



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

February 18, 2014

Chief David Christensen
Galesburg Police Department
150 South Broad Street
Galesburg, IL 61401

Re: Notice of Findings
[REDACTED] v. Galesburg Police Dep't (14-OCR-0042)

Dear Chief Christensen:

Thank you for the position statement and incident report that you submitted to the Office for Civil Rights (OCR), Office of Justice Programs, U.S. Department of Justice (DOJ) in regard to the administrative Complaint that [REDACTED] filed against the Galesburg Police Department (GPD). In his Complaint, the Complainant alleges that the GPD discriminated against him based on race in violation of Title VI of the Civil Rights Act of 1964 (Title VI), the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act), and their implementing regulations.

The OCR has completed our review of the documentation provided by both the GPD and the Complainant and has determined that there is insufficient evidence of a violation of the civil rights laws that we enforce. Our findings are set forth below for your review.

Factual Background

The Complainant alleges the following:

On May 4, 2013, the Complainant, who is African-American, got into a verbal and physical altercation with three Caucasian males at Smitty's Tap in Galesburg, Illinois. Several officers from the GPD, including Officer [REDACTED], responded to the scene and arrested the Complainant for fighting in violation of the City of Galesburg Municipal Code, Section 130.052. Once the Complainant arrived at the jail, several of his friends, who work for the GPD, informed him that the officers arrested only the Complainant and none of the Caucasian males involved in the fight. The Complainant asserts that the GPD's action of arresting only him and not any of the Caucasian males is due to race discrimination.

In the GPD's Position Statement in response to these allegations, the GPD stated that the GPD arrested the Complainant based on officer observations and eyewitness and victim statements, and that the decision was in no way based on the race of any individual. The GPD provided the OCR with the incident report that Officer [REDACTED] completed regarding this matter; according to the incident report, the following occurred. Officer [REDACTED] was dispatched to Smitty's Tap in regard to a fight in progress, and upon arrival he observed an African American security employee pushing the Complainant out of the bar. The security employee told Officer [REDACTED] that he observed the Complainant approach a Caucasian male sitting at the bar and talk in his ear and heard the male tell the Complainant to leave him alone, and that shortly thereafter the Complainant approached the male again and grabbed him, and that they then got into a short altercation. The security employee noted that the Complainant was the aggressor in the altercation. Officer [REDACTED] also spoke with the bartender who said that she observed the Complainant being very rude to others in the bar and trying to start an altercation with the Caucasian male at the bar, at that she heard the male repeatedly tell the Complainant to leave him alone. The bartender stated that she observed the Complainant put his arm around the male's neck and lick his face, and that the male then pushed the Complainant away and the Complainant attempted to strike the male but missed.

Officer [REDACTED] then spoke with the male involved in this incident, who said that the Complainant approached him and kept stating that he was going to kill him when he left the bar. The male said that the Complainant wrapped his arm around his neck and licked his cheek, and that the male pushed the Complainant away and the Complainant then attempted to strike him. Officer [REDACTED] then made contact with the Complainant and asked him to explain his side of the incident, and the Complainant refused to speak with him. Officer [REDACTED] advised the Complainant that he was under arrest for fighting.

Policies and Procedures Relevant to the Allegations

The GPD provided the OCR with GPD General Order OPS-22, *Non-Discriminatory Enforcement*. This Order states that the GPD strictly prohibits its members from taking enforcement action based on race or ethnicity. The Order instructs officers that in the absence of a specific report, the race or ethnicity of an individual shall not be a factor in determining the existence of probable cause to arrest an individual.

Legal Analysis

Title VI provides that "[n]o person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d. Additionally, the Safe Streets Act, under which the GPD receives DOJ funding, contains a discrimination provision modeled after Title VI that prohibits funding recipients from discriminating on the basis of race, color, national origin, sex, and religion. 42 U.S.C. § 3789d(c)(1). To prove discrimination under these statutory provisions, the evidence must establish an intent to discriminate. *Village of*

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Arlington Heights v. Metro. Hous. Dev. Corp., 429 U.S. 252, 265 (1977). Discriminatory intent may be shown by such factors as substantial disparate impact, a history of discriminatory actions, procedural and substantive departures from the norms generally followed by the decisionmaker, and discriminatory statements. *Id.*

The OCR has carefully reviewed the documentation that has been submitted by both the Complainant and the GPD, and finds that the evidence is insufficient to demonstrate that the GPD discriminated against the Complainant based on race. According to the incident report of this matter, the arresting officer spoke with several independent witnesses who observed the Complainant approach another male, begin to harass him, and physically touch him. The male involved in this incident provided the same account, and the Complainant refused to speak with the arresting officer. While the Complainant stated in his Complaint that there were three Caucasian males involved in the altercation, none of the individuals with whom the arresting officer spoke mentioned the involvement of two other males. Upon reviewing the documentary evidence, the OCR has determined that the GPD arrested the Complainant based on the officer's belief that the Complainant engaged in criminal activity and not because of his race, in accordance with GPD General Order OPS-22.

Based on all of the information discussed above, the OCR finds that there is insufficient evidence to demonstrate that the GPD acted with an intent to discriminate against the Complainant in violation of Title VI or the Safe Streets Act. Therefore, we are closing the administrative Complaint filed by the Complainant.

Sincerely,



Michael L. Alston

Director