



POLICE DEPARTMENT

MEMORANDUM

DATE: February 18, 2019

TO: JERRY P. DYER, Chief of Police
Office of the Chief

THROUGH: LYDIA CARRASCO, Deputy Police Chief
Administrative Services

JOEY ALVAREZ, Lieutenant
Internal Affairs Bureau Commander

FROM: STEVEN JAQUEZ, Sergeant
Audit and Inspections Unit

SUBJECT: BIAS-BASED PROFILING REVIEW

On February 5, 2019, the Audit and Inspections Unit conducted a review of all inquiries and complaints involving biased-based profiling allegations made against Department members in 2018. The annual review of all 2018 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, 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 2018 were examined. The IA PRO program was used to complete the audit.

Five bias-based complaints were handled by the Department in 2018, with one being reported from an incident that occurred in 2012. Four of the complaints were handled with Internal Affairs investigators. 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 January 10, 2018, officers were on patrol when they checked a license plate using their onboard computer. The result showed that the license belonged to a different make and model of vehicle. The officers believed that the vehicle was “cold plated” which occurs when a vehicle will have a false license plate because of some issue with the correct plate, typically utilized on stolen vehicles so the vehicle can be driven with greater anonymity. The officers conducted a “high risk” car stop on the vehicle believing the vehicle was involved in some unknown criminal activity. The driver was slow to cooperate with the officers’ instructions and at one point, had to be physically directed by an officer to the location she was being asked to wait in. Once the situation was determined to be safe, the officers rechecked the license at the driver’s insistence. The license was checked with a different character that was obscured by a license plate frame and showed to be on the correct vehicle. The driver demanded to speak to a supervisor immediately and a patrol sergeant responded. The driver’s first allegation was that the officers used improper tactics for the situation. Several days later, she added that she felt the officer’s mistreated her based on her race as well as her sex. An internal affairs investigation was conducted and determined that the officers performed according to Department policy and procedure, as well as case law. In addition, the officers were found to have performed according to approved academy training. Body camera footage was also reviewed and showed the officers conducted their duties without bias and according to accepted standards. The Internal Affairs investigation found that the allegation of racially biased policing to be unfounded. The allegations of improper “high risk” stop and unreasonable force were exonerated.

On January 11, 2018, a Student Resource Officer assigned to a high school was called to the office concerning a parent on campus trying to remove his teen daughter. The officer contacted all of the concerned parties including the teen, school officials as well as the teen’s father. The officer learned that the mother and father had split many years previously and the teen was raised by her mother, with almost no contact with the father over the years. The mother had passed away several months prior and the teen had been living with the maternal grandmother since. The father wanted to take the teen from school and she said she did not want to go with him. The father demanded to speak to a supervisor and a district supervisor responded, making contact with the father. The father eventually left the school with the promise that he would return to collect his daughter. When the father came back, the teen said she did not want to go with her father and was in fear for her safety if she were to be forced to go with him. She told the officer that though her father had not physically abused her, he had hit her sister in front of her in the past and has threatened her recently about not coming to live with him. The officer contacted Child Protective Services (CPS) and placed an emergency placement on the teen, turning her over to CPS. The father again demanded to speak to a supervisor and the Student Resource Sergeant responded. The father said that he did not agree with the officers decision or the officers decision to prepare a report of both of the days incidents. On February 19, 2018, the father made a complaint alleging that the officer was racially biased in his policing towards him, the officer unlawfully exercised his authority when he placed the teen on an emergency hold and the officer was discourteous towards him. An Internal Affairs investigation was initiated. The investigation

included speaking to the involved school personnel, the CPS worker and the father. The school personnel and CPS worker stated that the officer was respectful of the father and they did not note any indication whatsoever of racially biased behavior on the officers part. The CPS worker also stated that the placement was proper and in her professional opinion, was appropriate for the situation. The father stated that though the officer did not use racially biased language, he made demeaning gestures with his mouth and face towards him. He also said the officer sided with the maternal grandmother because she is Hispanic, which he described the officers race to be. The officer is Caucasian. Body camera footage was reviewed and did not depict the officer behaving or speaking in an unprofessional or biased manner. The investigation showed the allegations of racially biased policing, wrongful exercise of authority and discourteous treatment to be unfounded.

On February 20, 2018, an officer conducted a traffic stop on a driver for a moving violation. The driver immediately began calling 911 to report he was being illegally detained by an officer and was in fear for his safety. When the officer contacted the driver, he refused to hand the officer his paperwork, instead placing them on the dash while the officer looked them over through the windshield. The driver demanded to speak to a supervisor and a District supervisor responded. The driver complained that the officer had profiled him based on his race. The supervisor took a recorded statement from the driver and an Internal Affairs investigation was later conducted. Body camera footage was reviewed and did not show the officer behaving in a biased or other improper manner before, during or after the traffic stop. The investigation showed the allegation of racially biased policing to be unfounded.

On May 9, 2018, officers stopped a vehicle for not displaying a rear license plate. The driver insisted that the stop was unlawful because he had paid his DMV fees and had a valid moving permit. The officers discovered that the vehicles' registration fees had been paid, however the registration was expired over one year and the moving permit had expired as well. The driver asked the officers for leniency so they simply cited the driver for expired registration but did not impound the vehicle for the expired registration. On September 11, 2018, the driver was found guilty for the expired registration. The same day he made a complaint with a Fresno PD supervisor alleging the officers stopped him unlawfully and because of his race. He said officers could see him through his windows, though it was nearly 11:00PM at the time of the stop and the vehicle had darkened windows. He demanded that the officers take back the citation and remove it from his record. A District supervisor accepted the complaint made by the driver and conducted an investigation. He reviewed the body camera footage which showed the lack of a rear license plate on the driver's vehicle and the darkened windows. He also took note of the professional demeanor the officers displayed while interacting with the driver and compassion in extending leniency to the driver. The investigation showed the driver's allegations of unlawful stop and racial profiling to be without merit and exonerated the officers.

On June 18, 2012, officers saw two males inside of a gang safety zone. A safety zone protects a specific geographical area from street gangs that operate in the safety zone. The Superior Court orders specific gang members not to associate inside of the safety zone. The officers recognized one of the males as having been served the gang injunction and they made contact with the other male to determine if he was a part of the injunction as well. They discovered he too was a named person on the injunction but had not yet been served. They served the male and arrested him for an outstanding warrant. At the time, the officer's supervisor responded and documented the males' concerns he had with being served the injunction. No further action was taken on the

males' issues. On July 26, 2018, the male made a complaint with Fresno PD that he was racially profiled when he was stopped and served the injunction by the officers in June of 2012. The male stated that he was stopped simply for being a young, African American male inside of the safety zone. He could not identify any particularized issues that would support his assertion that the contact was based on racial bias. He also demanded that he be removed from the injunction because he had recently applied for and was denied a concealed weapons permit because he was still on the injunction. An Internal Affairs investigation was conducted. The investigator noted that this incident occurred more than six years prior, before body cameras became a part of the Fresno Police Department. One of the accused officers had also passed since the date of the incident. The supervisor who documented the original concerns was interviewed as well as the surviving officer from the incident. Both had a clear recollection of the incident and stated that the male did not indicate he felt he was being stopped because of his race. His concern was being served the injunction. The male initially denied having been served the injunction but was shown a photo of him being served the injunction. The male revised his statement and said he signed only because the officers were being rude to him. The investigation showed the actions of the officers were reasonable and based on individualized suspicion and not upon a broad set of criteria that would cast suspicion on an entire class of people. The allegation of racially biased policing was 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 2018, Fresno Police officers handled 450,817 events and calls for service. Of those, approximately .0011% 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.