



MEMORANDUM

DATE: April 13, 2022

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

THROUGH: PHIL COOLEY, Deputy Police Chief
Administrative Services

STEVE VIVEROS, Lieutenant
Internal Affairs Commander

FROM: ALFONSO CASTILLO, Sergeant
Policy & Procedures Unit

SUBJECT: BIAS-BASED PROFILING REVIEW

On April 2, the Policy & Procedures Unit conducted a review of all inquiries and complaints involving biased-based profiling allegations made against Department members in 2021. The annual review of all 2021 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 2021 were examined. The IA PRO program was used to complete this audit.

Six bias-based complaints were handled by the Department in 2020. Five complaints were handled by a field level supervisor and reviewed by our Internal Affairs Bureau. One complaint was investigated by the Internal Affairs Bureau.

Synopsis of Complaints

Complaint #1:

On April 21, 2021, officers responded to a location regarding several 911 calls of a possible physical disturbance. The description was of two males arguing and fighting. Once officers arrived, they located the complainant and his roommate. Both parties were arguing over the division of their property. Officers quickly determined that the complainant was drunk and offered him several chances to leave the area with a ride. The complainant refused to leave; the officers determined he was in violation of public intoxication laws. Once arrested, the officers attempted to place the complainant in their patrol car and the complainant refused all commands and was resisting arrest. The officers had to force the complainant in the patrol car by pushing on his stomach while also pulling on his hands, which were cuffed behind his back. The complainant told the officers he was injured by their use of force and demanded to speak with a supervisor. The complainant later refused to speak with the supervisor who responded and also refused to speak to medical personnel when provided an opportunity to do so. At the Fresno County jail, the complainant refused any medical treatment and was booked into jail.

A week later the complainant made several calls to dispatch making claims of excessive force and bias-based-policing during this arrest. A field supervisor was assigned the administrative investigation and spoke to the complainant. The complainant was intoxicated when he spoke to the supervisor and could not articulate his allegations; his girlfriend spoke on his behalf. The allegation was that officers punched the complainant in the face, dragged him by his handcuffs, and decided to stop him based on his race. The Internal Affairs Bureau took over the administrative investigation. They reviewed all body worn cameras, spoke to witnesses and reviewed a citizen's video/audio recording, as well as interviewing the involved officers. The Internal Affairs investigation determined that all 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. Also, the officers contacted the complainant because of several 911 calls from the public. The Internal Affairs Bureau found the allegation of biased policing unfounded, and the officers were found exonerated.

Complaint #2:

On May 30, 2021, a complainant arrived at a police substation to make a complaint on behalf of her son. The complainant's son was pulled over for a traffic violation. The son was arrested for driving without a license, and a search of the vehicle resulted in the discovery of a firearm. The complainant claimed the stop was based on profiling, the search of the vehicle was illegal and that an inappropriate comment was made to a passenger in the vehicle. The complainant and the field supervisor watched all the involved officers' body worn camera footage. After reviewing the video, the complainant agreed that the traffic stop, search and arrest of her son was legal, not based on racial profiling. The video did determine that an involved officer made an inappropriate comment not related to race or bias. The patrol supervisor found the allegation of biased policing unfounded, and the officer was found exonerated. The other involved officer was disciplined for the inappropriate comment.

Complaint #3:

On May 3, 2021, A complainant called the Fresno Police Department claiming that he was racially profiled when officers handled a child custody exchange between him and the mother of his children. A field supervisor was assigned the administrative investigation. The supervisor reviewed the body camera, 911 calls, and reports. It was determined that the officers responded to a call for service for a child custody exchange and the mother of the involved children was acting within the child custody court order. The officers followed the orders of the court, and this upset the complainant. Nothing in the review indicated any racial profiling. The field supervisor called the complainant in order to seek any evidence of the racial profiling allegation. During the call, the complainant was verbally abusive toward the supervisor; he insulted the supervisor several times and yelled at him using profanity throughout the phone call. 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.

Complaint #4:

On July 16, 2021, an officer conducted a traffic stop for a moving violation. As the officer was speaking to the complainant, he detected a smell of alcohol omitting from the vehicle. The complainant said they had not drunk anything or had any alcoholic beverages in their vehicle. A bottle of hand sanitizer was visible in the vehicle, and the complainant and officer determined it could be the source of the smell. In order to rule out drunk driving as the cause, the officer asked the complainant to exit the vehicle and checked their eyes. The results were negative, and no signs of drinking were observed. The officer gave the complainant a citation for the original violation. The complainant later called dispatch and asked to speak to a supervisor. The complainant alleged the officer only asked them to exit their vehicle based on their race. 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 there was no means of knowing the driver's/complainant's race prior to making the traffic stop. The supervisor also noted the manner in which the officer investigated for potential drunk driving was within policy. The patrol supervisor found the allegation of biased policing unfounded, and the allegation was found exonerated.

Complaint #5:

On October 25, 2021, an officer conducted a traffic stop on a vehicle for not having a front license plate. The driver was found to have a suspended license, and his vehicle was towed. A vehicle inventory search was conducted prior to the search. After being cited for driving with a suspended license, the driver/complainant called dispatch and claimed the stop was unlawful, the search of their vehicle was illegal, and they claimed that during the stop the officer discriminated against him. A field supervisor was assigned the administrative investigation and reviewed the officer's body worn camera footage. After watching all body camera footage, the supervisor confirmed that the traffic stop was conducted because of an observed violation. It is within policy to conduct a vehicle inventory search of the vehicle prior to it being towed. The complainant could not elaborate on why they specifically felt discriminated against and stated that if it was not for his race, he would of not have had his vehicle towed. The field supervisor informed the complainant that it is a policy requirement for officers to tow vehicles when the driver is found to have a suspended license. The video

showed the officer acted professionally and that he treated the complainant with respect and dignity. The patrol supervisor found the allegation of biased policing unfounded, and the officer was found exonerated.

Complaint #6:

On September 7, 2021, a patrol supervisor was assigned a complaint of a traffic stop based on racial profiling. The patrol supervisor contacted the complainant and determined that the traffic stop in question had occurred six months prior. As the supervisor was attempting to get specific details regarding the allegation, the complainant hung up and refused to speak to the supervisor again. The supervisor continued their administrative investigation and reviewed the officer's body worn camera footage. After watching all body camera footage, the supervisor confirmed that the traffic stop was conducted because of an observed violation. There was also no physical means of knowing the race of any occupants prior to the traffic stop. The video 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.

Analysis:

Of the six 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 of amount of police interactions with our community, no pattern of bias-based profiling is apparent. In 2021, Fresno Police officers handled 404,101 events and calls for service. Of those calls for service, approximately 0.0012% resulted in a bias-based complaint.

Areas of Concern

None.

Recommendation

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