervisor confirmed the registration on the vehicle was currently paid; however, due to a DMV clerical error, the system was never updated and any digital inquiry into the involved vehicle would have shown expired. The supervisor also confirmed via all angles of body camera footage that the traffic stop was done due to an observed violation, and no physical means of knowing the race of any occupants played a part in conducting a traffic stop. The videos showed the officers acted professionally and treated the complainant with respect and dignity. Nothing that could have been classified as racial profiling was viewed or observed. The patrol supervisor found the allegation of biased policing unfounded and the officers were found exonerated.

On February 26, 2020, officers conducted a traffic stop and began a Driving Under the Influence investigation on the driver. A passenger in the vehicle exited the vehicle and began interfering with the DUI investigation. The passenger was arrested for being drunk in public. The passenger was booked into the Fresno County jail for a violation of public intoxication. The next day the complainant, who is the arrested passenger's parent called and filed a complaint on the officers. The allegations were that the arrest was unlawful as the complainant's child does not drink; that the complainant's child was assaulted by the officers and called a racial slur. A patrol supervisor conducted an investigation after speaking to the complainant. The supervisor noted that in the officer's report, it was noted the passenger smelled of an alcoholic beverage and the passenger admitted to having been drinking. The officers body camera, which recorded the incident in its entirety, showed that the passenger was not assaulted and no racial slur was made by any of the officers. After being told of

the body camera footage, the complainant asked their child for clarification on the allegations. The complainant informed the patrol supervisor that their child had changed their story, and now the complainant believed their child made up the allegations. The patrol supervisor found the allegation of biased policing unfounded and the officers were found exonerated.

On March 2, 2020, officers conducted a traffic stop on a vehicle for not displaying a front-end license plate. The officers contacted the driver/complainant and also discovered the vehicle's registration had been expired for over six months. The vehicle was towed, and the driver was issued a citation at the scene. Two days later the complainant called and alleged that the officer conducted this traffic stop due to racial profiling. The complainant stated the officer did not notice the front license plate was missing until after making the traffic stop and walking around the front of the car. The complainant also claimed his registration was current, as he had a Department of Motor Vehicles operating permit. After receiving the complaint, a patrol supervisor conducted an investigation into the allegations. This supervisor reviewed the event report, police reports, reviewed all body camera videos from the officers on scene; spoke to the complainant; and the Department of Motor Vehicles regarding the operating permit. The supervisor confirmed the vehicle did have an operating permit; however, the permit was limited to specific use, i.e. transferring a vehicle from one garage shop to another. Which meant the complainant was not properly using the permit and was operating the vehicle with expired registration. After watching all body camera footage, the supervisor confirmed that the traffic stop was done due to an observed violation: When the vehicle first drove by the officer, both the officer's vehicle and the complainant's vehicle were driving at each other, and it was clear there is no front license plate. There was also little to no physical means of knowing the race of any occupants prior to the traffic stop. The video also showed the officer clearly identified the reason for the stop before making a traffic stop and the officer did not walk around the front of the vehicle. The videos showed the officers acted professionally and treated the complainant with respect and dignity. The patrol supervisor found the allegation of biased policing unfounded and the officers were found exonerated.

On March 15, 2020, an officer conducted a traffic stop for a possible DUI driver. A second traffic officer was called to the scene to take over the DUI investigation. This is a common practice as traffic assigned officers have a higher skill level in these investigations. The driver was arrested for DUI and their vehicle was also towed. On April 6, 2020, the complainant contacted the Fresno Police Department's dispatch center and accused the traffic officer of targeting them due to a prior call for service and being discourteous as well as not being under the influence. The complainant claimed they were on medication and a DUI should not have been the charge against them. After receiving the complaint, a patrol supervisor conducted an investigation into the allegations. This supervisor reviewed the event report; police reports; reviewed all body camera videos from the officers on scene; spoke to the complainant. In regard to being targeted by the specific officer, the supervisor noted that the traffic violation and stop was all conducted by a different officer, and the specific traffic officer responded from a dispatch queue in a backup role. Therefore the specific traffic officer could not have targeted the complainant. The supervisor also conducted a thorough search of all events, contacts, detentions and reports between the specific officer and the complainant; no prior contact was ever found. After watching all body camera footage, the supervisor confirmed the officers acted professionally and treated the complainant with respect and dignity. Nothing that would be classified as racial or biased profiling was viewed or observed. The patrol supervisor found the allegation of biased policing unfounded and the officer was found exonerated.

On April 14, 2020, officers responded to a residence in which a domestic violence incident had occurred. The officers spoke to the involved parties and witnesses. It was determined that the complainant was to be arrested in violation of state domestic violence laws. The complainant was arrested and booked into the Fresno County jail. Days later the complainant called the Internal Affairs bureau to file a complaint. The complainant stated the arrest was a false arrest, not legal and the only reason an arrest was made was due to racism. A patrol supervisor conducted an investigation after speaking to the complainant; the complainant did/would not specify what made them believe the arrest was racially motivated. After reviewing the body camera footage, the supervisor noted a section in which the complainant is speaking to the officers and their supervisor approaches. The complainant commends the officers of doing an excellent job and being professional. The investigation supervisor also found probable cause for the arrest in which it is a state mandate that the suspect be arrested and booked. The patrol supervisor found the allegation of biased policing unfounded.

On May 2, 2020, officers responded to an emergency 911 call. A citizen called 911 to report two subjects, a male and a female, arguing in a possible physical disturbance. The description was vague; however, the time and area of the disturbance was specific. When officers arrived, they located only a single person seated in a vehicle at the location where the reported disturbance was occurring. An officer noted this person smelled strongly of alcohol and was slurring their speech. The officers investigated further and asked the person to step out of their vehicle. This person was arrested, transported to the Fresno County jail and booked. On May 3, 2020, the subject's sibling called and filed a complaint of excessive force and biased policing. A patrol supervisor spoke to the sibling; it was learned that the sibling was calling for the arrestee since there were claims that the arrestee was in an unknown emergency room due to severe injuries from the encounter with the officers. The sibling also said that the arrestee claimed they were stopped due to racial profiling, no crime was being committed, and the arrestee was targeted due to their race. The supervisor reviewed the event report; police reports; reviewed all body camera videos from the officers on scene. The reporting parties told the supervisor that they called in after witnessing the disturbance. The supervisor noted the officers spoke to the arrestee due to a call for service and the arrestee was not targeted or singled out by the officers. The supervisor also confirmed via all angles of body camera footage that at no time was the arrestee struck or assaulted by the officers. In fact, the video shows the arrestee being belligerent and verbally abusive toward the officers in which the officers still remained courteous and respectful toward the arrestee. The complainant would not give the location of where the arrestee was being treated at. The supervisor informed the complainant that the incident with the arrestee was recorded on the officer's body camera. The supervisor set up an appointment to meet the complainant in person and speak to the arrestee. The complainant refused to meet with the supervisor and stated they wanted to withdraw the allegation since the arrestee was the only one that was present. The complainant told the supervisor that if the arrestee wanted to follow through with the complaint, they would have to do it on their own. The patrol supervisor found the allegation of biased policing unfounded.

On July 9, 2020, officers responded to a call of a physical altercation. Officers established a perimeter around the potential crime scene and rendered aid to at least one injured individual. Negotiators and more officers arrived for a possible barricaded suspect. Three people were arrested after bypassing crime scene tape and attempting to enter the home with the barricaded subject. A relative of at least one of the arrestees called the Fresno Police Department's Internal Affairs Bureau to file a complaint against the involved officers. The complaint alleges excessive force and racial profiling. This investigation is assigned to an investigator and the findings are still pending.

On August 6, 2020, officers responded to a hit-and-run accident in which the driver of one of the vehicles fled the scene. Officers arrived quickly and saw a male that matched the description of the fleeing driver/complainant. This person was identified as the driver and was arrested for suspicion of DUI. After refusing to partake in the field sobriety test, the complainant was transported to the hospital for medical care and a blood draw for DUI purposes. The complainant wanted to speak to a supervisor at the hospital for a complaint of racial profiling, officers being discourteous and suffering from shoulder pain due to the handcuffs. A field supervisor arrived and began an investigation into the matter. It was determined through medical staff that injuries the complainant alleged had likely been caused by the traffic accident. In regard to being discourteous and racial profiling, the complainant claimed an officer made a comment directed toward him. After reviewing the entire footage of the officer's body camera, the supervisor noted there were not any discourteous or racial comments made. A comment referring to all citizens being required to follow the law was made by an officer. The comment was professional, respectful and in context to the conversation as the officer who made this comment was explaining the field sobriety test process. The patrol supervisor found the allegation of biased policing unfounded and the officer was found exonerated.

On November 1, 2020, officers responded to a call of a disturbance occurring in the parking lot of a fast-food restaurant. Two reporting parties called 911 after they were involved in an encounter with a person at this restaurant. Both reporting parties gave a description of the person and pointed the person out when officers arrived. The involved officers contacted the individual, complainant, and reporting parties. No one involved wanted to pursue charges and all parties were asked to leave the location in peace, which they did. On November 2, 2020, the complainant called in to report that he was the involved person and he was singled out due to racial profiling. After receiving the complaint, a patrol supervisor conducted an investigation into the matter and documented the findings on an Inquiry Complaint Form. This supervisor reviewed the event report; police reports; reviewed all body camera videos from the officers on scene; spoke to the complainant and witnesses. The supervisor determined that the complainant was not singled out and the officers approached him after two witnesses pointed the complainant out as the person causing the disturbance. The witnesses also mentioned the complainant was upset his fast-food order was incomplete and that this caused the complainant to get upset and yell at other patrons in the drive thru. The videos showed the officers acted professionally and treated the complainant with respect and dignity. Nothing that could have been classified as racial profiling was viewed or observed. The patrol supervisor found the allegation of biased policing unfounded and the officers were found exonerated.

On December 19, 2020, officers conducted a traffic stop for a violation of no taillight. The driver was contacted and it was determined the driver/complainant was possibly driving under the influence. After being cited, the complainant's vehicle was towed from the scene. On February 27, 2020 the complainant filed a complaint against the officer. The allegation was that the stop was made due to racial profiling since the complainant claimed they had an operating taillight and were not under the influence. A patrol supervisor conducted an investigation and viewed the involved officer's body camera footage. The officer's body camera, which recorded the incident in its entirety, showed that the officer was behind the vehicle and the third brake light was not working. The supervisor also noted that there was no means of knowing the driver's race prior to making the traffic stop. The complainant was informed that since there is a pending case due to the DUI, that issue would be argued in the courts. The patrol supervisor found the allegation of biased policing unfounded and the allegation was found Not Sustained.

Analysis

Of the twelve incidents that were identified by Internal Affairs as involving possible bias-based profiling, the following was determined:

Based on the details of the reported complaints and the number of complaints compared to the total amount of police interactions with our community, no pattern of bias-based profiling is apparent. In 2020, Fresno Police officers handled 446,348 events and calls for service. Of those calls for service, approximately 0.003% resulted in a bias-based complaint.

Areas of Concern

None.

Recommendation

The Policy of the Fresno Police Department prohibiting bias-based policing remain sufficient. The Policy & Procedures Unit will continue to monitor complaints of bias-based policing and submit an annual report.