

DRAFT CONFIDENTIAL REPORT

REPORT ON THE KAYLA PHILLIPS
AND
TRAYON CHRISTIAN INCIDENTS

MICHAEL YAKI, ESQ.

EXECUTIVE SUMMARY

Barneys employees did not request, require, nor initiate, the actions of the New York Police Department in stopping Kayla Phillips for questioning or detaining Trayon Christian. No Barneys employees determined that either Kayla Phillips or Trayon Christian should be questioned by the New York Police Department about their purchases at Barneys, or took any action evidencing a belief or suspicion that either had committed or may have committed any illegal act that required or requested intervention by either Barneys Loss Prevention staff or the NYPD.

Further, I found no policy, written or unwritten, to engage in racial profiling in the Loss Prevention department. To the contrary, the Loss Prevention department has a formal anti-racial profiling policy.

METHODOLOGY

I was requested to conduct an independent internal review of both incidents, which included reviewing employee statements, interviews with employees of Barneys either involved with or with recollections of both individuals, and other evidence relevant to the review. I was given full access, without hindrance or delay, to all employees, materials, and resources at Barneys' disposal.

INVESTIGATION OF KAYLA PHILLIPS INCIDENT

DATE OF INCIDENT: FEBRUARY 28, 2013

Conclusion: Barneys personnel did not believe and took no actions evidencing a belief that Ms. Phillips's purchase of a Celine handbag was accomplished through means of credit card fraud. At no time did Barneys personnel either request, advise, or otherwise imply that the New York Police Department should stop Ms. Phillips and question her about the legitimacy of her purchase.

Findings:

- Kayla Phillips entered Barneys on February 28, 2013, with the intent to purchase a Celine handbag.
- At or around that time, a member of the Barneys Loss Prevention team recalls that the NYPD entered the Control Room where views from closed circuit security cameras are displayed and monitored by Loss Prevention personnel.
- Barneys personnel recall that the officers from the NYPD came from the Grand Larceny Unit, who would periodically, on an unscheduled basis, visit the Control Room of Loss Prevention and, on occasion, either request visual surveillance on an individual they had followed into the store, or on other occasions, would watch the monitors in the Control Room for a period of time.
- The NYPD officer requested that the CCTV operator to bring up on a screen the area where the female entered the Celine handbag department.
- In the store, Ms. Phillips was assisted at the Celine handbag area because her intent was to buy a specific Celine handbag.
- Based on information from employees in the Control Room, it is highly likely that the female in question on whom the NYPD requested visual surveillance was Ms. Phillips.
- During this time, there is no evidence suggesting that anyone from Barneys' staff ever requested that Loss Prevention monitor the transaction or conduct visual surveillance on Ms. Phillips.
- The sales associate who waited on Ms. Phillips has no recollection of anything unusual about the transaction or calling or receiving a call from Loss Prevention
- During this time, there is no evidence suggesting that anyone on Barneys' Loss Prevention staff had any reason to believe that there was a reason to scrutinize Ms. Phillips' transaction, or that there was any reason to conduct any investigation of Ms. Phillips' transaction, or her credit/debit card.

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- During this time, no employee recalls any statement made by the NYPD officer(s) in the Control Room
- According to a manager in Loss Prevention, Barneys was first alerted to the NYPD's stop of Ms. Phillips when Ms. Phillips' mother later that day called Loss Prevention to discuss the incident.
- In response to Ms. Phillips' mother's inquiry to Barneys Vice President of Customer Experience the following day, a manager from Loss Prevention called a member of the NYPD who was part of the unit Grand Larceny Unit known to Loss Prevention personnel.
- The officer informed the Loss Prevention manager that Ms. Phillips was stopped based on a statement she made outside the store. According to the officer, based on that statement NYPD officers stopped and questioned Ms. Phillips about the transaction at or near the 59th and Lexington Avenue subway station.
- The statement was the only reason cited by the officer as the basis for stopping Ms. Phillips for questioning.
- After this information was collected by the Loss Prevention manager, it was relayed to the Vice President of Customer Experience who followed-up with Ms. Phillips's mother.
- No other action was taken by Barneys until a demand to preserve evidence was received by Barneys from Ms. Phillips' attorney in April.
- Aside from instructing Loss Prevention to preserve any records of Ms. Phillips (of which there were none), no other contact with Ms. Phillips, her mother, or her attorney took place.
- I found no evidence or indication of no policy, written or unwritten, to engage in racial profiling in the Loss Prevention department. Barneys has in place a formal policy against racial profiling in its Loss Prevention department.

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INVESTIGATION OF TRAYON CHRISTIAN INCIDENT

DATE OF INCIDENT: APRIL 27, 2013

Conclusion: Barneys personnel did not believe and took no actions evidencing a belief that Mr. Christian's purchase of a Ferragamo belt was accomplished through means of credit card fraud. At no time did Barneys personnel either request, advise, or other imply that the New York Police Department stop or detain Mr. Christian and question him about the legitimacy of his purchase. To the contrary, the weight of evidence indicates that Barneys personnel attempted to dissuade NYPD personnel from pursuing Mr. Christian.

- Trayon Christian entered Barneys on April 27, 2013, with the intent of purchasing a Ferragamo belt.
- At the time of the transaction, a uniformed officer was in the Loss Prevention area to effect an arrest on an individual charged with credit card theft. Loss Prevention had contacted NYPD to come to the office where the individual was being held.
- While Mr. Christian was purchasing the belt, his transaction came up on one of the monitors in the Loss Prevention CCTV Control Room. There is no evidence that Mr. Christian was under active surveillance at the time.
- It is routine for Loss Prevention employees in the CCTV Control Room to "cycle through" the security cameras throughout the store.
- Mr. Christian was using a credit/debit card for the transaction.
- Two NYPD plainclothes detectives, one identified as an Officer Kramer, were in the Control Room while Mr. Christian's transaction was on one of the monitors.
- Officer Kramer and his partner were members of the 19th Precinct Anti-Crime unit.
- The 19th Precinct Anti-Crime unit would periodically visit the Loss Prevention Control Room area on an unscheduled basis for the purposes of advising Loss Prevention employees of their presence.
- At times, officers of the 19th Precinct Anti-Crime unit would enter the Control Room and request surveillance on a suspect they had been following who had entered Barneys.
- On other occasions, officers of the 19th Precinct Anti-Crime unit would simply stop by the Control Room for brief periods of time.
- No one recalls why either officer was in the Control Room.
- One or both officers began commenting on Mr. Christian's transaction, indicating skepticism that Mr. Christian could afford the belt, and remarking that he was being "too fast" in his transaction.

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- Loss Prevention personnel in the room at the time expressed their opinion to the officers that there was nothing suspicious about the transaction because it was unusual for a fraudulent transaction using a credit/debit card to be used for only one item, and that usually the credit card fraud perpetrators wanted higher-priced items.
- At some point, CCTV personnel zoomed the camera to focus on the credit card Mr. Christian was using. No one in Loss Prevention can recollect whether the zoom was at the request of the NYPD officers or a Loss Prevention staff member.
- Nevertheless, after viewing the image, it was the opinion of a Loss Prevention detective – and expressed to both officers – that the credit card looked valid and had all the usual security features.
- At some point one or both officers stated their intent to stop or “grab” Mr. Christian.
- Two Barneys personnel expressed their opinion to the officers that based on the visual evidence there was no reason to stop or detail Mr. Christian.
- There is no evidence that Barneys personnel or the NYPD contacted any Sales associate with regard to Mr. Christian’s transaction, or took any action to further investigate Mr. Christian or the credit/debit card he was using.
- At some point later, an officer returned with Mr. Christian’s credit/debit card, and a Barneys manager informed him that it looked legitimate.
- Later that evening Officer Kramer spoke to a Barneys Loss Prevention employee and informed him that Mr. Christian’s credit card was “ok.”
- No further action was taken by anyone at Loss Prevention.
- I found no evidence or indication of any no policy, written or unwritten, to engage in racial profiling in the Loss Prevention department. Barneys has in place a formal policy against racial profiling in its Loss Prevention department.