



POLICE DEPARTMENT
DEPARTMENT

February 15, 2018

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Chief of Police

THROUGH: DEPUTY CHIEF ROBERT NEVAREZ
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FROM: SERGEANT STEVEN JAQUEZ
Audit and Inspections Unit

SUBJECT: BIAS-BASED PROFILING REVIEW

On January 8, 2018, the Audit and Inspections Unit conducted a review of all inquiries and complaints involving biased-based profiling allegations made against Department members in 2017. The annual review of all 2017 biased-based policing allegations was based on information obtained from Internal Affairs records.

The intent of this review is 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, however, is prohibited. Biased-based profiling is defined as selective enforcement of laws based solely on the common trait of a group, including, but not limited to; race, ethnic background, gender, 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 2017 were examined. The IA PRO program was used to complete the audit.

Five bias-based complaints were handled by the Department in 2017 with one being reported from an incident that occurred in 2016. Four of the complaints were handled with Internal Affairs investigations. One complaint was handled by a field supervisor.

In September 2017, Policy & Procedure 1020 was amended to read;

“Complaints related to racial/identity profiling (or bias-based policing) generally require an ROC and are investigated via the formal complaint process.”

Synopsis of Complaints

On May 4, 2016, Fresno Police officers responded to a report of a previous domestic violence incident. The officers spoke to the victim who identified her attacker as her husband, the complaining party (CP). The officers conducted an investigation that included obtaining an emergency protective order, per the victim’s request. The officers developed probable cause to arrest the CP for felony domestic violence and later arrested him at his home. He was later charged with misdemeanor domestic violence and found not guilty of the charges on April 25, 2017. On May 10, 2017 the CP filed a complaint alleging the officers improperly investigated the incident, had a racial bias against him and a bias against his gender. The complaint was forwarded to Internal Affairs for investigation. It was determined that the investigation was properly conducted and consistent with Department Policy and Procedure. The arrest was determined to have been made upon credible evidence obtained by the officers and without regard to the gender of the CP. The investigator reviewed body camera footage and did not find any evidence of bias or improper investigatory techniques. After the investigation was complete, Internal Affairs concluded the allegations of improper investigation, racial bias and gender bias to be unfounded.

On June 3, 2017, Fresno Police officers were dispatched to a report of a physical disturbance between neighbors. They contacted the CP who said that his neighbor yelled “hate crime remarks” at him and demanded she be arrested. He also alleged she had sprayed him with pepper spray. The officers contacted the female neighbor who said that she has had many prior issues with the CP, including him vandalizing her car on the date in question. She admitted to spraying the CP with pepper spray but did so only after he raised a rock as if to hit her when she confronted him about damaging her car. The officers were not able to locate any independent witnesses or other evidence to corroborate any statement they had obtained. Since they were unable to determine a crime had occurred, the officers prepared a general incident report that outlined all statements obtained and referred the CP and female neighbor to the District Attorney’s office for review of the case for a criminal filing. On June 24, 2017, the CP filed a complaint alleging the officers were racially biased against him and did not properly document their report. The complaint was forwarded to Internal Affairs for investigation. It was determined that the officers were confronted with contradictory statements and no independent witnesses. The decision to document the incident as a general incident was determined to be consistent with Department Policy and Procedure, as well as Department training and practice. The investigator reviewed body camera footage and did not find any evidence of racial bias. The report was reviewed as well and determined to be consistent with the body camera footage available. After the investigation was complete, Internal Affairs concluded the allegation of racial bias and improper report documentation to be unfounded.

On June 28, 2017, Fresno Police conducted a stop of a driver for a moving violation as well as equipment violations. He was found to have a suspended license with prior citations for driving on a suspended license and three active felony arrest warrants. The officers arrested the driver and issued citations for the moving violations as well as the license suspension. The officers also impounded his vehicle. The officers offered the driver's wife (CP) and children a ride but she refused. On July 24, 2017, CP made a complaint alleging the traffic stop and impound of her vehicle was racial/bias based. The complaint was forwarded to Internal Affairs, who conducted the investigation. The investigator reviewed the body camera footage of the traffic stop and did not find any evidence of racial/biased profiling. The footage depicted the moving violation as well as equipment violations. The impound was conducted in accordance with Department Procedure, practice and case law. It was determined that the driver was contacted within the law and the officers did not use racial/bias based police tactics.

On August 8, 2017, a Fresno Police officer conducted a traffic stop of a driver and issued him a citation for being in violation of Vehicle Code 22350, speeding. On August 18, 2017, the driver alleged the officer racially profiled him while completing the traffic stop and issuing the citation. The complaint was forwarded to Internal Affairs, who conducted the investigation. The investigator reviewed the body camera footage of the traffic stop and did not find any evidence of racial/biased profiling. It was determined that the driver was contacted within the law and the officer was not using racial/bias based police tactics.

On August 10, 2017, two Fresno Police Sergeants contacted CP at his home to follow up on a complaint of racial bias against him during a previous arrest. CP was arrested on May 27, 2017 for an open felony domestic violence case. CP indicated he is Spanish speaking only so one of the sergeants who responded was fluent in English and Spanish for translation purposes. However, during the course of the contact, CP demonstrated he too was fluent in English and Spanish. CP was upset for having been stopped and arrested on May 27, insisting he was stopped unlawfully. The sergeants explained the legal basis for the stop, which was failure to display a rear license plate on his vehicle. CP was also upset because he was not Mirandized by the arresting officer. CP also felt that the officer who arrested him is a racist and refused to come to any understanding regarding the circumstances of the stop. CP continued to insist he should not have been stopped and that the stop and arrest has caused him emotional suffering. During the interview, it was discovered CP has a valid DVRO against him that prohibits him from being near his girlfriend, who was in the apartment. CP was then arrested for the DVRO violation occurring in front of the officers. At the time of the arrest on May 27, 2017, the officer who arrested CP was not issued a body camera so there is no body camera footage available. The Internal Affairs investigation concluded the allegation of racial bias to be unfounded.

Analysis

Of the five 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 limited number of complaints, no pattern of bias-based profiling is apparent.

In 2017, Fresno Police officers handled 418,341 events and calls for service. Of those, approximately .00001% resulted in a bias-based complaint.

Areas of Concern

None

Recommendations

The policies and procedures of the Fresno Police Department prohibiting bias-based profiling remain sufficient. The Audit and Inspections Unit will continue to monitor complaints of bias-based policing and submit an annual report.